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JOINT APPLICATION OF ELECTRIC	§	
TRANSMISSION TEXAS, LLC AND	§	BEFORE THE STATE OFFICE
SHARYLAND UTILITIES, L.P. TO	§	
AMEND THEIR CERTIFICATES OF	§	
CONVENIENCE AND NECESSITY	§	OF
FOR THE PROPOSED NORTH	§	
EDINBURG TO LOMA ALTA	§	
DOUBLE-CIRCUIT 345-KV	§	ADMINISTRATIVE HEARINGS
TRANSMISSION LINE IN HIDALGO	§	
AND CAMERON COUNTIES, TEXAS	§	

**JOINT APPLICANTS' POST-HEARING BRIEF ON ROUTE ADEQUACY**

**INTRODUCTION AND SUMMARY OF ARGUMENT**

Based upon an independent analysis by ERCOT Staff, the ERCOT Board of Directors endorsed a 345 kV transmission line from North Edinburg to Loma Alta "routed in proximity" to South McAllen as the best short- and long-term solution to address reliability issues in the Lower Rio Grande Valley (LRGV).<sup>1</sup> After careful review of ERCOT's recommendation, technical requirements, and routing constraints, Applicants proposed 32 routes in proximity to the existing South McAllen Substation by passing each route through a Routing Circle around the station.

The record firmly supports the adequacy of Applicants' proposed routes. While those might not be the routes preferred by intervenors, and certainly do not include the entire universe of theoretical routes, the proposed routes clearly meet the standard for route adequacy under the Commission's precedent.<sup>2</sup> Moreover, it would be poor policy for the Commission to allow ERCOT's endorsement of a project that is "critical to reliability" to be set aside in a preliminary hearing on route adequacy. Instead, intervenors should be required to address ERCOT's recommendation in the hearing on the merits.

Although Applicants believe their proposed routes are adequate, if the ALJ has unresolved concerns about Applicants' implementation of ERCOT's proximity recommendation, Commission Staff presented a potential solution that would allow this time-critical project to

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<sup>1</sup> Joint Applicants (JA) Ex. 1, Attachment 6 at 1, 24-25, 29.

<sup>2</sup> A route adequacy hearing addresses "whether an adequate number of reasonably differentiated routes has been proposed in the application to allow a reasoned choice of routes considering all the facts and circumstances presented." *Wood County*, Docket No. 32070, Order on Appeal of Order No. 8 at 5 (Nov. 1, 2006).

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proceed.<sup>3</sup> Staff supports ERCOT's recommendation to route the project in proximity to South McAllen, and has pointed out that the Application contains a sufficient number of noticed links for the Commission to select a route even if it disagrees with Applicants' implementation of that recommendation through the Routing Circle.<sup>4</sup> Under Staff's approach, the ALJ could determine that there are a sufficient number of differentiated routes in the Application for purposes of the route adequacy proceeding and find that, in addition to Applicants' proposed routes, routes comprised of noticed links not passing through the Routing Circle could also be considered during the hearing on the merits and ultimately presented to the Commission for a final decision.

### PRACTICAL CONSIDERATIONS

Abating a viable application in a route adequacy proceeding because the Commission might *subsequently* reject ERCOT's recommendation<sup>5</sup> would be judicially inefficient. An appeal would not be resolved until three weeks before the hearing on the merits at the earliest. This expedited proceeding has already been extended by at least two months,<sup>6</sup> and it would be more efficient to present the ALJ and Commission with a fully developed record to review the need and routing simultaneously after the hearing on the merits is completed.

### ARGUMENT

**A. ERCOT's Review of the Transmission Project Was Robust and Addressed Both Short- and Long-Term Needs of the LRGV.** The ERCOT review process is designed to provide an authoritative, unbiased study of the need for a transmission project by the entity charged with overseeing the ERCOT grid and identify the best solution to meet that need.

1. **The ERCOT Process.** As a Tier 1 project, the project has undergone the highest possible level of scrutiny in the ERCOT process.<sup>7</sup> ERCOT's endorsement must be given "great weight" in determining the need for a new transmission line,<sup>8</sup> and no ERCOT Board-endorsed reliability project that has gone through the Regional Planning Group (RPG) has ever been rejected by the Commission.<sup>9</sup>

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<sup>3</sup> Commission Staff's Brief on Route Adequacy at 5-6 (Oct. 11, 2013).

<sup>4</sup> *Id.* at 2, 8.

<sup>5</sup> Joint Landowners (JLs)' Brief Challenging Adequacy of Routes at 1-2 (Oct. 11, 2013).

<sup>6</sup> SOAH Order No. 4 at 1-2 (Sep. 9, 2013).

<sup>7</sup> ERCOT Protocols §§ 3.11.4.1-3.11.4.9, available at [http://www.ercot.com/content/mktrules/nprotocols/current/03-100113\\_Nodal.doc](http://www.ercot.com/content/mktrules/nprotocols/current/03-100113_Nodal.doc).

<sup>8</sup> P.U.C. SUBST. R. 25.101(b)(3)(A)(ii)(I).

<sup>9</sup> JA Ex. 5 (Caskey) at 23. *Accord* Tr. at 55 (Oct. 8, 2013).

- a) Regional Planning Group. RPG includes every TSP,<sup>10</sup> as well as a diverse array of other stakeholders,<sup>11</sup> who provide extensive comments on proposed projects.<sup>12</sup> After the comment period, several members of ERCOT staff conduct an independent review, which is subject to further comment.<sup>13</sup>
- After a formal submission is made,<sup>14</sup> ERCOT distributes the proposal within seven days to *all RPG stakeholders* for a 21-day period comment period.<sup>15</sup> After collecting comments from RPG stakeholders, ERCOT begins its independent review.<sup>16</sup>
  - The November 2011 “Status Report”<sup>17</sup> was not the beginning of stakeholder review, as evidenced by the name and the fact that the options considered in the status report were derived from stakeholder input.<sup>18</sup> The RPG process ran from formal submission (May 2011) until the completion of the Independent Review (December 2011).<sup>19</sup>
  - RPG consensus on the 250 MW load was not required.<sup>20</sup> For Tier 1 projects, RPG identifies needs and potential solutions, reviews analyses, and provides comments,<sup>21</sup> ERCOT Staff makes a recommendation;<sup>22</sup> and the Board decides whether to endorse the project.<sup>23</sup>
- b) Technical Advisory Committee. After RPG, TAC is provided with detailed explanatory materials along with a presentation from ERCOT Staff.<sup>24</sup> Contrary to Joint Landowners’ claim that TAC does not consider alternative proposals,<sup>25</sup> TAC was presented with multiple proposals for consideration, discussed cost and options, and voted 28-2 in favor of the project.<sup>26</sup>

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<sup>10</sup> ERCOT Protocols § 3.11.3, *available at* [http://www.ercot.com/content/mktrules/nprotocols/current/03-100113\\_Nodal.doc](http://www.ercot.com/content/mktrules/nprotocols/current/03-100113_Nodal.doc).

<sup>11</sup> *Id.*; Tr. at 114-15.

<sup>12</sup> Tr. at 179-81.

<sup>13</sup> Tr. at 180-82, 188.

<sup>14</sup> *See* Tr. at 174; JL Ex. 12 at Exhibit 11, ERCOT Planning Guide § 3.1.5; ERCOT Protocols § 3.11.4.1, *available at* [http://www.ercot.com/content/mktrules/nprotocols/current/03-100113\\_Nodal.doc](http://www.ercot.com/content/mktrules/nprotocols/current/03-100113_Nodal.doc).

<sup>15</sup> Tr. at 179-81; JL Ex. 12 at Exhibit 11, ERCOT Planning Guide § 3.1.5.

<sup>16</sup> Tr. at 181-82.

<sup>17</sup> JLs’ Brief at 3. *See* JL Ex. 7.

<sup>18</sup> Tr. at 174-77.

<sup>19</sup> JA Ex. 5 (Caskey) at 20-22.

<sup>20</sup> *Cf.* JLs’ Brief at 3.

<sup>21</sup> Tr. at 117; ERCOT Protocols §§ 3.11.3, 3.11.4.2, *available at* [http://www.ercot.com/content/mktrules/nprotocols/current/03-100113\\_Nodal.doc](http://www.ercot.com/content/mktrules/nprotocols/current/03-100113_Nodal.doc).

<sup>22</sup> ERCOT Protocols § 3.11.4.7(1)(e), *available at* [http://www.ercot.com/content/mktrules/nprotocols/current/03-100113\\_Nodal.doc](http://www.ercot.com/content/mktrules/nprotocols/current/03-100113_Nodal.doc).

<sup>23</sup> ERCOT Protocols §§ 3.11.4.7(2), 3.11.4.9, *available at* [http://www.ercot.com/content/mktrules/nprotocols/current/03-100113\\_Nodal.doc](http://www.ercot.com/content/mktrules/nprotocols/current/03-100113_Nodal.doc).

<sup>24</sup> Tr. at 73, 189.

<sup>25</sup> JLs’ Brief at 3.

<sup>26</sup> Tr. at 74-77; JL Ex. 8 at 10, 12; JL Ex. 6 at 13; JA Ex. 5 (Caskey) at 22.

- c) Board of Directors. After the TAC vote, the Board is given a similar “meeting packet” for review, and ERCOT staff presents the proposal to the Board for final approval.<sup>27</sup> An endorsement is memorialized in the “endorsement letter.”<sup>28</sup>

**B. ERCOT Considered Both Short- and Long-Term Needs of the LRGV in Making the “Proximity” Recommendation.** Despite broad stakeholder participation at all levels of the ERCOT review process, no stakeholder ever questioned or challenged ERCOT’s recommendation to route the project in proximity to South McAllen or the modeling of a future connection at South McAllen. The 250 MW load was reviewed at all levels.<sup>29</sup> TAC recommended and the Board unanimously endorsed Option 5, without conditioning it on the 250 MW load or modifying the proposal to route the project in proximity to South McAllen.<sup>30</sup>

1. **Need to Route in Proximity to South McAllen.** Routing “in proximity to” South McAllen is the best long-term solution for the LRGV.
  - a) **Long-Term Needs.** ERCOT assesses both near-term (one to five years) and long-term (ten to twenty years) future needs of the grid in developing transmission projects.<sup>31</sup> ERCOT modeled a future direct connection to South McAllen to address the long-term needs in the area.<sup>32</sup>
  - b) **Cost & Performance.** For reliability projects, ERCOT considers both costs and long-term system needs in the area.<sup>33</sup> The proposed project defers or eliminates up to \$95 million in identified upgrades to overloaded 138 kV lines near South McAllen.<sup>34</sup> The project is the best long-term solution because it would “significantly reduce” the north-to-south flow on “other highly loaded transmission lines.”<sup>35</sup>
  - c) **Practicality.** Due to existing loadings, a new 345 kV source might be the only practicable method to relieve the overloaded 138 kV lines near South McAllen.<sup>36</sup>
  - d) **Proximity Recommendation Is “Agnostic” to 250 MW Load Additions.** ERCOT added a “proxy” line to its studies<sup>37</sup> to make the “proximity” analysis on the west side of the LRGV “agnostic” to the 250 MW load additions on the east side.<sup>38</sup>

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<sup>27</sup> Tr. at 189.

<sup>28</sup> See JA Ex. 1, Attachment 6 at 1-2.

<sup>29</sup> JL Ex. 12 (Dauphinais) at Exhibit 11, Billo Deposition at 96-97.

<sup>30</sup> JA Ex. 1, Attachment 6 at 1-2.

<sup>31</sup> JL Ex. 12 at Exhibit 11, ERCOT Planning Guide §§ 3.1.3, 3.1.1.1, and Billo Deposition at 10.

<sup>32</sup> JA Ex. 1, Attachment 6 at 24, 29.

<sup>33</sup> JL Ex. 12 (Dauphinais) at Exhibit 11, ERCOT Planning Guide § 3.1.3; Tr. 175.

<sup>34</sup> JA Ex. 1, Attachment 6 at 24.

<sup>35</sup> JA Ex. 1, Attachment 6 at 25.

<sup>36</sup> Tr. at 192-93; JA Ex. 5 at 27-28; JL Ex. 12 at Exhibit 11, Billo Deposition at 73, 82-83.

<sup>37</sup> JA Ex. 1, Attachment 6 at 23.

<sup>38</sup> JL Ex. 12 (Dauphinais) at Exhibit 11, Billo Deposition at 92.

- e) **Staff's Recommendation.** Staff supports ERCOT's determination of need to route in proximity to South McAllen.<sup>39</sup>
2. **Routing Circle.** The Routing Circle is a faithful implementation of ERCOT's "proximity" recommendation that maximizes the options for a future connection to South McAllen.<sup>40</sup>
- a) **Modeling and Proximity.** Though ERCOT did not recommend a direct connection at this time,<sup>41</sup> it modeled a future direct connection.<sup>42</sup> To replicate this, Applicants devised routes that passed as close as practicable to South McAllen to facilitate an electrically efficient and low-impedance future connection<sup>43</sup> (a crucial consideration in alleviating overloads).<sup>44</sup> In doing so, Applicants provide the Commission with several routing alternatives in proximity to South McAllen that do not limit and drive all routing alternatives to only one end-point for the future connection.
- b) **Devising the Circle.** The Routing Circle reflects the (1) space for a future substation at South McAllen; (2) space for routing in/out of the future substation; (3) location of existing 138 kV lines; (4) upgrade status of existing 138 kV lines, as well as constraints including dense residential to west/southwest, an airport to the north, continued development in the area of the South McAllen Substation, and several 138 kV lines.<sup>45</sup>
- c) **Future Connection.** The details of establishing a future connection to South McAllen are best resolved in the future by the affected utilities working through the applicable ERCOT process. They are not at issue in this proceeding.
3. **Precedent.** ERCOT's proximity recommendation is not unique,<sup>46</sup> and ERCOT has not overstepped its authority as the entity responsible for maintaining the electric reliability for the majority of the state.<sup>47</sup> Rejecting an RPG-reviewed, ERCOT Board-endorsed project, however, would be unique.<sup>48</sup>
4. **Staff's Alternative "Proximity" Interpretation.** Staff has suggested that "proximity" could be interpreted more loosely than Applicants have proposed<sup>49</sup> and, as a result, concludes that the Application contains a sufficient number of reasonably differentiated routes.<sup>50</sup>

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<sup>39</sup> Staff's Brief at 5-6.

<sup>40</sup> Tr. at 135-36, 153.

<sup>41</sup> JA Ex. 1, Attachment 6 at 29; Tr. at 31-32 ("extremely close"); JA Ex. 5 at 26 n.26 ("close proximity").

<sup>42</sup> JL Ex. 1 at 24, 29. Further, it is the connectivity—not type—of the connection that is significant. JL Ex. 12 (Dauphinais) at Exhibit 11, Billo Deposition at 44, 100.

<sup>43</sup> Tr. at 146-49, 190.

<sup>44</sup> Tr. at 190.

<sup>45</sup> JA Ex. 3 (Caskey) at 23.

<sup>46</sup> See, e.g., *Lobo to Rio Bravo to North Edinburg Line*, Docket No. 40728, Order at 2 (May 9, 2013) (approving a project routed in "proximity" to an existing substation).

<sup>47</sup> See Staff's Brief at 7.

<sup>48</sup> Tr. at 55-56; JA Ex. 5 at 23-24.

<sup>49</sup> Staff's Brief at 5-6.

<sup>50</sup> *Id.* at 8. Intervenors have suggested that additional routes, consistent with Staff's proximity interpretation, may have high settlement potential. Tr. at 207-09. Applicants will construct any combination of noticed links contained in the Application that are approved by the Commission.

### C. Other Challenges Lack Support.

1. **“Chokepoints” Unavoidable.** There is no evidence that the “chokepoints” in Applicants’ routing study are unreasonable. The existence of “chokepoints” is not dispositive, and several similar applications have been approved despite such “chokepoints.”<sup>51</sup> Further, Mr. Reid has explained why these “chokepoints” are unavoidable due to existing constraints.<sup>52</sup>
2. **Unnoticed Routes Not Viable.** Mr. Reinecke’s routes are not viable. He studied proposals as examples of how other routes may have less impact,<sup>53</sup> but he admitted some modifications might still be necessary to obtain permitting.<sup>54</sup> Further, these routes would only be viable if the ERCOT recommendation were set aside.<sup>55</sup> As Staff acknowledges, abating this case so Applicants could evaluate and give notice for new links would be both unnecessary and contrary to ERCOT’s determination that the project is critical to reliability.<sup>56</sup>
3. **Routes Are Forward-Progressing.** Intervenors assert all links must progress both south-southwest towards South McAllen and *east-southeast* towards Loma Alta. In addition to ignoring ERCOT’s recommendation, it is not physically possible to meet both criteria.

### CONCLUSION AND PRAYER

Joint Applicants urge the ALJ to find that the Application contains an adequate number of routes. Issues as to ERCOT’s recommendation that the project should be routed in proximity to South McAllen can be addressed in the hearing on the merits. There are a sufficient number of noticed links to develop alternative routes if the Commission disagrees with Applicants’ implementation of ERCOT’s recommendation.

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<sup>51</sup> Docket No. 38140, Order on Appeal of Order No. 9 at 2 (Aug. 20, 2010); Docket No. 33978, SOAH Order No. 14 (Sep. 4, 2007); Docket No. 38597, Order on Appeal of Orders No. 3 and 4 at 1-2 (Dec. 8, 2010).

<sup>52</sup> JA Ex. 6 (Reid) at 12-19; Tr. at 201-04.

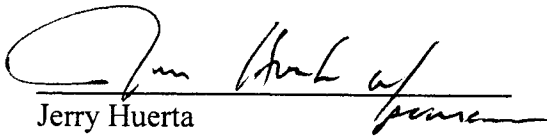
<sup>53</sup> Tr. at 97.

<sup>54</sup> Tr. at 96.

<sup>55</sup> JL Ex. 13 (Reinecke) at 6 (routes that “would be available” if proximity recommendation were ignored).

<sup>56</sup> Staff’s Brief at 8.

Respectfully submitted,



Jerry Huerta  
State Bar No. 24004709  
AMERICAN ELECTRIC POWER SERVICE  
CORPORATION  
400 West 15<sup>th</sup> Street, Suite 1520  
Austin, Texas 78701  
(512) 481-3323 (Telephone)  
(512) 481-4591 (Facsimile)

Kerry McGrath  
State Bar No. 13652200  
Mark Held  
State Bar No. 09390300  
DUGGINS WREN MANN & ROMERO, LLP  
600 Congress Avenue, Suite 1900  
Austin, Texas 78701-3902  
(512) 774-9300 (Telephone)  
(512) 744-9399 (Facsimile)

*Attorneys for Electric Transmission Texas, LLC*




James E. Guy  
State Bar No. 24027061  
John Anastaplo Scharbach  
State Bar No. 24079774  
SUTHERLAND ASBILL & BRENNAN LLP  
600 Congress Avenue, Suite 2000  
Austin, Texas 78701-3238  
(512) 721-2700 (Telephone)  
(512) 721-2656 (Facsimile)

*Attorneys for Sharyland Utilities, L.P.*

### **CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing document was served on all parties of record this 15th day of October, 2013 via the Commission's filing interchange, e-mail, or first-class mail in accordance with Order No. 4.



Sarah Merrick