



Control Number: 41606



Item Number: 943

Addendum StartPage: 0

2013 SEP 12 PM 2:36

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

BEFORE THE

STATE OFFICE OF

ADMINISTRATIVE HEARINGS

**CITY OF McALLEN'S OBJECTIONS TO ELECTRIC TRANSMISSION TEXAS, LLC'S  
AND SHARYLAND UTILITIES, L.P.'s FIRST REQUEST FOR INFORMATION**

COMES NOW, the City of McAllen ("City" or "McAllen") and files the following Objections to Electric Transmission Texas, LLC's and Sharyland Utilities, L.P.'s ("Joint Applicants") First Request for Information ("RFI") to the City of McAllen. Joint Applicants served their First RFI on the City on September 5, 2013; accordingly, these Objections are timely filed pursuant to SOAH Order No. 1. The parties have negotiated multiple times in good faith and have been unable to reach a compromise agreeable to all parties. The City would respectfully show as follows:

**I. GENERAL OBJECTIONS**

Generally, Joint Applicants have asked six questions relating to the current activity and operations of the McAllen-Miller International Airport and regarding the planned future expansion of McAllen-Miller International Airport. A complete copy of the RFIs served on McAllen is attached to these Objections as Attachment A. The information sought by Joint Applicants is not relevant at this time. McAllen objects to the discovery on the basis that the requests are burdensome, irrelevant, not calculated to lead to evidence admissible at this time, available by other sources, inconvenient, and harassing.<sup>1</sup>

---

<sup>1</sup> Tex. R. Civ. P. 192.4.

Joint Applicants' discovery is an attempt to subvert the procedural schedule established in this proceeding. The judges have set a procedural schedule in this case that sets forth the deadlines for prefiled direct testimony.<sup>2</sup> The deadline for testimony or a statement of position on route adequacy is not until September 17. The deadline for prefiled direct testimony is not until October 25. McAllen has not yet filed any direct testimony in this proceeding. Joint Applicants were permitted to develop and file their direct case at their leisure and at a time of their choosing, without having to respond to discovery as they developed their case. In contrast, Joint Applicants' request that McAllen marshal its evidence and support and file such *prior* to the filing of its direct testimony is unduly burdensome and prejudices McAllen's ability to prepare its direct case.

The timing of Joint Applicants' requests puts McAllen at a distinct disadvantage with respect to the other parties to this proceeding. Joint Applicants' discovery asks McAllen to present information regarding its direct case over a month in advance of when other parties will be filing their direct case. This factual scenario will result in the opportunity for not only Joint Applicants to begin preparing their rebuttal testimony to McAllen's direct case well in advance, but will also allow other parties the opportunity to judge the strength of McAllen's direct case even before filing their direct testimony. Such would permit other intervenors to rebut their anticipation of McAllen's direct case in their respective direct testimony, giving them an advantage in this proceeding. McAllen would note that it is the only party to which Joint Applicants have directed discovery and that, therefore, the potential harm to McAllen is extremely great. Forcing McAllen to answer Joint Applicants' discovery at this time would severely prejudice the City of McAllen in this proceeding.

---

<sup>2</sup> SOAH Order No. 4 at 2 (Sept. 6, 2013).

McAllen does not object to answering appropriate discovery requests after it files testimony in this proceeding and has communicated that to Joint Applicants. However, at this point in the proceeding, forcing McAllen to answer the RFIs propounded by Joint Applicants would substantially and materially prejudice McAllen's interests in this proceeding. The information is not relevant at this time, and Joint Applicants' discovery is burdensome, harassing, and is available from other sources. McAllen should not be required to respond to these questions at this point in the proceeding.

#### **PRAYER**

The City of McAllen respectfully prays that its objection to Joint Applicants' First RFIs be sustained and for any and all other relief to which it is justly entitled.

Respectfully submitted,

**LLOYD GOSSELINK ROCHELLE  
& TOWNSEND, P.C.**

816 Congress Avenue, Suite 1900  
Austin, Texas 78701  
(512) 322-5800  
(512) 472-0532 (Fax)

GEOFFREY M. GAY  
State Bar No. 07774300

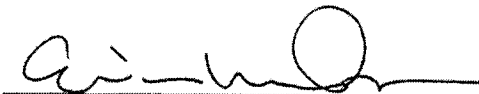


EILEEN MCPHEE  
State Bar No. 24060273

ATTORNEYS FOR THE CITY OF McALLEN

#### **CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing document was transmitted by facsimile, e-mail and/or regular, first class mail on this 12th day of September, 2013, to the parties of record.



EILEEN L. MCPHEE

SOAH DOCKET NO. 473-13-5207  
PUC DOCKET NO. 41606

2013 SEP -5 PM 2:43

JOINT APPLICATION OF ELECTRIC  
TRANSMISSION TEXAS, LLC AND  
SHARYLAND UTILITIES TO AMEND  
THEIR CERTIFICATE OF  
CONVENIENCE AND NECESSITY  
FOR THE NORTH EDINBURG TO  
LOMA ALTA DOUBLE-CIRCUIT 345-  
KV TRANSMISSION LINE IN  
HIDALGO AND CAMERON  
COUNTIES, TEXAS

§  
§  
§  
§  
§  
§  
§  
§  
§  
§  
§

BEFORE THE STATE OFFICE

OF

ADMINISTRATIVE HEARINGS

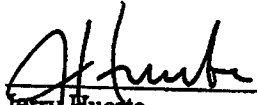
**ELECTRIC TRANSMISSION TEXAS, LLC AND SHARYLAND UTILITIES, L.P.'S  
FIRST SET OF REQUESTS FOR INFORMATION TO CITY OF MCALLEN**

Pursuant to Commission Procedural Rules 22.141-,145, Electric Transmission Texas LLC and Sharyland Utilities, L.P. (Joint Applicants) requests the City of McAllen (City) provide the following information and answer the following questions under oath within the time provided by Commission rules and/or applicable orders, or sooner if practicable. The answers should be provided in sufficient detail to present all relevant facts. These requests are deemed continuing in nature and require further and supplemental responses from a party if it receives or generates additional information within the scope of these data requests between the time of the original responses and the time of the hearing in this proceeding.

For any responses that require the use of or reference to information previously provided by the Joint Applicants in this case that has been designated "Confidential" or "Highly Sensitive" material, please provide responses in accordance with the terms of the Protective Order and the Commission's Rules relating to "Confidential" and "Highly Sensitive" materials. See P.U.C. Proc. R. 22.142.

924

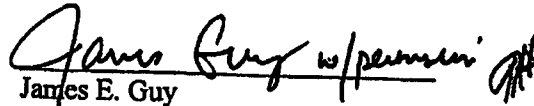
Respectfully submitted,

  
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, TX 78701-3902  
(512) 744-9300 (Telephone)  
(512) 744-9399 (Facsimile)

*Attorneys for  
Electric Transmission Texas, LLC*

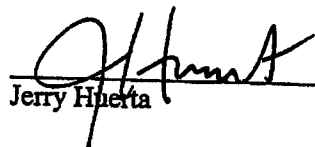
  
James E. Guy

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 true and correct copy of the foregoing document was served on the City of McAllen via U.S. first-class mail, hand delivery, overnight delivery, or facsimile transmission on the 5<sup>th</sup> day of September 2013.

  
Jerry Huerta

### Instructions & Definitions

1. A reference to the "Joint Applicants" or the "Companies" shall mean Electric Transmission Texas, LLC ("ETT") and Sharyland Utilities, L.P. ("Sharyland").
2. A reference to "City" shall mean the City of McAllen.
3. The term "Commission" refers to the Public Utility Commission of Texas.
4. Reference to "you" or "your" means all divisions, departments, bureaus, or agencies of the party served, and all witnesses whose testimony the respective party to which this Request is submitted intends to present to the Public Utility Commission of Texas, and all persons acting or purporting to act for or on behalf of the respective party, including all staff, employees, agents, representatives, attorneys, consultants, economists, engineers, and accountants.
5. The term "information" includes all documents and communications.
6. The terms "and" and "or" shall be construed both disjunctively and conjunctively as necessary to make the requests inclusive rather than exclusive.
7. "Each" shall be construed to include the word "every" and "every" shall be construed to include the word "each."
8. "Document" or "documents" is intended to be comprehensive and shall mean every original (or an identical copy if the original is unavailable) and every copy which differs in any way from the original of every writing, recording (e.g., photograph, videotape, audiotape), or other tangible expression, whether handwritten, typed, drawn, sketched, printed, or recorded by any physical, mechanical, electronic, or electrical means whatsoever, and shall be construed to the fullest extent of the P.U.C. Procedural Rules and the Texas Rules of Civil Procedure, and shall include, without limitation all agreements, contracts, communications, correspondence, letters, telegrams, telexes, messages, memoranda, records, reports, books, summaries, tape recordings or other records of personal conversations, minutes or summaries or other records of meetings and conferences, summaries or other records of negotiations, other summaries, diaries, diary entries, calendars, appointment books, time records, instructions, work assignments, financial statements, work sheets, workpapers, drafts, graphs, maps, charts, tables, accounts, analytical records, consultants' reports, appraisals, bulletins, brochures, pamphlets, circulars, trade letters, press releases, notes, notices, marginal notations, notebooks, telephone records, bills, statements, records of obligation and expenditure, invoices, lists, journals, advertising, recommendations, printouts, compilations, tabulations, analyses, studies, surveys, transcripts of hearings, transcripts of testimony, affidavits, expense reports, microfilm, microfiches, articles, speeches, tape or disk recordings, sound recordings, video recordings, film, tape, photographs, punch cards, programs, data compilation from which information can be obtained (including matter used in data processing) and other printed, written, handwritten, typewritten, recorded, stenographic, computer-generated, computer-stored, electronically-stored matter, however and by whomever produced, prepared, reproduced, disseminated, or made.

- 
9. "Person" means any natural person, firm, association, partnership, joint venture, corporation, estate, trust, receiver, syndicate, municipal corporation, government agency, any other form of legal entity, and other group or combination acting as a unit.
  10. "Relating to" a subject means making a statement about, mentioning, referring to, discussing, describing, reflecting, identifying, dealing with, consisting of, constituting or in any way pertaining, in whole or in part, to the subject.
  11. The words "communication" or "communications" include any written, electronic, or verbal conversations or any other statement from one person to another, including but not limited to, any interview, conference, conversation, discussion, meeting or telephone conversation.
  12. "Identify" means:
    - a. as to a "person," stating his, her or its:
      - (i) legal, full and customarily used names;
      - (ii) present residential or business address;
      - (iii) job title; and
      - (iv) name of employer.
    - b. as to a document, act, event, transaction or occurrence, stating:
      - (i) its date, authors or participants;
      - (ii) the place where it took place, was created or occurred;
      - (iii) its purpose and subject matter; and
      - (iv) a concise description of what transpired.
  13. "Including" means and refers to "including but not limited to."
  14. Use of the singular or plural word form in a request is not to be interpreted to exclude information or documents from the scope or intent of the specific request.
  15. For each response, please restate the RFI and identify the individual(s) responsible for preparing and sponsoring the response by name and title.
  16. For each document produced that is generated by computer, please identify:
    - a. the nature and source of the data constituting the input;
    - b. the form of the input (*e.g.*, tapes, punch cards);
    - c. the recording system employed (*e.g.*, program, flow charts); and



- 
- d. the person(s) responsible for processing the input and/or performing the programming.
17. If the information requested was included in previously furnished exhibits, schedules, work papers, responses to other discovery inquiries, or otherwise, in hard copy or electronic format, please furnish specific references to the previously furnished materials, including Bates Stamp page citations and detailed cross-references.
18. If, in answering any of these requests, there is any ambiguity in interpreting either the request or a definition or instruction applied thereto, please contact ETT's attorney, Jerry Huerta at 512-481-3323 or Sharyland's attorney, James Guy at 512-721-2700.
19. If an RFI calls for production of a document that was, but is no longer, in your possession, or subject to your control, or in existence, state whether it:
- a. is missing or lost;
  - b. has been destroyed;
  - c. has been transferred, voluntarily or involuntarily to others; or
  - d. has been otherwise disposed of; and in each instance, explain the facts concerning how the document became unavailable; state the date or approximate date of the unavailability; the contents of the document; and the person who authorized the transfer, destruction or other disposition of said document. Documents prepared prior to, but which relate to or refer to, the time period covered by these RFIs are to be identified.

**SOAH DOCKET NO. 473-13-5207  
PUC DOCKET NO. 41606**

**ELECTRIC TRANSMISSION TEXAS, LLC AND SHARYLAND UTILITIES, L.P.'S  
FIRST SET OF REQUESTS FOR INFORMATION TO CITY OF MCALLEN**

- Joint Applicants 1-1 Please provide a copy of the annual activity report for the City of McAllen Miller International Airport for the years 2003 through 2012 and any similar activity report for the months of January through July 2013.
- Joint Applicants 1-2 Please provide a copy of the 2005 McAllen-Miller International Airport Draft Final Report for City Commission Approval. Is there a final report that is not labeled as draft? If there is such a report, please provide a copy of that report as well.
- Joint Applicants 1-3 Was the 2005 McAllen-Miller International Airport Draft Final Report for City Commission Approval presented to and approved by the City Commission? If so, please provide the date of approval and documentation of that approval.
- Joint Applicants 1-4 Has the Federal Aviation Administration (FAA) approved the location, headings or lengths of the existing runway extension and the new runway as specified in the 2005 McAllen-Miller International Airport Draft Final Report for the City Commission Approval? If so, please provide copies of all correspondence related to the new runway and runway extension sent by the City or the airport to the FAA and documents received from the FAA.
- Joint Applicants 1-5 Please provide a pdf copy and/or AutoCAD files showing the current airspace information for the existing airport runway and operations for the McAllen Miller International Airport.
- Joint Applicants 1-6 Please confirm that annual operations as provided in the activity reports by the McAllen Miller International Airport are the same as total of landings and takeoffs for the time period recorded. If this is not confirmed, then what is the definition, express or implied, of annual operations within those reports.