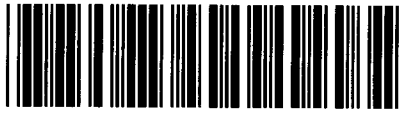


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JOINT APPLICATION OF ELECTRIC
TRANSMISSION TEXAS, LLC AND
SHARYLAND UTILITIES, L.P. TO
AMEND THEIR CERTIFICATES OF
CONVENIENCE AND NECESSITY FOR
THE NORTH EDINBURG TO LOMA
ALTA DOUBLE-CIRCUIT 345-KV
TRANSMISSION LINE IN HIDALGO AND
CAMERON COUNTIES,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

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PUBLIC UTILITY
BEFORE THE STATE OFFICE
FILED CLERK

OF

ADMINISTRATIVE HEARINGS

JOINT STATEMENT OF POSITION ON ROUTE ADEQUACY OF
ELIZABETH GRACE (BETTY) PEREZ, HORACIO GARZA, ANA GARZA,
AND WILLIAM J. FLOWERS, INDIVIDUALLY AND ON BEHALF OF
VANCOUVER RESOURCES, INC.

Intervenors Elizabeth Grace (Betty) Perez, Horacio Garza, Ana Garza, and William J. Flowers, individually and on behalf of Vancouver Resources, Inc. (collectively "Intervenors") jointly file this Statement of Position on Adequacy of Routes pursuant to Public Utility Commission ("Commission") Procedural Rule 22.124. Pursuant to SOAH Order No. 4, this statement is timely filed. In this proceeding, Intervenors' make the following statements of position on the adequacy of routes proposed in Electric Transmission Texas, LLC's and Sharyland Utilities, L.P.'s ("Joint Applicants") application to amend their certificates of convenience and necessity ("Application") in the above-number and -docketed proceeding:

Joint Applicants have not proposed an adequate number of reasonably differentiated alternative routes. The Order of Referral and Preliminary Order in this proceeding provides as a question to be addressed: "[d]oes the application contain an adequate number of alternative routes to conduct a proper evaluation? If not the ALJ

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shall allow Joint Applicants to amend the application and to provide proper notice to affected landowners; if Joint Applicants choose not to amend the application, the ALJ may dismiss the case without prejudice.”¹ The Application, on its face, does not present an adequate number of reasonably differentiated alternative routes for the Administrative Law Judges or the Commission to conduct a proper evaluation.

The Commission has previously provided guidance as to what it considers to be an adequate number of routes, as follows: “The Commission requires that a CCN application contain an adequate number of reasonably differentiated routes that allows a reasoned choice of route considering all the facts and circumstances presented.”² Furthermore, “it is unreasonable to interpret this as simply a counting exercise... Rather, the inquiry must touch on the quality of choice between the proposed routes: whether an adequate number of reasonably differentiated routes has been proposed in the application to allow a reasoned choice of route considering all the facts and circumstances presented.”³

Joint Applicants failed to present an adequate number of reasonably differentiated routes to allow the Administrative Law Judge or the Commission a reasoned choice of routes and a proper evaluation of the case. All of the 32 filed routes pass through one of two links: link 84b or link 137b. This configuration presents the Administrative Law

¹ Order of Referral and Preliminary, Order at 3 (July 8, 2013).

² *Application of Brazos Electric Power Cooperative, Inc. to Amend a Certificate of Convenience and Necessity for a Proposed Transmission Line Within Denton County*, Docket No. 37616, Order at p. 1 (Jan. 21, 2011) (emphasis added).

³ *Application of Wood County Electric Cooperative, Inc. for a Certificate of Convenience and Necessity for a Proposed Transmission Line in Wood County, Texas*, Docket No. 32070, Order on Appeal of Order No. 8 at p. 5 (Nov. 1, 2006).

Judgment and the Commission with essentially only two route options: a route to the west of the North Edinburg Substation utilizing link 84b or a route to the east of the North Edinburg Substation utilizing link 137b. By routing the proposed transmission line through these two links, Joint Applicants have significantly constrained the choice of the Administrative Law Judge and the Commission in this regard—offering the Administrative Law Judge and the Commission only two choices. Accordingly, the routes are by no means “reasonably differentiated.” Rather, Joint Applicants have filed 32 routes that are merely variations on two options.

This deficiency in the proposed routes and in the Application itself is created, in part, by the fact that all of Joint Applicants’ 32 filed routes pass through a circle of proximity drawn around the South McAllen Substation. Despite the fact that the project is designed to connect the North Edinburg and Loma Alta substations, the constraint circle forces all routes to pass in proximity the South McAllen substation. However, none of the routes proposed by Joint Applicants connect directly with the South McAllen Substation nor does the Application contemplate such a connection. Instead, the Application contemplates the future construction of a new substation somewhere in the south McAllen area. The Commission has previously stated:

“...[T]here may be circumstances, however, that justify a limited number of alternative routes, including the endpoint. In that event, an application must provide a reasonable explanation of those circumstances and a reasoned justification for the limited number of routes. Such explanations and justifications can arise only from investigation and analysis, which should also be detailed in an application. Whether an application contains sufficient explanation and justification that is supported by investigation and analysis is reasonably within the scope of an inquiry into whether an application has provided an adequate number of reasonably differentiated routes. In such a case as that presented here, alternative locations for the

proposed substation must be included in such an evaluation and properly discussed in the application.”⁴

Although in this case, the potential new substation is not necessarily an end-point for this transmission line, Joint Applicants are in effect treating it as such by imposing the proximity constraint on all of its routes without stating in the Application where the substation is proposed to be built, if at all, and without including any discussion of the same. Therefore, the Application fails to contain sufficient explanation and justification that is supported by investigation and analysis.

The evidence in this case is insufficient to establish a need for all routes to pass in proximity to the South McAllen substation. Although the Electric Reliability Council of Texas deemed Joint Applicants’ project to be critical to the reliability of the system, Joint Applicants have failed to identify any such need (critical or otherwise) for connection of the South McAllen Substation to the proposed transmission line from North Edinburg to Loma Alta. Joint Applicants’ unilaterally determined decision to route all proposed routes in proximity to the South McAllen substation unreasonably and unnecessarily constrains the means by which the North Edinburg and Loma Alta substations are to be connected. Indeed, Joint Applicants have filed no routes that even roughly resemble a straight-line between the two substations. Due to the unnecessary constraint of routing in proximity to the South McAllen Substation, all filed routes must take substantial detours away from the Loma Alta substation in order to pass within Joint Applicants’ proximity circle to the South McAllen Substation. By imposing the South McAllen

⁴ *Application of Wood County Electric Cooperative, Inc. for a Certificate of Convenience and Necessity for a Proposed Transmission Line in Wood County, Texas*, Docket No. 32070, Order on Appeal of Order No. 8, at p. 6 (Nov. 1, 2006).

proximity routing constraint, Joint Applicants have proposed only routes that are not forward progressing. In other words, alternative routes 1-19, 31, and 32 which head west from the North Edinburg Substation are not forward progressing toward the Loma Alta Substation and the remaining alternative routes which head east from the North Edinburg Substation are not forward progressing because they are forced to loop back to the west to pass through the proximity circle. Thus, Joint Applicant's unilaterally imposed constraint results in no quality of choice in Joint Applicants' proposed routes.

Joint Applicants' Application in this proceeding does not contain an adequate number of routes and does not present sufficiently differentiated routes so that the Administrative Law Judgment and the Commission have any meaningful choices in this proceeding. In addition, the Application does not provide sufficient explanation and justification supported by investigation and analysis for routing in proximity to the South McAllen substation. Therefore, the Honorable Administrative Law Judges in this proceeding should direct Joint Applicants to amend their Application as provided herein.

WHEREFORE, PREMISES CONSIDERED, Intervenors respectfully request that the Honorable Administrative Law Judges find that Joint Applicants' Application lacks an adequate number of reasonably differentiated routes. Intervenors further request any and all other relief to which they may be justly entitled.

Respectfully submitted,

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ATTORNEYS FOR INTERVENORS

CERTIFICATE OF SERVICE

I hereby certify that on this 17th day of September, 2013, a true and correct copy of the foregoing document was served in accordance with SOAH Order No. 4.

Mindi L. McLain
Mindi L. McLain