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**SOAH DOCKET NO. 473-16-2751
PUC DOCKET NO. 45624**

**APPLICATION OF THE CITY OF
GARLAND TO AMEND A
CERTIFICATE OF CONVENIENCE
AND NECESSITY FOR THE RUSK TO
PANOLA DOUBLE-CIRCUIT 345-KV
TRANSMISSION LINE IN RUSK AND
PANOLA COUNTIES**

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2016 MAR 29 P.12:13
**BEFORE THE PUBLIC UTILITY COMMISSION
FILING CLERK
STATE OFFICE OF
ADMINISTRATIVE HEARINGS**

**SOUTHERN CROSS TRANSMISSION LLC'S RESPONSE TO
TEXAS INDUSTRIAL ENERGY CONSUMERS' MOTION TO COMPEL**

Southern Cross Transmission LLC (SCT) files this response to Texas Industrial Energy Consumers' (TIEC) motion to compel its Request for Information (RFI) 1-15 (Response). SCT received TIEC's First Set of RFIs on March 15, 2016. SCT filed an objection to TIEC RFI 1-15 on March 23, 2015 on relevance and trade secret grounds. SCT received TIEC's Motion to Compel on March 25, 2016. Accordingly, this Response is timely filed in accordance with SOAH Order No. 2 in this case.

I. INTRODUCTION

TIEC's RFI 1-15 asks, "Where specifically will SCT's DC line terminate in SERC? To what utility will SCT interconnect that line in SERC?" As explained in detail below, this request is objectionable because the information it requests is neither relevant to the proceeding nor calculated to lead to the discovery of admissible evidence. In addition, the issue is not ripe for decision, since SCT does not currently have information responsive to the question, but made its objection in order to avoid waiving it. SCT withdraws its previously-asserted trade secret objection.

II. DISCUSSION

A. TIEC'S MOTION TO COMPEL IS NOT RIPE FOR DECISION.

TIEC's motion to compel is not ripe for decision at this time because no information responsive to its RFI currently exists. SCT's objection to the RFI clearly stated that responsive information does not exist; *i.e.*, it is not yet known specifically where SCT's DC line will terminate or to what utility the line will interconnect.¹ Sensitive commercial discussions are ongoing with respect to these issues, but no agreement has been reached. However, SCT objected to the RFI so that it would not be required to, later, supplement the response with information that is irrelevant to the case. As a result, no ruling is necessary until an agreement is reached and responsive information exists, if that occurs prior to close of the record in this case. SCT will notify the ALJ and TIEC if responsive information becomes available.

B. THE INFORMATION REQUESTED BY TIEC IS NOT RELEVANT.

TIEC's motion does not establish that the information requested by TIEC is either relevant or calculated to lead the discovery of admissible evidence. TIEC's motion purports to provide a number of reasons why the information it requests is relevant to this proceeding. It explains that its members are "keenly interested in evaluating the economic and reliability impacts of the proposed project"² It also cites the Preliminary Order's Issue Nos. 2 and 4, which asks (i) what reasonable conditions should be prescribed in order to protect the public interest; and (ii) how should the uncertainty of whether DC ties will be exporting or importing will be addressed in transmission planning, respectively.³ Without explanation, TIEC's motion to compel claims that an understanding of the "area to be connected, including its resource mix

¹ SCT's Objection to TIEC's First Set of Requests for Information at 2.

² TIEC's Motion to Compel at 2.

³ *Id.*

and economics” and the “grid profile of the area that this project will interconnect” are relevant to these issues.⁴

TIEC’s relevance arguments are incorrect and should be rejected. This proceeding concerns the City of Garland’s proposed 345-KV transmission line in Rusk and Panola counties. SCT’s DC line is not the subject of this proceeding and where, precisely, it connects on its eastern end in the Southern Electric Reliability Council (SERC) has no bearing on any issue connected with the transmission line that is the subject of this proceeding – the City of Garland’s proposed transmission line.

Nor will the specific location of the eastern terminus of the SCT line, when determined, be relevant as TIEC suggests. As explained above, TIEC claims, without any explanation, that an understanding of the “area to be connected, including its resource mix and economics” and the “grid profile of the area that this project will interconnect” are relevant to these issues it has identified.⁵ While evidence regarding the exact termination points of the transmission line at issue in this case— the City of Garland’s proposed line—is relevant to the proceeding, and while evidence of the “resource mix and economics” and the “grid profile” of SERC is relevant to this proceeding, information regarding the SCT’s proposed line’s precise termination point in SERC is neither important nor relevant. That is because the SCT’s line’s specific termination point in SERC will not affect, in any meaningful way, the economic characteristics of SERC that TIEC claims are important to this case.

Since 2010, there have been two economic studies of SCT’s proposed DC connection. Those studies, presented in the direct testimony of Ellen Wolfe filed by SCT in this case, model

⁴ *Id.*

⁵ TIEC’s Motion to Compel at 2.

the economics of the ERCOT system with and without the SCT line.⁶ They incorporate the factors cited by TIEC such as the “grid profile” of the area where the SCT project will interconnect in SERC and “its resource mix and economics”—information that is already known and incorporated into Ms. Wolfe’s studies.⁷ In neither study was the information sought by TIEC’s request necessary because, of all the possible variables that influence the economic impact of the DC line, the precise location of its eastern terminus is not one of them. In short, the information TIEC asserts that it needs to know through this RFI, relating to the characteristics of the grid at the other end of the SCT line, are already known and are incorporated into Ms. Wolfe’s studies on file in this case.

Under Texas Rule of Evidence 401(b), information is only relevant if it “is of consequence in determining the action.” TIEC’s motion does not establish that the information requested in TIEC 1-15 meets this standard, but instead describes other information it did not request in TIEC 1-15, such as the grid profile and resource mix of the area in SERC where the SCT line will interconnect. As evidenced by Ms. Wolfe’s testimony and studies, information about the resource mix and grid profile in SERC is available, and the specific interconnection point requested in TIEC 1-15 is not needed for an economic analysis of the SCT project.

Indeed, it is instructive to consider cases in which discovery has been denied on relevance grounds. In a 2013 case, an inn owner brought action against insurers, seeking recovery for lost income, lost business opportunities, and damages caused by hailstorm.⁸ The

⁶ See SCT’s Motion to Intervene, Direct Testimony of Ellen Wolfe at Exhibit EW-2.

⁷ Although the exact interconnection point is not yet known, Mr. Parquet’s testimony filed with SCT’s intervention in this case states that the SCT line will connect to SERC in northeast Mississippi/northwest Alabama. Direct Testimony of David Parquet at 3. Ms. Wolfe’s study is similarly based on an interconnection in northeast Mississippi/northwest Alabama. Direct Testimony of Ellen Wolfe at Exhibit EW-2, p. 3 of 33. The specific information requested by TIEC was not necessary for her analysis.

⁸ *In re Patel*, 218 S.W.3d 911 (Tex. App.—Corpus Christi 2007).

insurance company sought documents from the innkeeper's son's bank and accountant to prove that money borrowed from the bank for a down payment on another property was used to make repairs at the inn.⁹ The appellate court held that financial records of inn owner's son were irrelevant and not discoverable because the son's affidavit revealed that he had no ownership interest in the inn.¹⁰ Furthermore, the documents did not appear to be relevant to the subject of a lawsuit and could not be used as a fishing expedition.¹¹

In Docket No. 38929, Oncor Electric Delivery Company LLC ("Oncor") filed an application to increase its rates.¹² In that proceeding, Cities sought Oncor discovery responses regarding the capital structure of Oncor's parent and subsidiaries.¹³ Oncor objected to the RFI to the extent that it requests information for entities other than Oncor and Oncor Holdings, because the information for such other entities is neither relevant nor reasonably calculated to lead to the discovery of admissible information.¹⁴ The Commission rejected Cities' motion because the request sought information that was irrelevant and not reasonably calculated to lead to the discovery of admissible evidence because the issue at hand was whether Oncor's proposed capital structure is appropriate to meet Oncor's needs, not whether it would benefit Oncor's owner.¹⁵

⁹ *Id.* at 916.

¹⁰ *In re Patel*, 218 S.W.3d 911, 917 (Tex. App.—Corpus Christi 2007).

¹¹ *Id.*

¹² *Application of Oncor Electric Delivery Company LLC For Authority To Change Rates*, Docket No. 38929, Application (Jan. 7, 2011).

¹³ *Application of Oncor Electric Delivery Company LLC For Authority To Change Rates*, Docket No. 38929, Cities' Second RFIs to Oncor at 4 (Jan. 13, 2011).

¹⁴ *Application of Oncor Electric Delivery Company LLC For Authority To Change Rates*, Docket No. 38929, Oncor Electric Delivery Company LLC's Objections to Cities' Second Set of Requests For Information at 2 (Jan. 24, 2011).

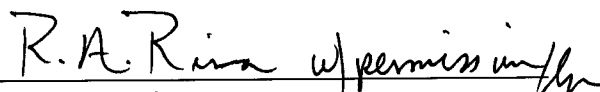
¹⁵ *Application of Oncor Electric Delivery Company LLC For Authority To Change Rates*, Docket No. 38929, Order on Appeal of Order No. 3 (Mar. 31, 2011).

In this instance, TIEC's discovery request is like the insurance company's request for financial records in the *In re Patel* case in that TIEC has failed to adequately explain how the end point of SCT's DC line in SERC is related to the subject matter of this case, an amendment to Garland's CCN for a 37-40 mile transmission line. Additionally, just like requests regarding Oncor's affiliates were irrelevant to its rate case, TIEC's request for a location of the SCT endpoint is irrelevant to the issues surrounding the City of Garland's line or the effect of the SCT line on ERCOT. Furthermore, TIEC already has access to economic and grid information necessary to "vet the results of SCT's studies," just as SCT's witness Ms. Ellen Wolfe had access to it in conducting the two studies she describes in her Direct Testimony.

III. CONCLUSION

For the foregoing reasons, SCT respectfully requests that the ALJ defer ruling on TIEC's motion to compel until the issue is ripe or, alternatively, that its objections to TIEC's First Set of RFIs be sustained, TIEC's Motion to Compel be denied and that SCT be granted such other relief to which it has shown itself entitled.

Respectfully submitted,

A handwritten signature in black ink that reads "R. A. Rima" followed by a cursive flourish.

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CERTIFICATE OF SERVICE

I certify that a true and correct copy of this document was served on all parties of record in this proceeding, pursuant to SOAH Order No. 2, on March 29, 2016 by electronic mail, facsimile, hand-delivery, overnight delivery, or First Class U.S. Mail.

R.A. Rima *affirmation* *per*
Robert A. Rima