



Control Number: 45624



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PUBLIC UTILITY COMMISSION
FILING CLERK

BEFORE THE STATE OFFICE

OF

ADMINISTRATIVE HEARINGS

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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**TEXAS INDUSTRIAL ENERGY CONSUMERS' MOTION TO COMPEL
SOUTHERN CROSS TRANSMISSION, LLC TO RESPOND TO TIEC 1-18**

I. INTRODUCTION

Texas Industrial Energy Consumers (TIEC) files this motion to compel Southern Cross Transmission, LLC (SCT) to provide a complete response to TIEC's Request for Information (RFI) 1-18. This motion is timely filed pursuant to an agreement of the parties.

**II. SCT FAILED TO PROVIDE RESPONSIVE INFORMATION IN ITS ANSWER
TO TIEC 1-18**

TIEC 1-18 reads as follows:

For the economic study in Ms. Wolfe's testimony, please provide an excel file showing, by the hour, the:

- a. LMPs for generation, load nodes, and hubs;*
- b. Generation by plant;*
- c. Load by node;*
- d. Load by zone;*
- e. Exports;*
- f. Imports;*
- g. Calculated benefit to customers;*
- h. Calculated benefit to producers;*
- i. Total benefit; and*
- j. A calculation of export-related charges.*

SCT did not object to this RFI. In its response, however, SCT selectively provided some of the requested information by hour, as TIEC requested, but responded to other portions of the request with only aggregated data reported by month or by year. SCT explained these non-responsive answers by stating that the "[m]etrics for the economic assessment were predominately provided by LCG's algorithms annually," and with respect to each subpart except

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(e), (f), and (j), SCT asserted that hourly data “was not reported” by Ms. Wolfe’s model. SCT’s partial response demonstrates that hourly data is available from the model used by Ms. Wolfe, but SCT chose not to query the model for this information or provide it in testimony. To support the application in this case, SCT has presented information regarding the economics of the proposed project that is premised on the model outputs. TIEC is entitled to vet the information SCT has chosen to present and evaluate the underlying data at a more granular level.

As a general rule, a party must produce all requested documents in its possession, custody, or control in response to a request that is reasonably calculated to lead to the discovery of admissible evidence.¹ It is undisputable that SCT possesses the hourly data requested by TIEC 1-18 within the meaning of the discovery rules. In Ms. Wolfe’s testimony on behalf of SCT, she acknowledges that “[i]n the benefits evaluation, a fully integrated ERCOT and Eastern Interconnect **8,760-hour**, nodal market model was employed.”² She also states that “for this 2020 analysis, a combined footprint [of ERCOT and the Eastern Interconnect], **with a full 8,760-hour simulation**, was used to represent the system.”³ That means that SCT’s model simulated every hour of the year 2020. This underlying hourly data was used to generate the aggregated information that SCT has chosen to present. It is inconsequential that SCT has chosen not to ask the model to produce or print the hourly data—that data exists, it was used to generate the numbers that *have* been presented, and it should be produced for further evaluation in response to TIEC’s request.

Requiring SCT to produce the hourly results of its hourly model is akin to requiring a party to produce an active spreadsheet with live formulas and linked data, rather than merely printing out a static copy of the summary information the party has chosen to provide. This is a commonplace request in PUC proceedings that typically meets no opposition. Allowing SCT to

¹ Tex. R. Civ. P. 192.3(b) (“A party may obtain discovery . . . of documents and tangible things . . . that constitute or contain matters relevant to the subject matter of the action. **A person is required to produce a document or tangible thing that is within the person’s possession, custody, or control.**”) (emphasis added); *In re Summerset*, 438 S.W.3d 74, 81 (Tex. App.—Corpus Christi 2013, no pet.) (“a party may request discovery of relevant documents and the other party is required to produce those documents that are within the person’s ‘possession, custody, or control.’”).

² Docket 45624, Direct Testimony of Ellen Wolfe at 4:9-11 (Feb. 25, 2016). There are 8,760 hours in a year.

³ *Id.* at 10:4-5.

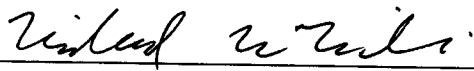
selectively produce and rely on hourly data in some instances while choosing to release only monthly or yearly snapshots in other instances will deprive the Commission and other parties of the opportunity to analyze the validity and usage of the underlying data in SCT's model. SCT should not be permitted to use this data to support its case while shielding it from discovery and scrutiny.

III. CONCLUSION

For the foregoing reasons, TIEC hereby requests that its Motion to Compel be granted

Respectfully submitted,

THOMPSON & KNIGHT LLP

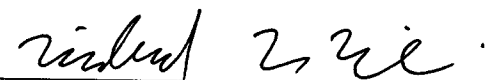


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CERTIFICATE OF SERVICE

I, Michael McMillin, Attorney for TIEC, hereby certify that a copy of the foregoing document was served on all parties of record in this proceeding on this 1st day of April, 2016 by hand-delivery, facsimile, electronic mail and/or First Class, U.S. Mail, Postage Prepaid.



Michael McMillin