



Control Number: 45624



Item Number: 17

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OPEN MEETING COVER SHEET

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PUBLIC UTILITY COMMISSION
FILING CLERK

MEETING DATE: March 3, 2016

DATE DELIVERED: March 3, 2016

AGENDA ITEM NO.: 48

CAPTION: 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

ACTION REQUESTED: Discussion and possible action with respect to Preliminary Order

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PUBLIC UTILITY COMMISSION
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TO: Chairman Donna L. Nelson
Commissioner Kenneth W. Anderson, Jr.
Commissioner Brandy Marty Marquez

All Parties of Record

FROM: David Hrnecir, Commission Advising

RE: March 3, 2016, Open Meeting Agenda Item No. 48
Draft Preliminary Order, PUC Docket No. 45624; SOAH Docket No. 473-16-
2751.WS – *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*

DATE: March 3, 2016

Please find enclosed the draft preliminary order filed by Commission Advising in the above-referenced docket. The Commission will consider this draft preliminary order at the March 3, 2016 open meeting. Parties shall not file responses or comments addressing this draft preliminary order.

Any modifications to the draft preliminary order that are proposed by one or more Commissioners will be filed simultaneously prior to the consideration of the matter at the March 3, 2016 open meeting.

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

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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 §

PUBLIC UTILITY COMMISSION
PUBLIC UTILITY COMMISSION
OF TEXAS FILING CLERK

DRAFT PRELIMINARY ORDER

On February 25, 2016, the City of Garland filed an application with the Commission for a CCN for a new transmission line in Rusk and Panola counties, Texas. Garland states that this project was incorporated in a final order by the Federal Energy Regulatory Commission (FERC) in Docket No. TX11-01-001¹ (*Southern Cross*), and Garland therefore claims that PURA §§ 37.051(c-2), (i) apply. Under those provisions, the Commission shall approve the application not later than the 185th day after the application is filed but may prescribe reasonable conditions to protect the public interest that are consistent with the FERC's final order in *Southern Cross*.

The proposed transmission line will serve as a physical connection between the ERCOT and SERC regions. The facilities include construction of a new double-circuit 345-kV transmission line from the new Rusk switching station, to be owned by Oncor Electric Delivery Company, to the new Panola switching station, to be owned by Garland.

The total estimated cost ranges between \$103.8 and \$109.9 million, depending on the route chosen. Garland has committed that it will not seek to recover the costs of developing, constructing, interconnecting, or financing the project or the Panola switching station through transmission service rates but will own and operate the facilities as open access transmission facilities subject to the applicable Commission rules, NERC standards, and ERCOT protocols.

¹ FERC Docket No. TX11-01-001, *Southern Cross Transmission LLC*, 147 FERC ¶ 61, 113 (2014).

Garland has presented 12 alternative routes ranging between approximately 37 and 40 miles in length. The Commission could approve any of the alternative routes as well as any combination of alternative routes or route segments.

I. Issues to be Addressed

The Commission must provide to the administrative law judge (ALJ) a list of issues or areas to be addressed in any proceeding referred to the State Office of Administrative Hearings (SOAH).² After reviewing the pleadings submitted by the parties, the Commission identifies the following issues that must be addressed in this docket:

1. Is this application for a facility to be constructed under an interconnection agreement appended to an offer of settlement approved in the FERC's final order in *Southern Cross*?
2. If so, what reasonable conditions consistent with the FERC's final order in *Southern Cross*, if any, should the Commission prescribe in order to protect the public interest?
 - a. Is it appropriate for the Commission to specify a route as a reasonable condition? If so, which route should be selected?
 - b. Should the Commission require Southern Cross and Garland to give effect to the representations that they made in *Southern Cross*?
3. Is Southern Cross subject to the requirements of PURA § 37.051(c-2) and to the Commission's imposition of reasonable conditions?
 - a. If so, should Southern Cross be required to execute the Market Participant Agreement with ERCOT? If so, then what type of market participant would be appropriate as applied to Southern Cross?

² Tex. Gov't Code Ann. § 2003.049(e) (West 2008 & Supp. 2014).

- b. Should the Commission require Southern Cross and ERCOT to negotiate and execute an agreement addressing coordination issues? If so, which regulatory authority would have the authority to decide any disputes between Southern Cross and ERCOT?

Texas Parks & Wildlife Department

4. On or after September 1, 2009, did the Texas Parks and Wildlife Department provide any recommendations or informational comments regarding this application?³ If so, please address the following issues:
 - a) What modifications, if any, should be made to the proposed project as a result of any recommendations or comments?
 - b) What conditions or limitations, if any, should be included in the final order in this docket as a result of any recommendations or comments?
 - c) What other disposition, if any, should be made of any recommendations or comments?
 - d) If any recommendation or comment should not be incorporated in this project or the final order, or should not be acted upon, or is otherwise inappropriate or incorrect in light of the specific facts and circumstances presented in this application or the law applicable to contested cases, please explain why that is the case.

Texas Parks & Wildlife Code Chapter 26

5. Is notice and a hearing as provided in § 26.002 of the Texas Parks and Wildlife Code required in this case?
6. Was such notice of a hearing provided?

³ Tex. Parks and Wildlife Code § 12.0011(b) (West).

7. Is there no feasible and prudent alternative to the use or taking of public land which is designated and used as a park, recreation area, scientific area, wildlife refuge, or historic site?
8. Does the project include all reasonable planning to minimize harm to the land as a park, recreation area, scientific area, wildlife refuge, or historic site, resulting from its use or taking?

This list of issues is not intended to be exhaustive. The parties and the ALJ are free to raise and address any issues relevant in this docket that they deem necessary, subject to any limitations imposed by the ALJ or by the Commission in future orders issued in this docket. The Commission reserves the right to identify and provide to the ALJ in the future any additional issues or areas that must be addressed.

II. Issue Not to Be Addressed

1. What is the appropriate compensation for right-of-way or condemnation of property?

The Commission does not have the authority to adjudicate or set the amount of compensation for rights-of-way or for condemnation.

III. Effect of Preliminary Order

This Order is preliminary in nature and is entered without prejudice to any party expressing views contrary to this Order before the SOAH ALJ at hearing. The SOAH ALJ, upon his or her own motion or upon the motion of any party, may deviate from this Order when circumstances dictate that it is reasonable to do so. Any ruling by the SOAH ALJ that deviates from this Order may be appealed to the Commission. The Commission will not address whether this Order should be modified except upon its own motion or the appeal of a SOAH ALJ's order. Furthermore, this Order is not subject to motions for rehearing or reconsideration.

Signed at Austin, Texas the _____ day of March 2016.

PUBLIC UTILITY COMMISSION OF TEXAS

DONNA L. NELSON, CHAIRMAN

KENNETH W. ANDERSON, JR., COMMISSIONER

BRANDY MARTY MARQUEZ, COMMISSIONER

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