



Control Number: 45624



Item Number: 2

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APPLICATION OF THE CITY OF §
GARLAND, TEXAS, FOR A §
CERTIFICATE OF CONVENIENCE §
AND NECESSITY FOR THE §
PROPOSED RUSK TO PANOLA §
DOUBLE-CIRCUIT 345-KV §
TRANSMISSION LINE IN RUSK §
AND PANOLA COUNTIES, TEXAS §

2016 FEB 25 PM 3:33

BEFORE THE
PUBLIC UTILITY COMMISSION
FILING CLERK

PUBLIC UTILITY COMMISSION

OF TEXAS

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

Now comes the City of Garland, Texas (Garland), doing business as Garland Power & Light (GP&L), and files this application (Application) for a certificate of convenience and necessity (CCN) for the proposed Rusk to Panola double-circuit 345-kV transmission line in Rusk and Panola Counties, Texas (Garland Project).

I. BASIS FOR APPLICATION

This Application is filed pursuant to PURA § 37.051(c-1), (c-2), (g) and (i), as enacted during the last session of the Texas Legislature. Subsections (c-1) and (g) require a CCN application for, respectively, a facility that enables additional power to be imported into or exported out of the ERCOT power grid and a municipally-owned transmission facility located outside the boundaries of the municipality. Subsections (c-2) and (i) direct the Commission, not later than the 185th day after the application is filed, to approve an application under subsections (c-1) or (g) for a facility that is to be constructed under an interconnection agreement appended to an offer of settlement approved in a final order of the Federal Energy Regulatory Commission (FERC) issued in Docket No. TX11-01-001, directing physical connection between the ERCOT and SERC regions under Sections 210, 211, and 212 of the Federal Power Act (FPA), and authorize the Commission to prescribe reasonable conditions to protect the public interest that

are consistent with the FERC order. The statute is referring to the order in FERC Docket No. TX11-1-001, *Southern Cross Transmission LLC*, 147 FERC ¶ 61,113 (2014), which directs physical connection between the ERCOT and SERC regions under Sections 210, 211, and 212 of the FPA.

The Garland Project is a facility that is to be constructed under an interconnection agreement appended to the offer of settlement approved by FERC in *Southern Cross*, and this Application is therefore governed by PURA § 37.051(c-2) and (i). The Garland Project will interconnect the new Rusk Switching Station in Rusk County to the new Panola Switching Station in Panola County at the Texas-Louisiana border. The Rusk Station will be interconnected with the ERCOT grid and the Panola Station will be interconnected to a new high-voltage direct current (HVDC) converter station to be owned by Southern Cross Transmission LLC adjacent to the Panola Station across the border in Louisiana. FERC ordered Garland to provide the interconnection in accordance with the interconnection agreements attached to the offer of settlement filed in *Southern Cross*. Among other things, FERC found that the interconnection is in the public interest and determined that it will not cause any ERCOT utility or other entity that is not already a public utility under the Federal Power Act to become a public utility under the Act.

Because PURA § 37.051(c-2) and (i) provide for completion of this proceeding in 185 days, Garland has followed processes applicable to similar expedited CCN proceedings involving critical reliability facilities and competitive renewable energy zone (CREZ) lines. This includes filing direct testimony concurrently with the Application and providing proposed notice to Commission Staff for review in advance of the filing.¹

¹ See CCN Form at 1 and § 25.

II. CONTENTS OF APPLICATION

This Application includes a completed Commission-prescribed CCN application form (CCN Form) from the Commission's website and the direct testimony of Darrell W. Cline, Kristi Wise, and Chris McCall, and is supported by the direct testimony of David Parquet and Ellen Wolfe filed contemporaneously by intervenor Southern Cross. The CCN Form includes an Environmental Assessment and Alternative Route Analysis Report and all of the information relating to transmission line routing normally provided in a CCN filing. The completed CCN Form and its attachments are sponsored by the witnesses and, along with the direct testimony, will be offered into evidence in this case. The direct testimony addresses the following issues:

<u>Witness</u>	<u>Issues Addressed in Testimony</u>
Darrell W. Cline, City of Garland	Mr. Cline is the Chief Financial Officer for GP&L. He provides an overview of GP&L; describes the Garland Project and Garland's participation in it; identifies the route that Garland recommends as best meeting the requirements of PURA and the Commission's Substantive Rules; discusses the relationship between Garland and the Southern Cross project; identifies possible conditions on the Commission's order; and introduces the other witnesses supporting the Application.
Kristi Wise, Burns & McDonnell	Ms. Wise is a Senior Project Manager for Burns & McDonnell Engineering, Inc. She presents the Environmental Assessment and Alternative Route Analysis Report (EA) in this case; describes the process of preparing the EA and formulating alternative routes, including the public input and open house processes; identifies the route that Burns & McDonnell recommends as best meeting the requirements of PURA and the Commission's Substantive Rules; and describes Burns & McDonnell's consideration of various factors relevant to the routing process.
Chris McCall, Burns & McDonnell	Mr. McCall is a Project Manager for Burns & McDonnell Engineering Company, Inc. Mr. McCall describes the engineering plans for the Project; conductor and structure selection; impact on right-of-way, facilities, and other utilities; estimated cost; and Project schedule.

David Parquet, Pattern Development	Mr. Parquet is Senior Vice President – Special Projects for Pattern Energy Group LP (referred to as Pattern Development). He explains that the Southern Cross project will be designed to deliver up to 2,000 MW in either direction between ERCOT and SERC and describes that project's relationship to the Garland Project. Mr. Parquet also discusses the FERC interconnection order; submission of the Garland and Southern Cross projects to ERCOT; the interconnection and reliability studies performed by Oncor Electric Delivery Company; certain logistical issues to be resolved; possible conditions on the Commission's order; and benefits that the Southern Cross project can provide in Texas.
Ellen Wolfe, Resero Consulting	Ms. Wolfe is President of Resero Consulting. She presents the results of an economic analysis conducted by her firm concerning the expected production cost savings and consumer energy benefits of the Southern Cross project to ERCOT, as well as expected flows between ERCOT and the Eastern Interconnect over the project and anticipated revenues from charges for exports from ERCOT.

III. POSSIBLE CONDITIONS ON THE COMMISSION'S ORDER

PURA § 37.051(c-2) and (i) authorize the Commission to prescribe reasonable conditions to protect the public interest in this case that are consistent with the FERC order. As shown in the testimony filed in support of this Application, the Southern Cross project will provide significant benefits to Texas and is in the public interest. However, Garland would support the following conditions on the Commission's order:

1. As it committed at FERC, Garland will not seek to recover the costs of developing, constructing, interconnecting or financing the Garland Project or the Panola Switching Station through transmission service rates, although it will own and operate those facilities as open access facilities subject to Commission rules, NERC standards, and ERCOT protocols applicable to such transmission facilities;
2. Southern Cross will execute an ERCOT Market Participant Agreement before Garland energizes the Garland Project, and the Commission should provide

instructions or guidance to ERCOT to make the bylaw and protocol revisions necessary to allow Southern Cross to execute such an Agreement; and

3. Since Southern Cross will be subject to FERC's standards of conduct for transmission providers, Southern Cross would accept a condition that it be subject to ERCOT-adopted standards of conduct as long as they do not affect or modify the FERC standards.

These conditions are discussed in the direct testimony of Messrs. Cline and Parquet.

IV. PROPOSED PRELIMINARY ORDER

Because this case involves issues of first impression under recently-enacted legislation, a Preliminary Order from the Commission would promote the orderly and efficient administration of the case by providing direction concerning issues that should or should not be considered. A proposed Preliminary Order and Order of Referral for this proceeding is attached as Attachment A.

In light of PURA § 37.051(c-2) and (i), enacted during the last session of the Texas Legislature, the attached proposed Preliminary Order identifies need for the Garland Project as an issue not to be addressed. Subsections 37.051(c-2) and (i) direct that the Commission shall approve this Application not later than the 185th day after it is filed. By their reference to an interconnection agreement attached to the offer of settlement in the *Southern Cross* case, Subsections 37.051(c-2) and (i) specifically identify the Garland Project as the facility for which the CCN application is to be approved. For purposes of this case, this specific, recently-enacted legislation prevails over and is an exception to a more general directive, such as PURA § 37.056(a), stating that the Commission may approve an application and grant a certificate only if it finds that the certificate is necessary for the service, accommodation, convenience, or safety of the public.

V. PARKS AND WILDLIFE CODE CHAPTER 26

One of the line segments proposed by Garland in this case crosses the Sabine River Authority's Unit # 630 recreational hunting area, and may therefore be subject to the provisions of Chapter 26 of the Parks and Wildlife Code. Chapter 26 requires notice, a hearing, and certain findings before a department, agency, political subdivision, county, or municipality of the state may approve any program or project that requires the use or taking of any public land designated and used as a park, recreation area, scientific area, wildlife refuge, or historic site.

The Commission addressed Parks and Wildlife Code Chapter 26 in Docket No. 38435,² a CCN case that involved crossing the Caprock Canyons State Park Trailway. In that case, the Commission approved the utility's provision of notice pursuant to Chapter 26 and holding the Chapter 26 hearing concurrent with the CCN hearing. Garland proposes to follow the same process employed in Docket No. 38435 for addressing the requirements of Parks and Wildlife Code Chapter 26, including providing the notice required by Chapter 26 at the appropriate time and holding a hearing that concurrently addresses both the CCN routing requirements and Chapter 26.

VI. MOTION FOR ENTRY OF PROTECTIVE ORDER

Garland requests that a standard Commission protective order be promptly entered in this proceeding to address confidential information provided in support of this Application and additional confidential information that may be requested in discovery. Upon entry of the protective order and execution of the protective order certification by parties' representatives, such confidential information will be promptly provided. A proposed form of protective order based on the protective order adopted in Docket No. 44941 is attached as Attachment B.

² *Application of Cross Texas Transmission, LLC for a Certificate of Convenience and Necessity for the Silverton to Tesla 345-kV CREZ Transmission Line*, Docket No. 38435, Order (Jan. 19, 2011).

Respectfully submitted,



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ATTORNEYS FOR THE CITY OF GARLAND

PUC DOCKET NO. 45624

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

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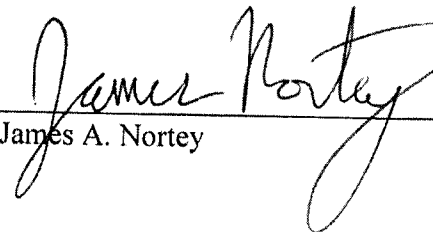
**BEFORE THE
PUBLIC UTILITY COMMISSION
OF TEXAS**

STATEMENT UNDER SECTION 4 OF THE PROTECTIVE ORDER

The undersigned attorney for the City of Garland (Garland) submits this statement under Section 4 of the Protective Order in this case.

The Direct Testimony of Darrell W. Cline, in support of Garland's CCN application, includes information whose public disclosure would be contrary to contractual obligations to which Garland is bound. The public disclosure of this information would harm Garland or third parties with whom Garland must maintain an ongoing relationship. The confidential document consists of non-public commercially sensitive business operations and financial information that, if released, could cause substantial competitive harm to Garland or third parties. Therefore, this information is protected under the Public Information Act, Tex. Gov't Code Ann. §§ 552.101 and 552.110.

The undersigned counsel for Garland has reviewed the information sufficiently to state in good faith that the information is exempt from public disclosure under the Public Information Act and merits the applicable designation of Highly Sensitive Protected Materials detailed in the Protective Order accompanying the Application.


James A. Nortey

Date: February 25, 2016

PUC DOCKET NO. 45624

APPLICATION OF THE CITY OF	§	
GARLAND, TEXAS, FOR A	§	
CERTIFICATE OF CONVENIENCE	§	BEFORE THE
AND NECESSITY FOR THE	§	
PROPOSED RUSK TO PANOLA	§	PUBLIC UTILITY COMMISSION
DOUBLE-CIRCUIT 345-KV	§	
TRANSMISSION LINE IN RUSK	§	OF TEXAS
AND PANOLA COUNTIES, TEXAS	§	

**PROPOSED PRELIMINARY ORDER AND
ORDER OF REFERRAL**

On February 25, 2016, the City of Garland filed an application with the Public Utility Commission of Texas (Commission) under PURA¹ §37.051(c-1) and (g) for a certificate of convenience and necessity (CCN) for a proposed double-circuit, 345-kV transmission line in Rusk and Panola Counties, Texas (Project). Pursuant to PURA §37.051(c-2) and (i), the Commission, not later than the 185th day after the application is filed, shall approve an application under subsections (c-1) or (g) for a facility that is to be constructed under an interconnection agreement appended to an offer of settlement approved in a final order of the Federal Energy Regulatory Commission (FERC) issued in Docket No. TX11-01-001, directing physical connection between the ERCOT and SERC regions under Sections 210, 211, and 212 of the Federal Power Act (FPA), and may prescribe reasonable conditions to protect the public interest that are consistent with the FERC order. The statute is referring to the order in FERC Docket No. TX11-1-001, *Southern Cross Transmission LLC*, 147 FERC ¶ 61,113 (2014), which directs physical connection between the ERCOT and SERC regions under Sections 210, 211, and 212 of the FPA. The Project in this case is a facility to be constructed under an interconnection

¹ Public Utility Regulatory Act, Tex. Util. Code § 11.001 *et seq.*

agreement appended to the offer of settlement approved by FERC in *Southern Cross*, and this application is therefore governed by PURA § 37.051(c-2) and (i).

The Commission refers this docket to the State Office of Administrative Hearings (SOAH) for the purpose of conducting a hearing and issuing a proposal for decision on the issues identified below, if such is necessary in the event one or more issues are contested by the parties. SOAH has jurisdiction over such matters pursuant to Tex. Gov't Code Ann. § 2003.049 (West 2008 & Supp. 2015).

All subsequent pleadings in this docket must contain both the SOAH and PUC docket numbers for efficient processing.

I. Procedural History

The proposed Project is designated as the Rusk to Panola Transmission Line. The facilities include construction of a new double-circuit 345-kV transmission line from the new Rusk Switching Station in Rusk County, to be owned by Oncor Electric Delivery Company, to the new Panola Switching Station in Panola County, to be owned by Garland. In *Southern Cross*, the FERC ordered Garland to provide the Project to interconnect the Southern Cross transmission project with the Electric Reliability Council of Texas (ERCOT) grid, in accordance with the interconnection agreements attached to the offer of settlement filed in that Docket.

The total estimated cost for the Project ranges from approximately \$103.8 million to \$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 those facilities as open access transmission facilities subject to Commission rules, NERC standards, and ERCOT protocols applicable to such transmission facilities. The proposed Project is

presented with 12 alternative routes and is estimated to be approximately 37 to 40 miles in length.

Any route presented in the application could be approved by the Commission. Any combination of routes or route segments presented in the application could also be approved by the Commission.

II. Deadline for Decision

Pursuant to PURA § 37.051(c-2) and (i), the Commission shall approve this application not later than the 185th day after the application is filed. Therefore, a Commission decision must be issued by _____, 2016.

III. Issues to be Addressed by SOAH

Pursuant to Tex. Gov't Code § 2003.049(e) (Vernon 2008 & Supp. 2015), the Commission must provide to the ALJ a list of issues or areas to be addressed in any proceeding referred to SOAH. The Commission identifies the following issues to be addressed by SOAH in this docket:

Application—Route Adequacy

1. Is Garland's application to amend its CCN adequate? Does the application contain an adequate number of reasonably differentiated alternative routes to conduct a proper evaluation? In answering this question, consideration must be given to the number of proposed alternatives, the locations of the proposed transmission line, and any associated proposed facilities that influence the location of the line. Consideration may also be given to the facts and circumstances specific to the geographic area under consideration, and to any analysis and reasoned justification presented for a limited number of alternative

routes.² A limited number of alternative routes is not in itself a sufficient basis for finding an application inadequate when the facts and circumstances or a reasoned justification demonstrates a reasonable basis for presenting a limited number of alternatives. If an adequate number of routes is not presented in the application, the ALJ shall allow Garland to amend the application and to provide proper notice to affected landowners; if Garland chooses not to amend the application, the ALJ may dismiss the case without prejudice.

Route

2. Which proposed transmission line route is the best alternative weighing the factors set forth in PURA § 37.056(c) and 16 TAC § 25.101(b)(3)(B)?³
3. Are there alternative routes or facilities configurations that would have a less negative impact on landowners? What would be the incremental cost of those routes?
4. If alternative routes or facility configurations are considered due to individual landowner preference:
 - a) Have the affected landowners made adequate contributions to offset any additional costs associated with the accommodations?
 - b) Have the accommodations to landowners diminished the electric efficiency of the line or reliability?

Texas Parks and Wildlife Department

5. On or after September 1, 2009, did the Texas Parks and Wildlife Department provide any recommendations or informational comments regarding this application pursuant to

² See *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 6 (Nov. 1, 2006).

³ 16 Tex. Admin. Code § 25.101(b)(3)(B) (eff. Jan. 1, 2003) (Public Utility Commission of Texas).

Section 12.0011(b) of the Texas Parks and Wildlife Code? 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 by this application or the law applicable to contested cases, please explain why that is the case.

Parks and Wildlife Code Chapter 26

6. Was notice of the hearing provided in accordance with § 26.002 of the Parks and Wildlife Code?
7. Is there no feasible and prudent alternative to the use of public land 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 for the Project?

Conditions

9. In approving the application, should the Commission prescribe reasonable conditions to protect the public interest that are consistent with the final order of the Federal Energy Regulatory Commission in *Southern Cross*? If so, what reasonable conditions should be prescribed?

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

IV. Issues Not To Be Addressed

The following issues should not be addressed in this proceeding for the reasons stated:

Need

1. Are the proposed facilities necessary for the service, accommodation, convenience, or safety of the public within the meaning of PURA § 37.056(a) taking into account the factors set out in PURA § 37.056(c)?
2. Is the transmission project the better option to meet this need when compared to employing distribution facilities? If Garland is not subject to the unbundling requirements of PURA § 39.051, is the project the better option to meet the need when compared to a combination of distributed generation and energy efficiency?

In light of PURA § 37.051(c-2) and (i), enacted during the last session of the Texas Legislature, the need for the Project is an issue not to be addressed in this proceeding. Subsections 37.051(c-2) and (i) direct that the Commission shall approve this application not later than the 185th day after it is filed. By their reference to an interconnection agreement attached to the offer of settlement in the *Southern Cross* case, Subsections 37.051(c-2) and (i)

specifically identify the Garland Project as the facility for which the CCN application is to be approved. This specific, recently-enacted legislation prevails over and is an exception to an inconsistent general directive, such as the provision in PURA § 37.056(a) stating that the Commission may approve an application and grant a certificate only if it finds that the certificate is necessary for the service, accommodation, convenience, or safety of the public. As a result, issues relating to need for the Project or alternatives to the Project shall not be addressed.

Compensation/Condemnation Issues

3. 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.

V. Effect of Preliminary Order

The Commission's discussion and conclusions in this Order regarding issues not to be addressed should be considered dispositive of those matters. As to all other issues, this Order is preliminary in nature and is entered without prejudice to any party expressing views contrary to this Order at hearing. The Commission, upon its own motion or upon the motion of any party, may deviate from this Order when circumstances dictate that it is reasonable to do so. The Commission will not address whether this Order should be modified except upon its own motion. Furthermore, this Order is not subject to motions for rehearing or reconsideration.

SIGNED AT AUSTIN, TEXAS the ____ day of _____, 2016.

PUBLIC UTILITY COMMISSION OF TEXAS

DONNA L. NELSON, CHAIRMAN

KENNETH W. ANDERSON, JR., COMMISSIONER

BRANDY MARTY MARQUEZ, COMMISSIONER

DOCKET NO. 45624

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AND NECESSITY FOR THE	§	PUBLIC UTILITY COMMISSION
PROPOSED RUSK TO PANOLA	§	
DOUBLE-CIRCUIT 345-KV	§	OF TEXAS
TRANSMISSION LINE IN RUSK	§	
AND PANOLA COUNTIES, TEXAS	§	

PROTECTIVE ORDER

This Protective Order shall govern the use of all information deemed confidential (Protected Materials) or highly confidential (Highly Sensitive Protected Materials), including information whose confidentiality is currently under dispute, by a party providing information to the Public Utility Commission of Texas (Commission) or to any other party to this proceeding.

It is ORDERED that:

1. **Designation of Protected Materials.** Upon producing or filing a document, including, but not limited to, records on a computer disk or other similar electronic storage medium in this proceeding, the producing party may designate that document, or any portion of it, as confidential pursuant to this Protective Order by typing or stamping on its face "PROTECTED PURSUANT TO PROTECTIVE ORDER ISSUED IN DOCKET NO. 45624" (or words to this effect) and consecutively Bates Stamping each page. Protected Materials and Highly Sensitive Protected Materials include the documents so designated, as well as the substance of the information contained in the documents and any description, report, summary, or statement about the substance of the information contained in the documents.
2. **Materials Excluded from Protected Materials Designation.** Protected Materials shall not include any information or document contained in the public files of the Commission or any other federal or state agency, court, or local governmental authority subject to the Public Information Act.¹ Protected Materials also shall not include documents or information which at the time of, or prior to disclosure in, a proceeding is or was public

¹ Tex. Gov't Code Ann. §§ 552.001-552.353 (West 2012).

knowledge, or which becomes public knowledge other than through disclosure in violation of this Protective Order.

3. **Reviewing Party.** For the purposes of this Protective Order, a “Reviewing Party” is any party to this docket.
4. **Procedures for Designation of Protected Materials.** On or before the date the Protected Materials or Highly Sensitive Protected Materials are provided to the Commission, the producing party shall file with the Commission and deliver to each party to the proceeding a written statement, which may be in the form of an objection, indicating: (a) any exemptions to the Public Information Act claimed to apply to the alleged Protected Materials; (b) the reasons supporting the producing party’s claim that the responsive information is exempt from public disclosure under the Public Information Act and subject to treatment as protected materials; and (c) that counsel for the producing party has reviewed the information sufficiently to state in good faith that the information is exempt from public disclosure under the Public Information Act and merits the Protected Materials designation.
5. **Persons Permitted Access to Protected Materials.** Except as otherwise provided in this Protective Order, a Reviewing Party may access Protected Materials only through its “Reviewing Representatives” who have signed the Protective Order Certification Form (see Attachment A). Reviewing Representatives of a Reviewing Party include its counsel of record in this proceeding and associated attorneys, paralegals, economists, statisticians, accountants, consultants, or other persons employed or retained by the Reviewing Party and directly engaged in this proceeding. At the request of the PUC Commissioners, copies of Protected Materials may be produced by Commission Staff. The Commissioners and their staff shall be informed of the existence and coverage of this Protective Order and shall observe the restrictions of the Protective Order.
6. **Highly Sensitive Protected Material Described.** The term “Highly Sensitive Protected Materials” is a subset of Protected Materials and refers to documents or information that a producing party claims is of such a highly sensitive nature that making copies of such documents or information or providing access to such documents to employees of the Reviewing Party (except as specified herein) would expose a producing party to

unreasonable risk of harm. Highly Sensitive Protected Materials include but are not limited to: (a) customer-specific information protected by § 32.101(c) of the Public Utility Regulatory Act;² (b) contractual information pertaining to contracts that specify that their terms are confidential or that are confidential pursuant to an order entered in litigation to which the producing party is a party; (c) market-sensitive fuel price forecasts, wholesale transactions information and/or market-sensitive marketing plans; or (d) business operations or financial information that is commercially sensitive. Documents or information so classified by a producing party shall bear the designation “HIGHLY SENSITIVE PROTECTED MATERIALS PROVIDED PURSUANT TO PROTECTIVE ORDER ISSUED IN DOCKET NO. 45624” (or words to this effect) and shall be consecutively Bates Stamped. The provisions of this Protective Order pertaining to Protected Materials also apply to Highly Sensitive Protected Materials, except where this Protective Order provides for additional protections for Highly Sensitive Protected Materials. In particular, the procedures herein for challenging the producing party’s designation of information as Protected Materials also apply to information that a producing party designates as Highly Sensitive Protected Materials.

7. **Restrictions on Copying and Inspection of Highly Sensitive Protected Material.**

Except as expressly provided herein, only one copy may be made of any Highly Sensitive Protected Materials except that additional copies may be made to have sufficient copies for introduction of the material into the evidentiary record if the material is to be offered for admission into the record. The Reviewing Party shall maintain a record of all copies made of Highly Sensitive Protected Material and shall send a duplicate of the record to the producing party when the copy or copies are made. The record shall specify the location and the person possessing the copy. Highly Sensitive Protected Material shall be made available for inspection only at the location or locations provided by the producing party, except as specified by Paragraph 9. Limited notes may be made of Highly Sensitive Protected Materials, and such notes shall themselves be treated as Highly Sensitive Protected Materials unless such notes are limited to a description of the

² Public Utility Regulatory Act, Tex. Util. Code Ann., § 32.101(c) (West 2007) (PURA).

document and a general characterization of its subject matter in a manner that does not state any substantive information contained in the document.

8. **Restricting Persons Who May Have Access to Highly Sensitive Protected Material.**

With the exception of Commission Staff, The Office of the Attorney General (OAG), and the Office of Public Utility Counsel (OPUC), and except as provided herein, the Reviewing Representatives for the purpose of access to Highly Sensitive Protected Materials may be persons who are (a) outside counsel for the Reviewing Party, (b) outside consultants for the Reviewing Party working under the direction of Reviewing Party's counsel or, (c) employees of the Reviewing Party working with and under the direction of Reviewing Party's counsel who have been authorized by the presiding officer to review Highly Sensitive Protected Materials. The Reviewing Party shall limit the number of Reviewing Representatives that review Highly Sensitive Protected Materials to the minimum number of persons necessary. The Reviewing Party is under a good faith obligation to limit access to each portion of any Highly Sensitive Protected Materials to two Reviewing Representatives whenever possible. Reviewing Representatives for Commission Staff and OPUC, for the purpose of access to Highly Sensitive Protected Materials, shall consist of their respective counsel of record in this proceeding and associated attorneys, paralegals, economists, statisticians, accountants, consultants, or other persons employed or retained by them and directly engaged in these proceedings.

9. **Copies Provided of Highly Sensitive Protected Material.** A producing party shall provide one copy of Highly Sensitive Protected Materials specifically requested by the Reviewing Party to the person designated by the Reviewing Party who must be a person authorized to review Highly Sensitive Protected Material under Paragraph 8, and must be either outside counsel or an outside consultant. Other representatives of the Reviewing Party who are authorized to view Highly Sensitive Protected Material may review the copy of Highly Sensitive Protected Materials at the office of the Reviewing Party's representative designated to receive the information. Each Reviewing Party may make two additional copies of Highly Sensitive documents for outside consultants whose business offices are located outside of Travis County. All restrictions on Highly Sensitive documents in this order shall apply to the additional copies maintained in the outside consultants' offices. Any Highly Sensitive Protected Materials provided to a

Reviewing Party may not be copied except as provided in Paragraph 7 and shall be returned along with any copies made pursuant to paragraph 7 to the producing party within two weeks after the close of the evidence in this proceeding. The restrictions contained herein do not apply to Commission Staff, OPUC, and the OAG when the OAG is a representing a party to the proceeding.

10. **Procedures in Paragraphs 10-14 Apply to Commission Staff, OPUC, and the OAG and Control in the Event of Conflict.** The procedures in Paragraphs 10 through 14 apply to responses to requests for documents or information that the producing party designates as Highly Sensitive Protected Materials and provides to Commission Staff, OPUC, and the OAG in recognition of their purely public functions. To the extent the requirements of Paragraphs 10 through 14 conflict with any requirements contained in other paragraphs of this Protective Order, the requirements of these Paragraphs shall control.
11. **Copy of Highly Sensitive Protected Material to be Provided to Commission Staff, OPUC and the OAG.** When, in response to a request for information by a Reviewing Party, the producing party makes available for review documents or information claimed to be Highly Sensitive Protected Materials, the producing party shall also deliver one copy of the Highly Sensitive Protected Materials to the Commission Staff, OPUC, and the OAG (if the OAG is representing a party) in Austin, Texas. Provided however, that in the event such Highly Sensitive Protected Materials are voluminous, the materials will be made available for review by Commission Staff, OPUC, and the OAG (if the OAG is representing a party) at the designated office in Austin, Texas. The Commission Staff, OPUC and the OAG (if the OAG is representing a party) may request such copies as are necessary of such voluminous material under the copying procedures specified herein.
12. **Delivery of the Copy of Highly Sensitive Protected Material to Commission Staff and Outside Consultants.** The Commission Staff, OPUC, and the OAG (if the OAG is representing a party) may deliver the copy of Highly Sensitive Protected Materials received by them to the appropriate members of their staff for review, provided such staff members first sign the certification specified by Paragraph 15. After obtaining the agreement of the producing party, Commission Staff, OPUC, and the OAG (if the OAG

is representing a party) may deliver the copy of Highly Sensitive Protected Materials received by it to the agreed, appropriate members of their outside consultants for review, provided such outside consultants first sign the certification in Attachment A.

13. **Restriction on Copying by Commission Staff, OPUC and the OAG.** Except as allowed by Paragraph 7, Commission Staff, OPUC and the OAG may not make additional copies of the Highly Sensitive Protected Materials furnished to them unless the producing party agrees in writing otherwise, or, upon a showing of good cause, the presiding officer directs otherwise. Commission Staff, OPUC, and the OAG may make limited notes of Highly Sensitive Protected Materials furnished to them, and all such handwritten notes will be treated as Highly Sensitive Protected Materials as are the materials from which the notes are taken.
14. **Public Information Requests.** In the event of a request for any of the Highly Sensitive Protected Materials under the Public Information Act, an authorized representative of the Commission, OPUC, or the OAG may furnish a copy of the requested Highly Sensitive Protected Materials to the Open Records Division at the OAG together with a copy of this Protective Order after notifying the producing party that such documents are being furnished to the OAG. Such notification may be provided simultaneously with the delivery of the Highly Sensitive Protected Materials to the OAG.
15. **Required Certification.** Each person who inspects the Protected Materials shall, before such inspection, agree in writing to the following certification found in Attachment A to this Protective Order:

I certify my understanding that the Protected Materials are provided to me pursuant to the terms and restrictions of the Protective Order in this docket, and that I have been given a copy of it and have read the Protective Order and agree to be bound by it. I understand that the contents of the Protected Materials, any notes, memoranda, or any other form of information regarding or derived from the Protected Materials shall not be disclosed to anyone other than in accordance with the Protective Order and unless I am an employee of the Commission or OPUC shall be used only for the purpose of the proceeding in Docket No. 45624. I acknowledge that the obligations imposed by this certification are pursuant to such Protective Order. Provided, however, if the information contained in the Protected Materials is obtained from

independent public sources, the understanding stated herein shall not apply.

In addition, Reviewing Representatives who are permitted access to Highly Sensitive Protected Material under the terms of this Protective Order shall, before inspection of such material, agree in writing to the following certification found in Attachment A to this Protective Order:

I certify that I am eligible to have access to Highly Sensitive Protected Material under the terms of the Protective Order in this docket.

The Reviewing Party shall provide a copy of each signed certification to Counsel for the producing party and serve a copy upon all parties of record.

16. **Disclosures between Reviewing Representatives and Continuation of Disclosure Restrictions after a Person is no Longer Engaged in the Proceeding.** Any Reviewing Representative may disclose Protected Materials, other than Highly Sensitive Protected Materials, to any other person who is a Reviewing Representative provided that, if the person to whom disclosure is to be made has not executed and provided for delivery of a signed certification to the party asserting confidentiality, that certification shall be executed prior to any disclosure. A Reviewing Representative may disclose Highly Sensitive Protected Material to other Reviewing Representatives who are permitted access to such material and have executed the additional certification required for persons who receive access to Highly Sensitive Protected Material. In the event that any Reviewing Representative to whom Protected Materials are disclosed ceases to be engaged in these proceedings, access to Protected Materials by that person shall be terminated and all notes, memoranda, or other information derived from the protected material shall either be destroyed or given to another Reviewing Representative of that party who is authorized pursuant to this Protective Order to receive the protected materials. Any person who has agreed to the foregoing certification shall continue to be bound by the provisions of this Protective Order so long as it is in effect, even if no longer engaged in these proceedings.
17. **Producing Party to Provide One Copy of Certain Protected Material and Procedures for Making Additional Copies of Such Materials.** Except for Highly Sensitive Protected Materials, which shall be provided to the Reviewing Parties pursuant

to Paragraphs 9, and voluminous Protected Materials, the producing party shall provide a Reviewing Party one copy of the Protected Materials upon receipt of the signed certification described in Paragraph 15. Except for Highly Sensitive Protected Materials, a Reviewing Party may make further copies of Protected Materials for use in this proceeding pursuant to this Protective Order, but a record shall be maintained as to the documents reproduced and the number of copies made, and upon request the Reviewing Party shall provide the party asserting confidentiality with a copy of that record.

18. **Procedures Regarding Voluminous Protected Materials.** 16 Tex. Admin. Code § 22.144(h) will govern production of voluminous Protected Materials. Voluminous Protected Materials will be made available in the producing party's voluminous room, in Austin, Texas, or at a mutually agreed upon location, Monday through Friday, 9:00 a.m. to 5:00 p.m. (except on state or Federal holidays), and at other mutually convenient times upon reasonable request.
19. **Reviewing Period Defined.** The Protected Materials may be reviewed only during the Reviewing Period, which shall commence upon entry of this Protective Order and continue until the expiration of the Commission's plenary jurisdiction. The Reviewing Period shall reopen if the Commission regains jurisdiction due to a remand as provided by law. Protected materials that are admitted into the evidentiary record or accompanying the evidentiary record as offers of proof may be reviewed throughout the pendency of this proceeding and any appeals.
20. **Procedures for Making Copies of Voluminous Protected Materials.** Other than Highly Sensitive Protected Materials, Reviewing Parties may take notes regarding the information contained in voluminous Protected Materials made available for inspection or they may make photographic, mechanical or electronic copies of the Protected Materials, subject to the conditions in this Protective Order; provided, however, that before photographic, mechanical or electronic copies may be made, the Reviewing Party seeking photographic, mechanical or electronic copies must provide written confirmation of the receipt of copies listed on Attachment B of this Protective Order identifying each piece of Protected Materials or portions thereof the Reviewing Party will need.

21. **Protected Materials to be Used Solely for the Purposes of These Proceedings.** All Protected Materials shall be made available to the Reviewing Parties and their Reviewing Representatives solely for the purposes of these proceedings. Access to the Protected Materials may not be used in the furtherance of any other purpose, including, without limitation: (a) any other pending or potential proceeding involving any claim, complaint, or other grievance of whatever nature, except appellate review proceedings that may arise from or be subject to these proceedings; or (b) any business or competitive endeavor of whatever nature. Because of their statutory regulatory obligations, these restrictions do not apply to Commission Staff or OPUC.
22. **Procedures for Confidential Treatment of Protected Materials and Information Derived from Those Materials.** Protected Materials, as well as a Reviewing Party's notes, memoranda, or other information regarding or derived from the Protected Materials are to be treated confidentially by the Reviewing Party and shall not be disclosed or used by the Reviewing Party except as permitted and provided in this Protective Order. Information derived from or describing the Protected Materials shall be maintained in a secure place and shall not be placed in the public or general files of the Reviewing Party except in accordance with the provisions of this Protective Order. A Reviewing Party must take all reasonable precautions to insure that the Protected Materials including notes and analyses made from Protected Materials that disclose Protected Materials are not viewed or taken by any person other than a Reviewing Representative of a Reviewing Party.
23. **Procedures for Submission of Protected Materials.** If a Reviewing Party tenders for filing any Protected Materials, including Highly Sensitive Protected Materials, or any written testimony, exhibit, brief, motion or other type of pleading or other submission at the Commission or before any other judicial body that quotes from Protected Materials or discloses the content of Protected Materials, the confidential portion of such submission shall be filed and served in sealed envelopes or other appropriate containers endorsed to the effect that they contain Protected Material or Highly Sensitive Protected Material and are sealed pursuant to this Protective Order. If filed at the Commission, such documents shall be marked "PROTECTED MATERIAL" and shall be filed under seal with the presiding officer and served under seal to the counsel of record for the Reviewing Parties.

The presiding officer may subsequently, on his/her own motion or on motion of a party, issue a ruling respecting whether or not the inclusion, incorporation or reference to Protected Materials is such that such submission should remain under seal. If filing before a judicial body, the filing party: (a) shall notify the party which provided the information within sufficient time so that the producing party may seek a temporary sealing order; and (b) shall otherwise follow the procedures in Rule 76a, Texas Rules of Civil Procedure.

24. **Maintenance of Protected Status of Materials during Pendency of Appeal of Order Holding Materials are not Protected Materials.**

In the event that the presiding officer at any time in the course of this proceeding finds that all or part of the Protected Materials are not confidential or proprietary, by finding, for example, that such materials have entered the public domain or materials claimed to be Highly Sensitive Protected Materials are only Protected Materials, those materials shall nevertheless be subject to the protection afforded by this Protective Order for three (3) full working days, unless otherwise ordered, from the date the party asserting confidentiality receives notice of the presiding officer's order. Such notification will be by written communication. This provision establishes a deadline for appeal of a presiding officer's order to the Commission. In the event an appeal to the Commissioners is filed within those three (3) working days from notice, the Protected Materials shall be afforded the confidential treatment and status provided in this Protective Order during the pendency of such appeal. Neither the party asserting confidentiality nor any Reviewing Party waives its right to seek additional administrative or judicial remedies after the Commission's denial of any appeal.

25. **Notice of Intent to Use Protected Materials or Change Materials Designation.**

Parties intending to use Protected Materials shall notify the other parties prior to offering them into evidence or otherwise disclosing such information into the record of the proceeding. During the pendency of Docket No. 45624 at the Commission, in the event that a Reviewing Party wishes to disclose Protected Materials to any person to whom disclosure is not authorized by this Protective Order, or wishes to have changed the designation of certain information or material as Protected Materials by alleging, for example, that such information or material has entered the public domain, such

Reviewing Party shall first file and serve on all parties written notice of such proposed disclosure or request for change in designation, identifying with particularity each of such Protected Materials. A Reviewing Party shall at any time be able to file a written motion to challenge the designation of information as Protected Materials.

26. **Procedures to Contest Disclosure or Change in Designation.** In the event that the party asserting confidentiality wishes to contest a proposed disclosure or request for change in designation, the party asserting confidentiality shall file with the appropriate presiding officer its objection to a proposal, with supporting affidavits, if any, within five (5) working days after receiving such notice of proposed disclosure or change in designation. Failure of the party asserting confidentiality to file such an objection within this period shall be deemed a waiver of objection to the proposed disclosure or request for change in designation. Within five (5) working days after the party asserting confidentiality files its objection and supporting materials, the party challenging confidentiality may respond. Any such response shall include a statement by counsel for the party challenging such confidentiality that he or she has reviewed all portions of the materials in dispute and, without disclosing the Protected Materials, a statement as to why the Protected Materials should not be held to be confidential under current legal standards, or that the party asserting confidentiality for some reason did not allow such counsel to review such materials. If either party wishes to submit the material in question for in camera inspection, it shall do so no later than five (5) working days after the party challenging confidentiality has made its written filing.
27. **Procedures for Presiding Officer Determination Regarding Proposed Disclosure or Change in Designation.** If the party asserting confidentiality files an objection, the appropriate presiding officer will determine whether the proposed disclosure or change in designation is appropriate. Upon the request of either the producing or Reviewing Party or upon the presiding officer's own initiative, the presiding officer may conduct a prehearing conference. The burden is on the party asserting confidentiality to show that such proposed disclosure or change in designation should not be made. If the presiding officer determines that such proposed disclosure or change in designation should be made, disclosure shall not take place earlier than three (3) full working days after such

determination unless otherwise ordered. No party waives any right to seek additional administrative or judicial remedies concerning such presiding officer's ruling.

28. **Maintenance of Protected Status during Periods Specified for Challenging Various Orders.** Any party electing to challenge, in the courts of this state, a Commission or presiding officer determination allowing disclosure or a change in designation shall have a period of ten (10) days from: (a) the date of an unfavorable Commission order; or (b) if the Commission does not rule on an appeal of an interim order, the date an appeal of an interim order to the Commission is overruled by operation of law, to obtain a favorable ruling in state district court. Any party challenging a state district court determination allowing disclosure or a change in designation shall have an additional period of ten (10) days from the date of the order to obtain a favorable ruling from a state appeals court. Finally, any party challenging a determination of a state appeals court allowing disclosure or a change in designation shall have an additional period of ten (10) days from the date of the order to obtain a favorable ruling from the state supreme court, or other appellate court. All Protected Materials shall be afforded the confidential treatment and status provided for in this Protective Order during the periods for challenging the various orders referenced in this paragraph. For purposes of this paragraph, a favorable ruling of a state district court, state appeals court, Supreme Court or other appellate court includes any order extending the deadlines in this paragraph.
29. **Other Grounds for Objection to Use of Protected Materials Remain Applicable.** Nothing in this Protective Order shall be construed as precluding any party from objecting to the use of Protected Materials on grounds other than confidentiality, including the lack of required relevance. Nothing in this Protective Order constitutes a waiver of the right to argue for more disclosure, provided, however, that unless the Commission or a court orders such additional disclosure, all parties will abide by the restrictions imposed by the Protective Order.
30. **Protection of Materials from Unauthorized Disclosure.** All notices, applications, responses or other correspondence shall be made in a manner which protects Protected Materials from unauthorized disclosure.

31. **Return of Copies of Protected Materials and Destruction of Information Derived from Protected Materials.** Following the conclusion of these proceedings, each Reviewing Party must, no later than thirty (30) days following receipt of the notice described below, return to the party asserting confidentiality all copies of the Protected Materials provided by that party pursuant to this Protective Order and all copies reproduced by a Reviewing Party, and counsel for each Reviewing Party must provide to the party asserting confidentiality a letter by counsel that, to the best of his or her knowledge, information, and belief, all copies of notes, memoranda, and other documents regarding or derived from the Protected Materials (including copies of Protected Materials) that have not been so returned, if any, have been destroyed, other than notes, memoranda, or other documents which contain information in a form which, if made public, would not cause disclosure of the substance of Protected Materials. As used in this Protective Order, “conclusion of these proceedings” refers to the exhaustion of available appeals, or the running of the time for the making of such appeals, as provided by applicable law. If, following any appeal, the Commission conducts a remand proceeding, then the “conclusion of these proceedings” is extended by the remand to the exhaustion of available appeals of the remand, or the running of the time for making such appeals of the remand, as provided by applicable law. Promptly following the conclusion of these proceedings, counsel for the party asserting confidentiality will send a written notice to all other parties, reminding them of their obligations under this Paragraph. Nothing in this Paragraph shall prohibit counsel for each Reviewing Party from retaining two (2) copies of any filed testimony, brief, application for rehearing, hearing exhibit or other pleading which refers to Protected Materials provided that any such Protected Materials retained by counsel shall remain subject to the provisions of this Protective Order.
32. **Applicability of Other Law.** This Protective Order is subject to the requirements of the Public Information Act, the Open Meetings Act,³ the Texas Securities Act⁴ and any other applicable law, provided that parties subject to those acts will notify the party asserting

³ Tex. Gov’t Code Ann. § 551.001-551.146 (West 2012).

⁴ Tex. Rev. Civ. Stat. Ann. arts. 581-1 to 581-44 (West 2010 & Supp. 2015).

confidentiality, if possible under those acts, prior to disclosure pursuant to those acts. Such notice shall not be required where the Protected Materials are sought by governmental officials authorized to conduct a criminal or civil investigation that relates to or involves the Protected Materials, and those governmental officials aver in writing that such notice could compromise the investigation and that the governmental entity involved will maintain the confidentiality of the Protected Materials.

33. **Procedures for Release of Information under Order.** If required by order of a governmental or judicial body, the Reviewing Party may release to such body the confidential information required by such order; provided, however, that: (a) the Reviewing Party shall notify the producing party of the order requiring the release of such information within five (5) calendar days of the date the Reviewing Party has notice of the order; (b) the Reviewing Party shall notify the producing party at least five (5) calendar days in advance of the release of the information to allow the producing party to contest any release of the confidential information; and (c) the Reviewing Party shall use its best efforts to prevent such materials from being disclosed to the public. The terms of this Protective Order do not preclude the Reviewing Party from complying with any valid and enforceable order of a state or federal court with competent jurisdiction specifically requiring disclosure of Protected Materials earlier than contemplated herein. The notice specified in this section shall not be required where the Protected Materials are sought by governmental officials authorized to conduct a criminal or civil investigation that relates to or involves the Protected Materials, and those governmental officials aver in writing that such notice could compromise the investigation and that the governmental entity involved will maintain the confidentiality of the Protected Materials.
34. **Best Efforts Defined.** The term “best efforts” as used in the preceding paragraph requires that the Reviewing Party attempt to ensure that disclosure is not made unless such disclosure is pursuant to a final order of a Texas governmental or Texas judicial body, the written opinion of the Texas Attorney General sought in compliance with the Public Information Act, or the request of governmental officials authorized to conduct a criminal or civil investigation that relates to or involves the Protected Materials. The Reviewing Party is not required to delay compliance with a lawful order to disclose such information but is simply required to timely notify the party asserting confidentiality, or

its counsel, that it has received a challenge to the confidentiality of the information and that the Reviewing Party will either proceed under the provisions of § 552.301 of the Public Information Act, or intends to comply with the final governmental or court order. Provided, however, that no notice is required where the Protected Materials are sought by governmental officials authorized to conduct a criminal or civil investigation that relates to or involves the Protected Materials, and those governmental officials aver in writing that such notice could compromise the investigation and that the governmental entity involved will maintain the confidentiality of the Protected Materials.

35. **Notify Defined.** “Notify” for purposes of Paragraphs 32, 33, and 34 means written notice to the party asserting confidentiality at least five (5) calendar days prior to release; including when a Reviewing Party receives a request under the Public Information Act. However, the Commission or OPUC may provide a copy of Protected Materials to the Open Records Division of the OAG as provided herein.
36. **Requests for Non-Disclosure.** If the producing party asserts that the requested information should not be disclosed at all, or should not be disclosed to certain parties under the protection afforded by this Protective Order, the producing party shall tender the information for *in camera* review to the presiding officer within ten (10) calendar days of the request. At the same time, the producing party shall file and serve on all parties its argument, including any supporting affidavits, in support of its position of non-disclosure. The burden is on the producing party to establish that the material should not be disclosed. The producing party shall serve a copy of the information under the classification of Highly Sensitive Protected Material to all parties requesting the information that the producing party has not alleged should be prohibited from reviewing the information.

Parties wishing to respond to the producing party’s argument for non-disclosure shall do so within five (5) working days. Responding parties should explain why the information should be disclosed to them, including why disclosure is necessary for a fair adjudication of the case if the material is determined to constitute a trade secret. If the presiding officer finds that the information should be disclosed as Protected Material under the terms of this Protective Order, the presiding officer shall stay the order of disclosure for

such period of time as the presiding officer deems necessary to allow the producing party to appeal the ruling to the Commission.

37. **Sanctions Available for Abuse of Designation.** If the presiding officer finds that a producing party unreasonably designated material as Protected Material or as Highly Sensitive Protected Material, or unreasonably attempted to prevent disclosure pursuant to Paragraph 36, the presiding officer may sanction the producing party pursuant to 16 Tex. Admin. Code. § 22.161.
38. **Modification of Protective Order.** Each party shall have the right to seek changes in this Protective Order as appropriate from the presiding officer.
39. **Breach of Protective Order.** In the event of a breach of the provisions of this Protective Order, the producing party, if it sustains its burden of proof required to establish the right to injunctive relief, shall be entitled to an injunction against such breach without any requirements to post bond as a condition of such relief. The producing party shall not be relieved of proof of any element required to establish the right to injunctive relief. In addition to injunctive relief, the producing party shall be entitled to pursue any other form of relief to which it is entitled.

ATTACHMENT A**Protective Order Certification**

I certify my understanding that the Protected Materials are provided to me pursuant to the terms and restrictions of the Protective Order in this docket and that I have received a copy of it and have read the Protective Order and agree to be bound by it. I understand that the contents of the Protected Materials, any notes, memoranda, or any other form of information regarding or derived from the Protected Materials shall not be disclosed to anyone other than in accordance with the Protective Order and unless I am an employee of the Commission or OPUC shall be used only for the purpose of the proceeding in Docket No. 45624. I acknowledge that the obligations imposed by this certification are pursuant to such Protective Order. Provided, however, if the information contained in the Protected Materials is obtained from independent public sources, the understanding stated here shall not apply.

Signature

Party Represented

Printed Name

Date

I certify that I am eligible to have access to Highly Sensitive Protected Material under the terms of the Protective Order in this docket.

Signature

Party Represented

Printed Name

Date

ATTACHMENT B

I request to view/copy the following documents:

Document Requested	# of Copies	Non-Confidential	Protected Materials and/or Highly Sensitive Protected Materials

Signature

Party Represented

Printed Name

Date

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

DOCKET NO. 45624

Submit seven (7) copies of the application and all attachments supporting the application. If the application is being filed pursuant to P.U.C. SUBST. R. 25.101(b)(3)(D) or P.U.C. SUBST. R. 25.174, include in the application all direct testimony. The application and other necessary documents shall be submitted to:

**Public Utility Commission of Texas
Attn: Filing Clerk
1701 N. Congress Ave.
Austin, Texas 78711-3326**

**Application of the City of Garland, Texas for a Certificate of Convenience and Necessity
for the Proposed Rusk to Panola Double-Circuit 345-kV Transmission Line
in Rusk and Panola Counties, Texas**

Note: As used herein, the term "joint application" refers to an application for proposed transmission facilities for which ownership will be divided. All applications for such facilities should be filed jointly by the proposed owners of the facilities.

1. **Applicant (Utility) Name:** The City of Garland, Texas, doing business as Garland Power and Light (Garland)

Certificate Number: 30063

Street Address: 217 N 5th Street, Garland, Texas 75040

Mailing Address: 217 N 5th Street, Garland, Texas 75040

2. **Please identify all entities that will hold an ownership interest or an investment interest in the proposed project but which are not subject to the Commission's jurisdiction.**

Not applicable. Garland will be the sole owner of the Project when it is placed in service. Rusk Interconnect LLC (Rusk) will fund the Project during construction but will convey it to Garland before it is placed in service. Rusk is an affiliate of Southern Cross Transmission LLC (Southern Cross).

3. **Person to Contact:** Elizabeth Kimbrough

Title/Position: Electric Communications Manager

Phone Number: (972) 205-2364

Mailing Address: 217 N 5th Street, Garland, Texas 75040

Email Address: ekimbrough@gpltexas.org

Alternate Contact: Kerry McGrath

Title/Position: Outside Counsel

Phone Number: (512) 744-9300

Mailing Address: P.O. Box 1149, Austin, Texas 78767

Email Address: kmcgrath@dwmrlaw.com

Legal Counsel: Mike Betz, City of Garland

Phone Number: (972) 205-1617

Mailing Address: 217 N 5th Street, Garland, Texas 75040

Email Address: betzm@garlandtx.gov

**Application of the City of Garland, Texas for a Certificate of Convenience and Necessity
for the Proposed Rusk to Panola Double-Circuit 345-kV Transmission Line
in Rusk and Panola Counties, Texas**

Legal Counsel: Kerry McGrath, Duggins Wren Mann & Romero, LLP
Phone Number: (512) 744-9300
Mailing Address: P.O. Box 1149, Austin, Texas 78767
Email Address: kmcgrath@dwmrlaw.com

4. Project Description:

Name or Designation of Project: Rusk to Panola Transmission Line Project (Project)

Provide a general description of the project, including the design voltage rating (kV), the operating voltage (kV), the CREZ Zone(s) (if any) where the project is located (all or in part), any substations and/or substation reactive compensation constructed as part of the project, and any series elements such as sectionalizing switching devices, series line compensation, etc. For HVDC transmission lines, the converter stations should be considered to be project components and should be addressed in the project description.

The proposed Project is a double-circuit 345-kV transmission line from the new Rusk Switching Station in Rusk County, Texas to the new Panola Switching Station, in Panola County, Texas, adjacent to the border with Louisiana. The Rusk Switching Station will be constructed and owned by Oncor Electric Delivery Company (Oncor) and the Panola Switching Station will be constructed by Rusk and owned by Garland.

If the project will be owned by more than one party, briefly explain the ownership arrangements between the parties and provide a description of the portion(s) that will be owned by each party. Provide a description of the responsibilities of each party for implementing the project (design, Right-Of-Way acquisition, material procurement, construction, etc.).

Not applicable. Garland will be the sole owner of the Project when it is placed in service. Rusk will fund the Project during construction but will convey it to Garland before it is placed in service. Garland and Rusk will cooperate in implementing the Project, as set out in more detail in the Transmission Line Agreement attached to the Direct Testimony of Darrell W. Cline.

If applicable, identify and explain any deviation in transmission project components from the original transmission specifications as previously approved by the Commission or recommended by a PURA §39.151 organization. Not applicable.

5. Conductor and Structures:

Conductor Size and Type:

Conductor will be twin bundled 1590 kCMIL, ACSS, 54/19 stranded, code name FALCON. Static wire will be one 3/8" EHS galvanized steel and one Optical Ground Wire.

Number of conductors per phase: 2 (two)

Continuous Summer Static Current Rating (A): 4,140 amps

Continuous Summer Static Line Capacity at Operating Voltage (MVA): 2,350 MVA

Continuous Summer Static Line Capacity at Design Voltage (MVA): 2,350 MVA

Type and composition of Structures:

**Application of the City of Garland, Texas for a Certificate of Convenience and Necessity
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in Rusk and Panola Counties, Texas**

Garland proposes to use primarily double-circuit, single-pole, self-supporting steel structures. However, depending on which route is approved, it is possible that some lattice structures also will be utilized.

Height of Typical Structures: approximately 135-145 ft.

Explain why these structures were selected; include such factors as landowner preference, engineering considerations, and costs comparisons to alternate structures that were considered. Provide dimensional drawings of the typical structures to be used in the project.

This line will be built using primarily single-pole steel structures; however, it is possible that some lattice structures also will be utilized. The proposed transmission line structures are expected to use drilled pier foundations. Direct burial for in-line structures will be utilized if soil conditions permit their use. A typical height for a tangent structure is shown on the attached drawing. Actual heights are dependent on the clearance requirements to be determined. Highway crossings will utilize structures whose heights are greater than the minimum heights required by the Texas Department of Transportation (TxDOT) and/or the National Electric Safety Code (NESC).

Garland chose single-pole steel structures over lattice structures, because single pole structures offer a limited footprint and significantly reduced construction requirements as related to similar lattice tower options. Additionally, during the public meetings held for this project, landowners indicated a preference for the single-pole steel design.

The presence of residential buildings in the area was an additional factor in selecting this type of structure since a single-pole steel line minimizes the impact to landowners.

Refer to Figures 2-1 through 2-4 in the Environmental Assessment and Alternative Route Analysis Report, Attachment 1 to this CCN Application Form, for the following:

Typical 345-kV double-circuit steel tangent structure is shown on Figure 2-1.

Typical 345-kV double-circuit steel dead-end structure is shown on Figure 2-2.

Typical 345-kV single-circuit steel dead-end structure is shown on Figure 2-3.

Typical 345-kV double-circuit lattice structure is shown on Figure 2-4.

For joint applications, provide and separately identify the above-required information regarding structures for the portion(s) of the project owned by each applicant. Not applicable.

6. Right-of-Way:

Miles of Right-of-Way: approximately 37 to 40 miles.

Miles of Circuit: approximately 74 to 80 miles.

Width of Right-of-Way: 150 ft., wider in exceptional circumstances

Percent of Right-of-Way Acquired: 0%

For joint applications, provide and separately identify the above-required information for each route for the portion(s) of the project owned by each applicant. Not applicable.

Provide a brief description of the area traversed by the transmission line. Include a description of the general land uses in the area and the type of terrain crossed by the line.

The proposed transmission line is located in Rusk and Panola Counties in the eastern portion of Texas. Land use throughout the project area is dominated by timberland interspersed with areas of pastureland. Much of the study area is also occupied by oil and gas wells and platforms and interconnecting oil and gas pipelines. The terrain within the study area is gently rolling with some

**Application of the City of Garland, Texas for a Certificate of Convenience and Necessity
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in Rusk and Panola Counties, Texas**

small hills. Lake Murvaul occupies the west-central portion of the study area and the Sabine River and associated floodplains and wetlands run generally north/south in the eastern portion of the study area. The City of Carthage is located mostly outside the north-central edge of the study area and Gary City is located in the central portion of the study area, east of Lake Murvaul.

7. Substations or Switching Stations:

List the name of all existing HVDC converter stations, substations or switching stations that will be associated with the new transmission line. Provide documentation showing that the owner(s) of the existing HVDC converter stations, substations and/or switching stations have agreed to the installation of the required project facilities. Not applicable.

List the name of all new HVDC converter stations, substations or switching stations that will be associated with the new transmission line. Provide documentation showing that the owner(s) of the new HVDC converter stations, substations and/or switching stations have agreed to the installation of the required project facilities.

Rusk and Panola switching stations are associated with the Project. Panola Station will connect with the Southern Cross HVDC converter station.

The Project is being constructed pursuant to the order of the Federal Energy Regulatory Commission (FERC) in Docket No. TX11-1-001, directing Garland to connect the Southern Cross project to the ERCOT grid in accordance with the Offer of Settlement in that case. The western end of the Project will connect to the new Rusk Switching Station to be constructed and owned by Oncor. The eastern end of the Project will connect to the new Panola Switching Station to be constructed by Rusk and owned by Garland. The Panola Switching Station will connect at the Texas-Louisiana border to a new HVDC converter station to be owned by Southern Cross adjacent to the Panola Switching Station across the border in Louisiana. Garland, Oncor and Southern Cross executed an Offer of Settlement in FERC Docket No. TX11-1-001 agreeing to the interconnections. A copy of the Offer of Settlement is attached as Attachment 2.

8. Estimated Schedule:

<u>Estimated Dates of:</u>	<u>Estimated Start Date</u>	<u>Estimated Completion Date</u>
Right-of-way (ROW) and Land Acquisition	March 2017	April 2018
Engineering and Design	May 2017	February 2018
Material and Equipment Procurement	March 2018	Ongoing throughout Construction
Construction of Facilities	2018-2019	2021
Energize Facilities	2021	Within 30 days of completion of construction

This is the currently anticipated schedule for the project and is subject to change.

9. Counties:

For each route, list all counties in which the route is to be constructed.

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All proposed routes are in Rusk and Panola Counties, Texas

10. Municipalities:

For each route, list all municipalities in which the route is to be constructed. None.

For each applicant, attach a copy of the franchise, permit or other evidence of the city's consent held by the utility, if necessary or applicable. If franchise, permit, or other evidence of the city's consent has been previously filed, provide only the docket number of the application in which the consent was filed. Each applicant should provide this information only for the portion(s) of the project which will be owned by the applicant. Not applicable.

11. Affected Utilities:

Identify any other electric utility served by or connected to facilities in this application.

Describe how any other electric utility will be affected and the extent of the other utilities' involvement in the construction of this project. Include any other electric utilities whose existing facilities will be utilized for the project (vacant circuit positions, ROW, substation sites and/or equipment, etc.) and provide documentation showing that the owner(s) of the existing facilities have agreed to the installation of the required project facilities.

As discussed in Sections 4 and 7, above, Oncor will own the new Rusk Switching Station, to be constructed at the western end of the Project. At ERCOT's direction, Oncor prepared the *Southern Cross HVDC Tie Study Report*, the *Facilities Study Report*, and the *Southern Cross HVDC Tie Short-Circuit Report*, attached to the Direct Testimony of David Parquet, that analyze effects on other utilities and the ERCOT grid. No existing facilities of other utilities will be utilized for the Project.

Other utilities in the vicinity of the project include Deep East Texas Electric Cooperative, Inc., Panola Harrison Electric Cooperative, Inc., Rusk County Electric Cooperative, Inc., and Southwestern Electric Power Company. This project is expected to have little or no physical effect on these existing electric utilities.

12. Financing: *Describe the method of financing this project. For each applicant that is to be reimbursed for all or a portion of this project, identify the source and amount of the reimbursement (actual amount if known, estimated amount otherwise) and the portion(s) of the project for which the reimbursement will be made.*

Garland is not financing the Project. The Project will be financed by Rusk and will be conveyed to Garland before being placed in operation.

13. Estimated Costs: *Provide cost estimates for each route of the proposed project using the following table. Provide a breakdown of "Other" costs by major cost category and amount. Provide the information for each route in an attachment to this application.*

Refer to Attachment 3 for the estimated cost tables.

For joint applications, provide and separately identify the above-required information for the portion(s) of the project owned by each applicant. Not applicable.

14. Need for the Proposed Project:

For a standard application, describe the need for the construction and state how the proposed project will address the need. Describe the existing transmission system and conditions addressed by this application. For projects that are planned to accommodate load growth,

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provide historical load data and load projections for at least five years. For projects to accommodate load growth or to address reliability issues, provide a description of the steady state load flow analysis that justifies the project. For interconnection projects, provide any documentation from a transmission service customer, generator, transmission service provider, or other entity to establish that the proposed facilities are needed. For projects related to a Competitive Renewable Energy Zone, the foregoing requirements are not necessary; the applicant need only provide a specific reference to the pertinent portion(s) of an appropriate commission order specifying that the facilities are needed. For all projects, provide any documentation of the review and recommendation of a PURA §39.151 organization.

The Project is being constructed to interconnect the Southern Cross project to the ERCOT grid pursuant to the order of the FERC in Docket No. TX11-1-001, *Southern Cross Transmission LLC*, 147 FERC ¶ 61,113 (2014). A copy of the FERC's final order in that Docket is attached as Attachment 4. In the 2015 session, the Texas Legislature enacted PURA § 37.051(c-2) and (i), which direct the Commission to approve an application for a facility that is to be constructed under an interconnection agreement appended to an offer of settlement approved in a final order of FERC issued in Docket No. TX11-01-001, directing physical connection between the ERCOT and SERC regions under Sections 210, 211, and 212 of the Federal Power Act (FPA). The statute is referring to the *Southern Cross* order, which directs physical connection between the ERCOT and SERC regions under Sections 210, 211, and 212 of the FPA. The Offer of Settlement approved by FERC in *Southern Cross*, with the appended interconnection agreements, is attached as Attachment 2. As a result, PURA § 37.051(c-2) and (i) direct the Commission to approve this application. As discussed in Section 7, Oncor prepared certain reliability and interconnection studies at ERCOT's direction.

15. Alternatives to Project:

For a standard application, describe alternatives to the construction of this project (not routing options). Include an analysis of distribution alternatives, upgrading voltage or bundling of conductors of existing facilities, adding transformers, and for utilities that have not unbundled, distributed generation as alternatives to the project. Explain how the project overcomes the insufficiencies of the other options that were considered.

This is not a standard application. PURA § 37.051(c-2) and (i) direct the Commission to approve the application for the specific project set out in the interconnection agreements in *Southern Cross Transmission LLC*, 147 FERC ¶ 61,113 (2014), so alternatives to the Project are not available in this case. Distribution alternatives, upgrading voltage or bundling of conductors of existing facilities, adding transformers, distributed generation, and other alternatives to the construction of the Project will not interconnect the Southern Cross project to the ERCOT grid in accordance with the FERC order.

16. Schematic or Diagram:

For a standard application, provide a schematic or diagram of the applicant's transmission system in the proximate area of the project. Show the location and voltage of existing transmission lines and substations, and the location of the construction. Locate any taps, ties, meter points, or other facilities involving other utilities on the system schematic.

Garland does not currently own or operate any transmission lines in the vicinity of the project. The existing transmission system in the proximate area of the Project is shown on Figure 8-1 (map pocket) of the Environmental Assessment.

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17. Routing Study:

Provide a brief summary of the routing study that includes a description of the process of selecting the study area, identifying routing constraints, selecting potential line segments, and the selection of the routes. Provide a copy of the complete routing study conducted by the utility or consultant. State which route the applicant believes best addresses the requirements of PURA and P.U.C. Substantive Rules.

Garland and Rusk retained Burns & McDonnell Engineering Company, Inc. (Burns & McDonnell) to prepare an Environmental Assessment and Alternative Route Analysis Report for this project. The Environmental Assessment was produced by Burns & McDonnell with input from Garland and Rusk, and is included as Attachment 1 to this CCN Application Form. The objective of this study was to identify and evaluate alternative transmission line routes for Garland's proposed double-circuit 345-kV transmission line project. Burns & McDonnell used a comprehensive transmission line routing and evaluation methodology to identify and evaluate alternative transmission line routes in accordance with Section 37.056 (c)(4)(A)-(D) of the Texas Utilities Code, the PUCT's CCN application form, and PUC Substantive Rule 25.101. The process consisted of study area delineation, data collection, constraints mapping, identification of preliminary alternative routes, public open-house meetings, modification, addition, and removal of alternative route segments following the public open-house meetings, and alternative route evaluation.

The first step in the identification of alternative routes was to select a study area. This area needed to encompass the proposed location for the Rusk Switching Station, the proposed location for the Panola Switching Station, and an area large enough for a reasonable number of alternative routes to be identified for the proposed transmission line between those two endpoints. The study area for this project was developed to take advantage of existing corridors that run in the same general direction as the proposed transmission line, which included various existing transmission lines in the vicinity of the proposed Rusk Switching Station, State Highway (SH) 315, the existing east/west transmission line located south of Carthage, and the existing north/south transmission lines in the eastern portion of the study area, while minimizing the number of potentially affected counties and municipalities involved in the project.

Burns & McDonnell created a list of officials and agency personnel, including state and/or federal agencies that may have potential permitting requirements for the proposed project, to be mailed a consultation letter regarding the proposed project. Letters were sent to these stakeholders to inform them of the proposed project and give them the opportunity to provide information they may have regarding the study area. The feedback provided by some of these officials and agencies was used during the routing analysis.

Other data collection activities consisted of file and record reviews conducted at various state regulatory agencies, a review of published literature, available Geographic Information System (GIS) data, and review of a variety of maps, including recent color aerial photography, U.S. Geological Survey (USGS) topographic maps, various roadway maps, and county appraisal district land parcel boundary maps. Ground reconnaissance surveys were also conducted by visual observations from public roads and public rights-of-way (ROWs) located within the study area.

The information collected during the data collection phase was used to develop an environmental and land use constraints map. The geographic locations of exclusionary areas, avoidance areas, environmentally sensitive areas, and opportunity areas within the study area were located and

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considered during transmission line route identification. Burns & McDonnell utilized the following to identify and refine the alternative routes:

- Input received from the various correspondence with local officials and others;
- Input received from two public open-house meetings;
- Results of the visual reconnaissance activities of the study area;
- Review of recent aerial photography;
- Findings of the various data collection activities;
- Environmental and land use constraints;
- Apparent property boundaries;
- Existing compatible corridors; and
- Locations of towns and cities.

It was Burns & McDonnell's intent to identify an adequate number of alternative routes that were environmentally acceptable, considering such factors as community values, park and recreational areas, historical and aesthetic values, environmental integrity, length of route parallel to or utilizing existing compatible ROWs, length of route parallel to apparent property boundaries, and the PUCT's policy of prudent avoidance.

The preliminary alternative routes identified by Burns & McDonnell were then presented at two public open-house meetings. After the meetings, Burns & McDonnell reviewed and evaluated each questionnaire that was submitted at the meetings, submitted online, or mailed at a later date as well as all routing maps and computer station comments showing areas of interest identified by the attendees. Attendee comments were evaluated, considered, and factored into the overall evaluation of the alternative routes. As a result of input from the meeting attendees, the preliminary alternative routes were modified: some alternatives were removed from consideration; the alignments of some segments were adjusted; and a new segment alternative that would be largely parallel to an existing transmission line was added. The resulting set of routes following these adjustments are called the primary routes. Newly-affected landowners were notified by letter, provided with a map of the modified segment and open house materials, and provided an opportunity to offer input through the website or via a questionnaire that was included with the letter and map.

Modifications to the preliminary alternative route segments resulted in a total of 51 segments and 96 primary routes. Burns & McDonnell then completed a detailed evaluation of each primary route to identify the proposed routes that would be presented. Burns & McDonnell completed a z-score screening methodology using a subset of the 39 different environmental and land use criteria that were calculated for each route, as well as the results of the public involvement program, to identify the 12 routes proposed in this application (Proposed Routes). These routes represented the top-ranking route in each corridor (north, south, and central) and another 9 routes, generally those that ranked highest and included the remaining 25 segments to be presented to the PUCT for review. Burns & McDonnell then evaluated the advantages and disadvantages of each proposed route using the environmental and land use criteria, input from the agencies, and public input, and determined that Route RP5 represented the best balance of the routes analyzed among land use, environmental, and cultural resource factors that best address the requirements of PURA and the PUC Substantive Rules. Route RP5 ranked the best in Burns & McDonnell's z-score analysis and is recommended because it is the second shortest route and would be constructed largely along existing corridors, the majority of which are existing transmission lines. Route RP5 does have a higher habitable structure count, but most of these structures are already located near an existing

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transmission line, and thus, the overall impact of Route RP5 would be relatively less for these residents compared to residents that would be affected by an entirely new ROW. Route RP5 has the least amount of forested wetlands and the least amount of total wetlands within the proposed ROW of the proposed routes analyzed. Additionally, Route RP5 has the second fewest number of recorded cultural sites within 1,000 ft. and the second shortest length through High Probability Areas for cultural resources. Although Garland recommends Route RP5, it can construct and operate any of the transmission lines on any of the routes proposed in this application.

Refer to Table 8-5 in the Environmental Assessment, Attachment 1 to this CCN Application Form.

18. Public Meeting or Public Open House:

Provide the date and location for each public meeting or public open house that was held in accordance with P.U.C. PROC. R. 22.52. Provide a summary of each public meeting or public open house including the approximate number of attendants, and a copy of any survey provided to attendants and a summary of the responses received. For each public meeting or public open house provide a description of the method of notice, a copy of any notices, and the number of notices that were mailed and/or published.

Two open-house meetings were held for this project. These meetings took place on December 1 and 2, 2015, between the hours of 4:00 p.m. and 7:00 p.m. Both open house meetings were held at the Carthage Civic Center located at 1702 South Adams in Carthage. Attendees were able to fill out and submit questionnaires related to this project at either meeting or through the project website.

Burns & McDonnell mailed notice of the project to approximately 67 federal, state, and local agencies. Burns & McDonnell mailed individual written notices of the public meeting to all owners of property within 500 ft. of the centerline along the preliminary alternative route segments, as delineated at the time of the public open-house meetings (1,078 notices were mailed for all parcels crossed or within 500 feet of the centerline; these represent approximately 631 unique landowners). Additionally, 50 key stakeholders (officials, agencies, and representatives of other organizations) were mailed written notice of the public meetings.

Refer to Section 6.1 and Appendix A of the Environmental Assessment, Attachment 1 to this CCN Application Form, for a list of federal, state, and local agencies that received notice of the project, and Appendix B for a sample copy of the notice letters sent to landowners regarding the open-house meeting.

At each open-house meeting, information stations were set up in the meeting space. Each station was devoted to a particular aspect of the project and was staffed by representatives of Garland, Rusk, and/or Burns & McDonnell. Each station had maps, illustrations, photographs, and/or text explaining each particular topic. Three computer stations were also provided to allow landowners to view the preliminary alternative routes on their property in detail and to provide comments digitally regarding their property and other concerns.

A total of 80 people signed in as attending the open-house meeting in Carthage, Texas, on December 1; and 39 people signed in as attending the meeting in Carthage on December 2. Total attendance was 119. All of the participants were encouraged to fill out a questionnaire and return it at the meeting, online, or by mail at a later date. In total, 72 completed questionnaires were returned either at or after the open-house meetings or via the online questionnaire. After the public open-house meetings, Burns & McDonnell reviewed and evaluated each questionnaire that was

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submitted at the meetings or provided at a later date by mail or online, as well as any areas of concern documented by open house attendees at the computer stations. Adjustments were made to the preliminary alternative route segments as a result of comments received at the open houses and via the questionnaires. Following these adjustments, notification letters were sent to newly affected landowners within 500 ft. of the new or modified segments and to previously notified landowners where the route location was modified on their property. A total of 104 letters were mailed, representing 73 unique landowners. They were provided with a map of the modified segment, documentation depicting the open house materials, and a link to the website for additional project information, and were also provided an opportunity to comment on the adjustments via the website or a questionnaire that was mailed with the letter and map. All attendee comments, including those received after the initial round of segment modifications, were evaluated, considered, and factored into the overall evaluation of the primary routes.

Refer to Appendix B of the Environmental Assessment, Attachment 1 to this CCN Application Form, for a copy of the questionnaire.

Refer to Chapter 6.0 of the Environmental Assessment, Attachment 1 to this CCN Application Form, for a summary of the questionnaire responses.

19. Routing Maps:

Base maps should be a full scale (one inch = not more than one mile) highway map of the county or counties involved, or other maps of comparable scale denoting sufficient cultural and natural features to permit location of all routes in the field. Provide a map (or maps) showing the study area, routing constraints, and all routes or line segments that were considered prior to the selection of the routes. Identify the routes and any existing facilities to be interconnected or coordinated with the project. Identify any taps, ties, meter points, or other facilities involving other utilities on the routing map. Show all existing transmission facilities located in the study area. Include the locations of radio transmitters and other electronic installations, airstrips, irrigated pasture or cropland, parks and recreational areas, historical and archeological sites (subject to the instructions in Question 27), and any environmentally sensitive areas (subject to the instructions in Question 29).

Provide aerial photographs of the study area displaying the date that the photographs were taken or maps that show (1) the location of each route with each route segment identified, (2) the locations of all major public roads including, as a minimum, all federal and state roadways, (3) the locations of all known habitable structures or groups of habitable structures (see Question 19 below) on properties directly affected by any route, and (4) the boundaries (approximate or estimated according to best available information if required) of all properties directly affected by any route.

For each route, cross-reference each habitable structure (or group of habitable structures) and directly affected property identified on the maps or photographs with a list of corresponding landowner names and addresses and indicate which route segment affects each structure/group or property.

Refer to Figure 3-3 of the Environmental Assessment, Attachment 1 to this CCN Application Form, for a map depicting the preliminary alternative routes. Refer to Figure 3-4 of the EA for a map depicting the primary routes.

Refer to Figure 8-1 (map pocket) of the Environmental Assessment, Attachment 1 to this CCN Application Form, for maps depicting the routes proposed for this project, major roadways, and

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the location of habitable structures and directly affected property. Also, refer to Table 8-6 in the Environmental Assessment for the habitable structures list (by segment and distance). Refer to Appendix E in the Environmental Assessment for the list of directly affected property owners shown on Figure 8-1.

20. Permits:

List any and all permits and/or approvals required by other governmental agencies for the construction of the proposed project. Indicate whether each permit has been obtained.

Permits will be obtained following selection of the route by the PUCT. Below is a list of permits that may be required for construction of the transmission line project on any of the routes:

- Texas Department of Transportation (TxDOT) permit(s) will be required for crossing state-maintained roadways or using TxDOT ROW to access the proposed project (not yet obtained).
- Depending on the location of structures, floodplain development permits and road crossing permits might be required by the counties in which the approved route is located (not yet obtained).
- A Storm Water Pollution Prevention Plan (SWPPP) will be prepared, and a Notice of Intent will be submitted at least 48 hours prior to the beginning of construction to the Texas Commission on Environmental Quality under the Texas Pollutant Discharge Elimination System General Permit (not yet obtained).
- If necessary, a cultural resources survey plan will be developed and clearance obtained from the Texas Historical Commission (THC) for the proposed project (not yet obtained).
- If the approved route triggers Federal Aviation Administration (FAA) criteria regarding proximity to airports, Garland / Rusk will file a Notice of Construction form with the FAA (not yet obtained).
- Following the Commission's approval of this application, consultation with the U.S. Army Corps of Engineers will occur to determine appropriate requirements, if any, under Section 404/Section 10 Permit criteria (not yet obtained).
- Following the Commission's approval of this application, consultation with the U.S. Fish and Wildlife Service will occur to determine appropriate requirements, if any, under the Endangered Species Act, if any (not yet obtained).
- Following the Commission's approval of this application and following consultation with the U.S. Army Corps of Engineers and U.S. Fish and Wildlife Service, consultation with the Texas Parks and Wildlife Department (TPWD) will occur (not yet obtained).
- Approval from the Federal Energy Regulatory Commission (FERC) and Sabine River Authority (SRA) will be obtained to cross the SRA FERC project boundary for the Toledo Bend Reservoir, if needed (not yet obtained).

21. Habitable structures:

For each route list all single-family and multi-family dwellings and related structures, mobile homes, apartment buildings, commercial structures, industrial structures, business structures, churches, hospitals, nursing homes, schools, or other structures normally inhabited by humans

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or intended to be inhabited by humans on a daily or regular basis within 300 feet of the centerline if the proposed project will be constructed for operation at 230kV or less, or within 500 feet of the centerline if the proposed project will be constructed for operation at greater than 230kV. Provide a general description of each habitable structure and its distance from the centerline of the route. In cities, towns or rural subdivisions, houses can be identified in groups. Provide the number of habitable structures in each group and list the distance from the centerline of the route to the closest and the farthest habitable structure in the group. Locate all listed habitable structures or groups of structures on the routing map.

Table 8-6 in the Environmental Assessment (Attachment 1 to this CCN Application Form) identifies the number, type, distance, and direction of all habitable structures located within 500 ft. of the proposed routes. Figure 8-1 (map pocket) of the Environmental Assessment, Attachment 1 to this CCN Application Form, depicts the locations of the habitable structures.

22. Electronic Installations:

For each route, list all commercial AM radio transmitters located within 10,000 feet of the center line of the route, and all FM radio transmitters, microwave relay stations, or other similar electronic installations located within 2,000 of the center line of the route. Provide a general description of each installation and its distance from the center line of the route. Locate all listed installations on a routing map.

No AM radio transmitters were identified within 10,000 ft. of the proposed routes. Table 8-9 in the Environmental Assessment (Attachment 1 to this CCN Application Form) lists all FM radio transmitters, microwave relay stations, and other electronic installations identified within 2,000 ft. of the proposed routes. Figure 8-1 (map pocket) of the Environmental Assessment depicts the location of the electronic installations.

23. Airstrips:

For each route, list all known private airstrips within 10,000 feet of the center line of the project. List all airports registered with the Federal Aviation Administration (FAA) with at least one runway more than 3,200 feet in length that are located within 20,000 feet of the center line of any route. For each such airport, indicate whether any transmission structures will exceed a 100:1 horizontal slope (one foot in height for each 100 feet in distance) from the closest point of the closest runway. List all listed airports registered with the FAA having no runway more than 3,200 feet in length that are located within 10,000 feet of the center line of any route. For each such airport, indicate whether any transmission structures will exceed a 50:1 horizontal slope from the closest point of the closest runway. List all heliports located within 5,000 feet of the center line of any route. For each such heliport, indicate whether any transmission structures will exceed a 25:1 horizontal slope from the closest point of the closest landing and takeoff area of the heliport. Provide a general description of each listed private airstrip, registered airport, and heliport; and state the distance of each from the center line of each route. Locate and identify all listed airstrips, airports, and heliports on a routing map.

Table 8-8 in the Environmental Assessment (Attachment 1 to this CCN Application Form) lists the private airstrip (Hilltop Springs Airport) located within 10,000 ft. of the centerline of some of the proposed routes and the public airport (Panola County – Sharpe Field) registered with the FAA having runways greater than 3,200 ft. in length within 20,000 ft. of some of the proposed routes. There were no FAA-registered airstrips or airports with runways less than 3,200 ft. in length located within 10,000 ft. of any of the proposed routes, nor were there any heliports located within

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5,000 ft. of any proposed route. Figure 8-1 (map pocket) of the Environmental Assessment depicts the location of the public and private airstrips.

24. Irrigation Systems:

For each route identify any pasture or cropland irrigated by traveling irrigation systems (rolling or pivot type) that will be traversed by the route. Provide a description of the irrigated land and state how it will be affected by each route (number and type of structures etc.). Locate any such irrigated pasture or cropland on a routing map.

No mobile irrigation systems were identified that would be crossed by any of the proposed routes.

25. Notice:

Notice is to be provided in accordance with P.U.C. PROC. R. 22.52.

- A. *Provide a copy of the written direct notice to owners of directly affected land. Attach a list of the names and addresses of the owners of directly affected land receiving notice.***
Refer to Attachment 5 for: (1) a sample copy of the notice letter, (2) the segment descriptions; PUCT Landowner Brochure, Comments Form, and Intervenor Form; and landowner bill of rights, all of which were included with each notice packet, (3) the list of landowners to whom notice was sent, and (4) a copy of the Landowner Notification Map.
- B. *Provide a copy of the written notice to utilities that are located within five miles of the routes.***
Refer to Attachment 6 for a copy of the notice letters. Refer to Attachment 1, Appendix C for a copy of the segment descriptions and the map that were included with each notice packet.
- C. *Provide a copy of the written notice to county and municipal authorities.***
Refer to Attachment 7 for a copy of the notice letters. Refer to Attachment 1, Appendix C for a copy of the segment descriptions and the map that were included with each notice packet.
- D. *Provide a copy of the notice that is to be published in newspapers of general circulation in the counties in which the facilities are to be constructed. Attach a list of the newspapers that will publish the notice for this application. After the notice is published, provide the publisher's affidavits and tear sheets.***
Refer to Attachment 8 for a copy of the newspaper notice and the list denoting the newspaper that will publish the notice.

For a CREZ application, in addition to the requirements of P.U.C. PROC. R. 22.52 the applicant shall, not less than twenty-one (21) days before the filing of the application, submit to the Commission staff a "generic" copy of each type of alternative published and written notice for review. Staff's comments, if any, regarding the alternative notices will be provided to the applicant not later than seven days after receipt by Staff of the alternative notices. Applicant may take into consideration any comments made by Commission staff before the notices are published or sent by mail.

This is not a CREZ application. However, this proceeding is subject to a 185-day deadline pursuant to the provisions of PURA § 37.051(c-2) and (i), so Garland submitted to Commission staff for review a "generic" copy of each type of alternative published and written notice not less than 21 days before the filing of the application.

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In addition to the notices described above, P.U.C. PROC. R. 22.52 requires Garland to provide notice of this application to the Office of Public Utility Counsel. A copy of that notice is included as Attachment 9.

In addition, one of the line segments proposed by Garland in this case crosses the Sabine River Authority's Unit # 630 recreational hunting area, and may therefore be subject to the provisions of Chapter 26 of the Parks and Wildlife Code. Garland proposes to follow the same process employed in Docket No. 38435 for addressing the requirements of Parks and Wildlife Code Chapter 26, including providing the notice required by Chapter 26 at the appropriate time.

26. Parks and Recreation Areas:

For each route, list all parks and recreational areas owned by a governmental body or an organized group, club, or church and located within 1,000 feet of the center line of the route. Provide a general description of each area and its distance from the center line. Identify the owner of the park or recreational area (public agency, church, club, etc.). List the sources used to identify the parks and recreational areas. Locate the listed sites on a routing map.

Based on field reconnaissance and a review of the TPWD, Texas Natural Resource Information System (TNRIS), and Environmental Systems Research Institute, Inc. digital data, there are two parks or recreational areas crossed by two proposed routes: the George W. Pirtle Scout Reservation is crossed by RP28 and lands managed by the Sabine River Authority (SRA) for hunting (Unit 630) is crossed by RP82. Both routes appear to cross in areas of the property that are not developed and are heavily wooded. Table 8-7 in the Environmental Assessment (Attachment 1 to this CCN Application Form) shows the park and recreation areas that are crossed by or within 1,000 ft. of the proposed routes. Most of the identified parks and recreation areas that are not crossed but within 1,000 ft. are boat launches located along the Sabine River or on Lake Murvaal. Figure 8-1 (map pocket) of the Environmental Assessment shows the parks and recreation areas crossed by or within 1,000 ft. of the proposed routes.

27. Historical and Archeological Sites:

For each route, list all historical and archeological sites known to be within 1,000 feet of the center line of the route. Include a description of each site and its distance from the center line. List the sources (national, state or local commission or societies) used to identify the sites. Locate all historical sites on a routing map. For the protection of the sites, archeological sites need not be shown on maps.

In an effort to identify known cultural resources that could be affected by this project, an on-line search of the THC Texas Atlas was conducted by Burns & McDonnell archaeologists in May, 2015, and was followed by a file search at the Texas Archaeological Research Laboratory (TARL). The search also included state archaeological landmarks, historical markers, National Register of Historic Places (NRHP) properties, cemeteries, military sites, sawmills, and bridges. In addition, a search of the National Park Service NRHP database was conducted. Table 8-10 in the Environmental Assessment (Attachment 1 to this CCN Application Form) lists the historical and archeological sites known to be within 1,000 ft. of the centerline of each of the proposed routes, as well as the distance and direction to the proposed routes. The data acquired from the TARL did not provide a description of any of the sites. Figure 8-1 of the Environmental Assessment shows the location of historic sites in the study area. For the protection of the sites, archeological sites are not shown on Figure 8-1.