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

**PUBLIC UTILITY COMMISSION
BEFORE THE**

**PUBLIC UTILITY COMMISSION
OF TEXAS**

REBUTTAL TESTIMONY

OF

DARRELL W. CLINE

ON BEHALF OF

THE CITY OF GARLAND

MAY 24, 2016

329

**CITY OF GARLAND
REBUTTAL TESTIMONY OF DARRELL W. CLINE**

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I. INTRODUCTION

Q1. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

A. My name is Darrell W. Cline. My business address is 217 N. 5th Street, Garland, Texas 75040.

Q2. HAVE YOU PREVIOUSLY FILED DIRECT TESTIMONY IN THIS CASE?

A. Yes. I filed direct testimony on behalf of the City of Garland ("Garland" or the "City").

Q3. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?

A. The purpose of my rebuttal testimony is to respond to direct testimony filed by TIEC witness Charles Griffey and by certain landowner intervenors, and to the statements of position filed by Southwestern Electric Power Company (SWEPCO), Deep East Texas Electric Cooperative, Inc. (DETEC), Rusk County Electric Cooperative, Inc. (Rusk EC), and Panola-Harrison Electric Cooperative, Inc. (Panola EC).

II. RESPONSE TO TIEC WITNESS CHARLES GRIFFEY

Q4. WHAT ISSUES DO YOU ADDRESS IN RESPONSE TO TIEC WITNESS CHARLES GRIFFEY'S DIRECT TESTIMONY?

A. I respond to the following assertions by Mr. Griffey:

- 1 • That no costs related to Garland's Panola Switching Station or Rusk to Panola
2 line should ever be allowed in Electric Reliability Council of Texas (ERCOT)
3 transmission cost of service (TCOS) under any circumstance;
- 4 • That Garland should be treated as an affiliate of Southern Cross Transmission,
5 LLC (SCT) and the Pattern companies to avoid giving SCT/Pattern or their
6 affiliates a competitive advantage;
- 7 • That Public Utility Commission of Texas (Commission) approval of a
8 certificate of convenience and necessity (CCN) transfer should be required
9 before the put and call provisions of the Transmission Line Agreement
10 between Garland and SCT affiliate Rusk Interconnection LLC (Rusk) can be
11 exercised; and
- 12 • That Garland should disconnect the Rusk to Panola line under certain
13 conditions specified in Mr. Griffey's testimony.

14

15 Q5. PLEASE SUMMARIZE MR. GRIFFEY'S POSITION WITH RESPECT TO
16 INCLUSION OF COSTS RELATING TO GARLAND'S PANOLA
17 SWITCHING STATION AND RUSK TO PANOLA LINE IN TCOS.

18 A. Although he recognizes that the agreement between Garland and SCT affiliate
19 Rusk provides for Rusk to pay for construction and reasonable operation and
20 maintenance costs of the facilities, and to establish an escrow fund to cover
21 decommissioning costs, Mr. Griffey asserts that Garland will seek to include in
22 TCOS certain costs that are not recovered under the agreement or if Rusk defaults
23 in its obligation to pay (Griffey at 9). Mr. Griffey proposes, as a condition of

1 approval in this case, that the Commission should require that no costs associated
2 with the Panola Switching Station or the Rusk to Panola line shall be allowed in
3 TCOS under any circumstances (Griffey at 13).

4
5 Q6. DO YOU AGREE WITH MR. GRIFFEY'S PROPOSED CONDITION?

6 A. No. It is premature to address this issue in this case and to preemptively exclude
7 from TCOS the entire universe of costs that could ever be associated with these
8 facilities, which will likely be in service for many decades. Once they are placed
9 in service, the Rusk to Panola line and the Panola Switching Station will be
10 ERCOT open-access transmission facilities, just like any other component of the
11 ERCOT grid, and could ultimately serve generators or other transmission service
12 customers besides SCT. ERCOT could endorse upgrades to the line for reliability
13 or economic reasons.

14 The Transmission Line Agreement between Garland and Rusk is attached
15 to my direct testimony. It requires that Rusk bear costs properly attributable to it,
16 including all initial construction costs, reasonable operations and maintenance
17 expense, and a decommissioning escrow fund that would be funded upon transfer
18 of the line to Garland. If Rusk were to default in its obligation to pay reasonable
19 operations and maintenance expenses, it is likely that the SCT project would not
20 be in operation, and Garland would use the decommissioning escrow fund to
21 decommission the Garland line unless it was serving other ERCOT customers.

22 If Garland ever seeks to include costs related to the facilities in TCOS, the
23 Commission will retain full ability to review those costs, and the proper forum for

1 doing so is a future rate case where the costs at issue would be examined, rather
2 than the blanket prohibition sought by Mr. Griffey in this case. Garland is
3 confident that the Commission and State Office of Administrative Hearings
4 Administrative Law Judges will protect the interests of ERCOT ratepayers if this
5 issue ever actually arises, but it is premature to foreclose it now.

6
7 Q7. PLEASE DESCRIBE MR. GRIFFEY'S PROPOSAL THAT GARLAND BE
8 TREATED AS AN AFFILIATE OF SCT AND THE PATTERN COMPANIES.

9 A. Mr. Griffey proposes that the Commission condition approval of this application
10 on Garland being treated as an affiliate of SCT and the Pattern companies, and
11 subject to code of conduct restrictions for all purposes related to the facilities for
12 which Garland is seeking a CCN (Griffey at 13). This recommendation is based
13 on Mr. Griffey's concerns about a provision in the agreement between Garland
14 and Rusk under which Garland would upgrade the facilities at Rusk's request,
15 provided that Rusk reimbursed Garland. Mr. Griffey states that this provision
16 could give Rusk and its affiliates a competitive advantage not available to other
17 market participants (Griffey at 26).

18
19 Q8. WHAT IS GARLAND'S RESPONSE TO MR. GRIFFEY'S SUGGESTION?

20 A. The provision cited by Mr. Griffey was initially included in the predecessor to the
21 Transmission Line Agreement between Garland and Rusk at a time when the
22 Rusk to Panola line was envisioned as a private line, before it became subject to a
23 CCN requirement. As discussed in Mr. Parquet's rebuttal testimony, SCT has

1 agreed that Rusk will not ask Garland to upgrade the Rusk to Panola line under
2 the provision of the Transmission Line Agreement referred to by Mr. Griffey.

3 However, Mr. Griffey cites no other reason to treat Garland as an affiliate
4 of SCT or Pattern, and that proposal does not appear to match the definition of an
5 affiliate in the Public Utility Regulatory Act (PURA). Neither Garland nor
6 SCT/Pattern own more than 5% of the voting securities of the other, nor does
7 Garland exercise control over SCT/Pattern or vice versa.

8
9 Q9. PLEASE ADDRESS MR. GRIFFEY'S RECOMMENDATION CONCERNING
10 THE PUT AND CALL PROVISIONS IN THE GARLAND-RUSK
11 AGREEMENT.

12 A. Mr. Griffey recommends that the Commission adopt a condition that exercising
13 the put or call options in the Transmission Line Agreement between Garland and
14 Rusk will not lead to transfer of a CCN to SCT or Rusk without Commission
15 approval (Griffey at 13). Mr. Griffey recognizes that Garland and SCT have
16 already agreed with this conclusion, but cautions that "nothing prevents them
17 from taking a different position later, nor does it prevent a successor ... from
18 taking a different position" (Griffey at 27). Since Garland has already recognized
19 that only the Commission could provide Rusk or SCT with a CCN, and has in fact
20 incorporated a requirement for Commission approval of any transfer of the
21 facilities into the Transmission Line Agreement, Garland will agree to a condition
22 that, in relation to any exercise of the put and call options in the Agreement,

1 Garland will abide by the provisions of PURA § 37.154 relating to Commission
2 approval of a transfer of rights under a certificate of convenience and necessity.

3
4 Q10. PLEASE DESCRIBE MR. GRIFFEY'S PROPOSAL THAT GARLAND BE
5 REQUIRED TO DISCONNECT THE RUSK TO PANOLA LINE UNDER
6 CERTAIN CONDITIONS.

7 A. Mr. Griffey proposes that the Commission condition its approval in this case on a
8 condition that Garland and Oncor disconnect the Rusk to Panola line at their
9 respective stations if:

- 10 1. FERC ever asserts jurisdiction over ERCOT due to the line;
11 2. A synchronous connection is ever made to the line outside the State of Texas;
12 or
13 3. SCT fails to follow an ERCOT protocol or Commission rule or order, and as a
14 result, the Commission orders disconnection of the facilities.

15 (Griffey at 13-14)

16
17 Q11. DOES GARLAND AGREE WITH THESE PROPOSALS?

18 A. Generally yes. Mr. Griffey's first condition is already addressed in the
19 interconnection agreements between Garland and Oncor and between Garland and
20 SCT that are attached to the FERC Offer of Settlement provided with Garland's
21 CCN Application Form in this proceeding. For example, the Garland-Oncor
22 interconnection agreement provides:

23 5.5 Neither Party will take any action that would cause the
24 other Party that is not a "public utility" under the Federal Power
25 Act to become a "public utility" under the Federal Power Act or

1 become subject to the plenary jurisdiction of the Federal Energy
2 Regulatory Commission.

3 5.6 In the event that the Federal Energy Regulatory
4 Commission or any court with jurisdiction issues an order or
5 decision that has the effect of making void a prior order issued by
6 the Federal Energy Regulatory Commission that disclaimed
7 jurisdiction over ERCOT, Oncor, GPL, CenterPoint Energy
8 Houston Electric, LLC ("CenterPoint") and other ERCOT utilities
9 in connection with the creation of an interconnection between
10 ERCOT and another reliability region covered by this agreement,
11 the Parties shall have the right, and shall coordinate their efforts, to
12 immediately disconnect the Point of Interconnection if
13 disconnection is necessary to prevent ERCOT, Oncor, GPL,
14 CenterPoint or other ERCOT utilities from becoming subject to the
15 plenary jurisdiction of the Federal Energy Regulatory Commission.
16 The Point of Interconnection disconnected pursuant to this
17 paragraph shall be immediately reconnected upon the issuance of a
18 subsequent emergency, interim, or permanent order by the Federal
19 Energy Regulatory Commission addressing the interconnection
20 and disclaiming jurisdiction.

21 As a result, Garland agrees that it will abide by these terms of the
22 interconnection agreement with respect to disconnection of facilities if FERC
23 asserts jurisdiction over ERCOT due to the Rusk to Panola line.

24 With respect to the second of Mr. Griffey's disconnection proposals, it is
25 difficult to imagine how the Rusk to Panola line could be synchronously
26 connected outside the State of Texas. No part of the Rusk to Panola line will be
27 located outside the State of Texas, and as a result there will be no physical way to
28 connect to the line except inside the State of Texas. As a result, no such condition
29 is necessary.

30 Finally, with respect to Mr. Griffey's final disconnection proposal,
31 Garland will comply with any final and non-appealable Commission order that
32 directs it to disconnect the Rusk to Panola line. Garland does not understand

1 Mr. Griffey to be suggesting that Garland should waive, in advance and for all
2 time, any judicial recourse it might have with respect to such a Commission order.
3

4 **III. RESPONSE TO THE NEIGHBORING UTILITIES**

5 Q12. SEVERAL NEIGHBORING UTILITIES FILED STATEMENTS OF
6 POSITION. PLEASE ADDRESS THEIR CONCERNS.

7 A. Southwestern Electric Power Company (SWEPCO), Deep East Texas Electric
8 Cooperative, Inc. (DETEC), Rusk County Electric Cooperative, Inc. (Rusk EC),
9 and Panola-Harrison Electric Cooperative, Inc. (Panola EC) each filed statements
10 of position indicating that they own facilities and serve customers in the area of
11 Garland's proposed line. Each requested that they be kept informed about the
12 project, which could cross or parallel their existing facilities. They also ask that
13 Garland coordinate with them concerning such paralleling or crossing of facilities,
14 and avoid or mitigate impacts on their facilities. Garland believes these are
15 reasonable requests, and Garland and Rusk will make reasonable efforts to
16 coordinate with these neighboring utilities to mitigate impacts of the Rusk to
17 Panola line on their facilities.
18

19 **IV. RESPONSE TO LANDOWNER INTERVENORS**

20 Q13. SEVERAL LANDOWNER INTERVENORS PROPOSE THAT THE
21 COMMISSION CONDITION THE CONDEMNATION AND PURCHASE OF
22 TRANSMISSION EASEMENTS FOR THE RUSK TO PANOLA LINE UNTIL
23 SCT PROVIDES EVIDENCE THAT FINANCING AND STATE AUTHORITY

1 HAS BEEN OBTAINED TO CONSTRUCT THE SCT PROJECT. DOES
2 GARLAND AGREE WITH THIS PROPOSED CONDITION?

3 A. Garland believes that a slightly modified commitment will address the landowner
4 intervenors' concerns about avoiding changes to their property before
5 construction of the SCT project and the Rusk to Panola line is assured. Garland
6 and Rusk can agree that no right-of-way clearing or construction will take place
7 for the Rusk to Panola line until SCT has closed financing, absent express
8 agreement of the affected landowner in Texas. This should ensure that no
9 significant changes will be made to the property until it is clear that the SCT
10 project will be built. However, it may be necessary to obtain access to land
11 before SCT financing is closed for limited, non-invasive purposes such as
12 surveying and possibly soil-boring to begin engineering design of the line.

13

14 Q14. DOES THIS CONCLUDE YOUR TESTIMONY?

15 A. Yes.