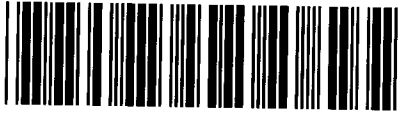




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**APPLICATION OF THE CITY OF §
GARLAND TO AMEND A §
CERTIFICATE OF CONVENIENCE §
AND NECESSITY FOR THE RUSK §
TO PANOLA DOUBLE-CIRCUIT §
345-KV TRANSMISSION LINE IN §
RUSK AND PANOLA COUNTIES §**

BEFORE THE
PUBLIC UTILITY COMMISSION

PUBLIC UTILITY COMMISSION

OF TEXAS

REBUTTAL TESTIMONY

OF

KRISTI WISE

ON BEHALF OF

THE CITY OF GARLAND

MAY 24, 2016

330

**CITY OF GARLAND
REBUTTAL TESTIMONY OF KRISTI WISE**

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EXHIBITS

Exhibit KW-1-R	E-Mail Correspondence from National Resources Conservation Service
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I. INTRODUCTION

1
2 Q1. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

3 A. My name is Kristi Wise. My business address is 9400 Ward Parkway, Kansas
4 City, Missouri, 64114.

5

6 Q2. DID YOU FILE DIRECT TESTIMONY ON BEHALF OF THE CITY OF
7 GARLAND IN THIS CASE?

8 A. Yes, I did.

9

II. PURPOSE OF TESTIMONY

10
11 Q3. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?

12 A. The purpose of my rebuttal testimony is to respond to the direct testimony of
13 several intervenors in this docket and to certain recommendations and comments
14 from the Texas Parks and Wildlife Department (TPWD).

15

III. REBUTTAL TO INTERVENORS' DIRECT TESTIMONY

16
17 Q4. SEVERAL LANDOWNERS RECOMMEND THAT THE PUBLIC UTILITY
18 COMMISSION OF TEXAS (COMMISSION) APPROVE A SPECIFIC ROUTE,
19 "ROUTE 4M," COMPRISED OF SEGMENTS 1, 7, 9, 13, 23, 24, 28, 31, 34, 41,
20 AND 43. THEY ALSO ASSERT THAT THIS ROUTE IS IN ACCORD WITH
21 COMMUNITY VALUES. DO YOU AGREE?

22 A. Burns & McDonnell Engineering Company, Inc. (Burns & McDonnell) identified
23 this route in the Environmental Assessment and Alternative Route Analysis

1 Report (EA) as Route RP9. Garland is not opposed to building this route, but is
2 also open to building any route or combination of segments proposed in the
3 application that is approved by the Commission. This route, based on the weight
4 of intervenor testimony, appears to be in accord with community values, and it
5 has a relatively low number of habitable structures within 500 feet of the
6 centerline.

7
8 Q5. SEVERAL OF THE LANDOWNER INTERVENORS IN THIS DOCKET
9 RAISE SIMILAR CONCERNS RELATED TO HOW THE PROPOSED
10 TRANSMISSION LINE MAY ADVERSELY IMPACT ENVIROMENTALLY
11 SENSITIVE AREAS, WILDLIFE HABITATS, CATTLE GRAZING,
12 RECREATIONAL USES, AND VEGETATION. DO YOU SHARE THESE
13 CONCERNS?

14 A. No, not based on my experience and observations. Garland and Rusk
15 Interconnection, LLC (Rusk) retained Burns & McDonnell to perform its EA in
16 order to identify routes that avoid or minimize impacts to environmentally
17 sensitive areas. Garland and Rusk will seek to avoid or mitigate construction in
18 environmentally sensitive areas and will work with the appropriate state and
19 federal agencies responsible for permitting impacts to environmentally sensitive
20 areas and wildlife. While trees will need to be removed from the right-of-way
21 (ROW), ground cover can remain or be re-established. Furthermore, properly
22 installed and maintained erosion control facilities during and immediately
23 following construction should reduce the potential for erosion and sedimentation

1 of streams and rivers. Recreational uses, such as camping and hunting, are
2 compatible uses along a transmission line. Also, cattle can graze within the
3 ROW.

4
5 Q6. SEVERAL LANDOWNERS ALSO ASSERT THAT THE PROPOSED
6 TRANSMISSION LINE COULD DECREASE THEIR INCOMES AND
7 PROPERTY VALUES AS WELL AS DAMAGE OR REDUCE THEIR
8 PROPERTY. HOW DO YOU RESPOND?

9 A. It is evident that many of the landowners value their property and have both a
10 financial and emotional investment in their property. These issues are common in
11 transmission line cases, and we understand that. However, the new transmission
12 line must be placed somewhere in this area and will be visible wherever it is
13 located. Garland or Rusk will compensate landowners crossed by the Commission
14 approved route for the use of the ROW across their property, as well as any
15 construction related damages. But, in selecting a route, the Public Utility
16 Commission of Texas (PUCT) does not consider the economic impact of a
17 transmission line on landowners. That is addressed after the certificate of
18 convenience and necessity (CCN) case is concluded. Additionally, the
19 Preliminary Order in this proceeding directed that the appropriate compensation
20 for ROW or condemnation of property was an issue not to be addressed in this
21 proceeding.¹

¹ Preliminary Order at 5 (Mar. 22, 2016).

1 Q7. HOW DO YOU RESPOND TO LANDOWNERS WHO ARE CONCERNED
2 THAT THE PROPOSED TRANSMISSION LINE BISECTS THEIR
3 PROPERTY, IS CONTRARY TO THE PARALLELING OF PROPERTY
4 LINES, AND DOES NOT FOLLOW PROPERTY LINES?

5 A. I understand that many landowners would prefer that the transmission line be built
6 along their property boundaries instead of across their properties and we
7 attempted to do so when identifying preliminary routes when practicable.
8 However, because of the size, shape, and layout of individual tracts of land in this
9 area and the need to balance the cost of the line along with environmental and
10 social impacts, it is neither reasonable nor practical to follow all property lines for
11 the entire length of the transmission line. Property boundaries in the area do not
12 line up evenly, and attempting to follow boundaries on all properties would
13 require dozens (if not over a hundred) of additional turns in the line, resulting in
14 substantial and unreasonable additional numbers of transmission structures and
15 other costs. Furthermore, the Commission's Substantive Rules, particularly 16
16 Tex. Admin. Code § 25.101(b)(3)(B), clarify that the paralleling of property lines
17 is but one of many factors that must be balanced in identifying possible routes and
18 selecting a final route. Once a final route is approved, Garland and Rusk will
19 work with the landowners along that route to evaluate the potential for route
20 adjustments on their property.

1 Q8. WHAT ABOUT CONCERNS THAT GARLAND HAS NOT ATTEMPTED TO
2 WORK WITH LANDOWNERS TO MINIMIZE THE IMPACT OF THE
3 PROPOSED LINE ON THE PROPERTY?

4 A. I respectfully disagree with these concerns. As explained in Chapter 6 and 7 of the
5 EA, Burns & McDonnell and Garland gathered landowner comments and
6 concerns through open-house meetings in December 2015. After the public open-
7 house meetings, based on the input and comments received by meeting attendees,
8 Burns & McDonnell modified the preliminary alternative routes by adjusting,
9 removing, and adding routing segments. Almost all comments received from the
10 landowners at the open houses stated that they would prefer the line not be on
11 their property, rather than providing suggested adjustments that would minimize
12 the impact of the line on their property. Once the PUCT selects a final route,
13 Garland and Rusk will work with directly affected landowners to attempt to
14 minimize impact on individual properties, when practicable.

15

16 Q9. SOME LANDOWNERS CONTEND THAT THE EA DID NOT CORRECTLY
17 IDENTIFY ALL OF THE HABITABLE STRUCTURES WITHIN 500 FEET OF
18 THE CENTERLINE FOR THE PROPOSED TRANSMISSION LINE. DO YOU
19 AGREE?

20 A. No, I do not. In preparation of the EA, Burns & McDonnell used recent aerial
21 photography and on-the-ground reconnaissance completed in April, 2015 to
22 identify all of the habitable structures within 500 feet of the proposed routes.
23 Burns & McDonnell made route adjustments following this field reconnaissance

1 so that no habitable structures would be within the ROW of the proposed
2 transmission line. In addition to the field reconnaissance, computer stations were
3 provided at the public open houses where landowners could review the habitable
4 structures marked on their property and could add additional habitable structures,
5 if applicable. It is possible that some habitable structures have been constructed
6 since then, but we are not aware of any current habitable structures in the ROW or
7 additional habitable structures within 500 feet of the proposed routes, other than
8 those identified in the EA, for this transmission line.

9
10 Q10. A NUMBER OF INTERVENORS STATE THAT THE CROSSING OF THEIR
11 PROPERTIES WOULD NOT BE IN COMPLIANCE WITH “PRUDENT
12 AVOIDANCE.” DO YOU AGREE?

13 A. No, I do not. The Commission’s Substantive Rules define “prudent avoidance” as
14 “[t]he limiting of exposures to electric and magnetic fields that can be avoided
15 with reasonable investments of money and effort.”² Whenever reasonable and
16 practical, Burns & McDonnell delineated alternative routes to avoid close
17 proximity to habitable structures. I believe all of the segments/routes filed in this
18 docket comply with “prudent avoidance.” I do not believe that “prudent
19 avoidance” means avoiding properties where the transmission line is not wanted.

² 16 TAC § 25.101(a)(4).

1 Q11. SEVERAL LANDOWNERS EXPRESSED CONCERNS REGARDING HOW
2 THE PROPOSED TRANSMISSION LINE COULD IMPACT
3 ARCHEOLOGICAL, HISTORICAL, AND CULTURALLY SIGNIFICANT
4 SITES IN THE STUDY AREA. DO YOU SHARE THESE CONCERNS?

5 A. The historical, archeological, and cultural aspects of the study area are important
6 and can be effectively managed. Usually, when the Commission grants a CCN,
7 the final order includes an ordering paragraph requiring coordination with the
8 Texas Historical Commission (THC), which Garland and Rusk will do. Garland
9 and Rusk will also survey the ROW for cultural resources, where required, to
10 identify sensitive areas and will work with the THC to minimize impact along the
11 route by spanning culturally-significant sites or making other project adjustments
12 to avoid or mitigate impact to those sites.

13

14 **IV. RESPONSE TO TEXAS PARKS AND WILDLIFE DEPARTMENT'S**
15 **LETTER**

16 Q12. WHAT IS THE PURPOSE OF THIS PORTION OF YOUR TESTIMONY?

17 A. The purpose of this portion of my testimony is to respond to certain
18 recommendations and comments expressed in an April 18, 2016 letter from the
19 TPWD, in accordance with the Preliminary Order in the case and Tex. Parks. &
20 Wild. Code § 12.0011. TPWD's letter is attached to Commission Staff witness
21 Mr. Mathis' direct testimony as Exhibit KM-3.

1 Q13. ON PAGE TWO OF THE LETTER, TPWD RECOMMENDS THAT THE
2 COMMISSION REVIEW AND CONSIDER CERTAIN PREVIOUS
3 CORRESPONDENCE DATED NOVEMBER 24, 2015. WHAT IS YOUR
4 RESPONSE TO THIS RECOMMENDATION?

5 A. The November 24, 2015 TPWD letter is similar to the April 18, 2016 letter in
6 addressing the impact of construction and operation of the proposed transmission
7 line on wildlife and vegetation. TPWD recommends that the transmission line
8 avoid crossing riparian areas, wetlands, and open water habitat; prefers crossing
9 streams in a perpendicular manner and avoiding placing lines parallel to streams;
10 recommends using buffer areas to protect wildlife; and recommends consulting
11 with various federal and state agencies for guidance with certain plants and
12 animals.

13 As discussed in the EA, potential impacts to water systems, wildlife, and
14 vegetation have been considered in identifying and evaluating transmission line
15 routes. However, Garland and Rusk cannot gain access to private property until
16 after a route is approved by the Commission. After route selection, Garland and
17 Rusk will perform surveys to identify any potential wildlife, water, or vegetation
18 concerns and develop management measures to minimize adverse impacts.
19 Garland and Rusk will coordinate with federal and state agencies for guidance
20 with respect to certain plants and animals.

1 Q14. ON PAGES FIVE AND SIX OF THE LETTER, TPWD ASSERTED THAT
2 GARLAND'S RECOMMENDED ROUTE, ROUTE RP5, WOULD NOT BE
3 THE BEST ALTERNATIVE ROUTE TO MINIMIZE IMPACTS TO
4 NATURAL RESOURCES. TPWD SELECTED RP95 AS THE ROUTE
5 HAVING THE LEAST IMPACT TO FISH AND WILDLIFE RESOURCES
6 AND RP93 AS THE ROUTE HAVING THE SECOND LEAST IMPACT TO
7 FISH AND WILDLIFE RESOURCES. HOW DO YOU RESPOND?

8 A. Garland is not opposed to building either Route RP95 or Route RP93, but Garland
9 is also open to building any route or combination of segments proposed in its
10 application that is approved by the Commission. The Commission must balance a
11 variety of factors in selecting a route for a transmission line, and not just a subset
12 of environmental factors. Some of those factors relate to natural resource impacts
13 and some do not. RP95 and RP93 rank well if one only looks at certain
14 environmental factors alone. However, RP95 and RP93 have a greater number of
15 habitable structures within 500 feet of the centerline than RP5 and other possible
16 routes, as well as more length along pipelines, more wetlands in the ROW, more
17 streams crossed, more potential cultural resources impacts, and more landowners
18 crossed.

19
20 Q15. ON PAGE SIX OF THE LETTER, TPWD PREFERS THAT PROPERTIES
21 WITH CONSERVATION EASEMENTS DO NOT BECOME FRAGMENTED
22 BY THE PROPOSED TRANSMISSION LINE. HOW DO YOU RESPOND?

23 A. As demonstrated by an e-mail correspondence from the National Resources

1 Conservation Service (attached to my testimony as Exhibit KW-1-R), none of the
2 proposed routes or routing segments identified in the EA would cross known
3 conservation easements. There are no plans to cross conservation easements.
4

5 Q16. ON PAGE SIX OF THE LETTER, TPWD RECOMMENDS THAT THE PUCT
6 CONSIDER A REDUCED RIGHT-OF-WAY WIDTH WHERE THE ROUTE
7 WOULD FOLLOW ALONG THE EXISTING 138-KV TRANSMISSION LINE
8 FOR APPROXIMATELY ONE MILE ALONG SEGMENT 52. HOW DO YOU
9 RESPOND?

10 A. Garland and Rusk will take this recommendation under advisement. However, a
11 reduced ROW would require design modifications to the structures that could
12 unreasonably increase costs. Ultimately, to reduce ROW, the designed conductor
13 blowout will need to be reduced as well. Assuming everything else to be equal,
14 reduced conductor blowout can be accomplished with either shorter spans or
15 tighter tensions. Shorter spans will require more poles placed closer
16 together. Tighter tensions require stronger structures, designed to carry the
17 increased conductor load. Taller structures potentially gain you clearance, but by
18 themselves do not reduce blowout. Taller structures can be effective to mitigate
19 against danger trees (trees that are tall enough to fall and contact structures or
20 wires) or other obstructions, but may or may not allow for a reduced ROW width.
21 In the event that a blowout easement, or shared ROW with the adjacent 138kV
22 line can be obtained, additional options become available, but the clearance to
23 existing structures and conductor will always need to be maintained. Additional or

1 larger structures could result in a greater visual impact to the aesthetics of the
2 area.

3

4 Q17. ON PAGES SEVEN THROUGH THIRTEEN AND SIXTEEN THROUGH
5 SEVENTEEN OF THE LETTER, TPWD RECOMMENDS EXCLUDING
6 VEGETATION CLEARING ACTIVITIES DURING BIRD NESTING
7 SEASON, AVOIDING DISTURBANCE OF WILDLIFE DURING
8 CONSTRUCTION AND OPERATION OF THE LINE, USING
9 ENVIRONMENTAL SURVEYS ALONG THE APPROVED ROUTE TO
10 IDENTIFY THREATENED OR ENDANGERED WILDLIFE OR PLANT
11 SPECIES, AND REPORTING ENCOUNTERS OF FEDERAL- AND STATE-
12 LISTED SPECIES AND OTHER RARE RESOURCES TO THE TEXAS
13 NATURAL DIVERSITY DATABASE (TXNDD). HOW DO YOU RESPOND?

14 A. Garland and Rusk will comply with all applicable statutes and regulations.
15 Garland appreciates the TPWD's recommended best practices and will make
16 reasonable efforts to allow threatened species to vacate affected areas or be
17 relocated to a suitable nearby area. Garland and Rusk will coordinate with both
18 the U.S. Fish and Wildlife Service (USFWS) and TPWD, as needed, once a route
19 has been approved by the Commission.

1 Q18. ON PAGE FOURTEEN OF THE LETTER, TPWD RECOMMENDS THE
2 COMMISSION CONSIDER A ROUTE THAT AVOIDS USING SEGMENT 39,
3 WHICH CROSSES THE SABINE RIVER AUTHORITY #630 HUNTING
4 AREA. ON PAGE FIFTEEN, TPWD RECOMMENDS THAT THE
5 COMMISSION CONSIDER A ROUTE THAT UTILIZES SEGMENT 52 THAT
6 CROSSES THE SABINE RIVER PARALLEL TO AN EXISTING
7 TRANSMISSION LINE AND FM 2571 BRIDGE. HOW DO YOU RESPOND?

8 A. The Commission, and not Garland, has the authority to select a final route for the
9 proposed transmission line. Garland is not opposed to a route that avoids Segment
10 39 or utilizes Segment 52, but Garland is also open to building any route or
11 combination of segments proposed in its application that is approved by the
12 Commission.

13

14 Q19. ON PAGE FOURTEEN OF THE LETTER, TPWD ASSERTS THAT BOAT
15 RAMPS SHOULD NOT BE CONSIDERED RECREATIONAL AREAS. TPWD
16 RECOMMENDS THAT THE COMMISSION CONSIDER HOW THE
17 LOCATION OF THE PROPOSED TRANSMISSION LINE ACROSS THE
18 SABINE RIVER MAY AFFECT RECREATIONAL BOATERS ALONG THE
19 RIVER, RATHER THAN FOCUSING ON THE IMPACTS AT THE BOAT
20 RAMPS. DO YOU AGREE?

21 A. No, I do not. Boat ramps are appropriate recreational areas from which to measure
22 impacts. It is unreasonable to consider the entire river as a recreational area, as by
23 that definition, any property within the study area on which some recreational

1 activity occurs could also be considered a recreational area. Also, all potential
2 routes must cross the Sabine River and there would be no differentiation between
3 any routes if the entire river was considered the recreational area.

4

5 Q20. ON PAGE SEVENTEEN OF THE LETTER, TPWD RECOMMENDS THAT
6 GARLAND PROVIDE COMPENSATORY MITIGATION FOR THOSE
7 HABITATS WHERE IMPACTS FROM THE TRANSMISSION LINE
8 CANNOT BE AVOIDED OR MINIMIZED. AT A MINIMUM, TPWD
9 RECOMMENDS A REPLACEMENT RATIO OF 1:1 FOR STATE RESOURCE
10 HABITAT TYPES. DO YOU AGREE?

11 A. If any rule or regulation requires Garland and Rusk to develop a mitigation plan
12 and provide compensatory mitigation, Garland and Rusk will work with the
13 respective agencies to determine the appropriate measures and replacement ratio,
14 if applicable.

15

16 **V. CONCLUSION**

17 Q21. AFTER REVIEWING THE TESTIMONY AND TPWD LETTER IN THIS
18 DOCKET, WHAT IS YOUR CONCLUSION?

19 A. I have found no evidence that would preclude construction of this proposed
20 transmission line along any of the alternative routes or combination of segments
21 proposed in Garland's application. The route proposed by several of the
22 intervenor landowners, Route RP9, does appear to enjoy community support and

1 Garland and Rusk can construct the line on that route if it is selected by the
2 Commission.

3

4 Q22. DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?

5 A. Yes, it does.

From: Berry, Melissa - NRCS, Carthage, TX <Melissa.Berry@tx.usda.gov>
Sent: Wednesday, April 06, 2016 10:18 AM
To: Werth, Dusty
Subject: RE: Rusk to Panola Transmission Line Project

Thank you for the information. There are no other places currently in easement in Panola county.

Melissa Berry
903-693-3424 x3
Melissa.Berry@tx.usda.gov

From: Werth, Dusty [<mailto:dwerth@burnsmcd.com>]
Sent: Wednesday, April 06, 2016 9:35 AM
To: Berry, Melissa - NRCS, Carthage, TX <Melissa.Berry@tx.usda.gov>
Subject: Rusk to Panola Transmission Line Project

Ms. Berry,

I was forwarded a voicemail you had left regarding the Rusk to Panola Transmission Line Project. In the voicemail, you indicated that a landowner had suggested that a proposed alternative would cross an NRCS WRP easement. During the early stages of the project we did identify several WRP easements based on GIS data available from the USDA Geospatial Gateway as well as the National Conservation Easement Database and we were able to avoid these easements. I have also attached two letters (and the map that was enclosed with the letters) that were sent to the NRCS early in the project requesting information on constraints in the study area, however we did not receive any responses regarding easements in the study area. I have attached two maps showing the location of the identified WRP easements in relation to the current alternative routes that are currently being reviewed by the PUCT. Based off the information we have today we believe that none of the alternative routes would cross any WRP easement and we would attempt to make adjustments to ensure that any route approved by the PUCT would avoid crossing these easements. If there are additional easements that are not captured in the above referenced data layers and shown on the attached maps please let us know so that we can review these additional easements for potential impacts.

Additional information relating to the project, including the Environmental Assessment (EA) that was prepared for the PUCT, is available at the project website (<http://ruskpanolatransmissionproject.com/>). The EA also includes several maps that depict the identified WRP easements in relation to the study area and the proposed alternative routes. If you need any additional information or have any questions please let me know. My contact information is available below in the signature to this email.

Thank you,

Dusty E. Werth
Senior Environmental Scientist, Environmental Studies and Permitting Group
Burns & McDonnell
9400 Ward Parkway
Kansas City, MO 64114
Direct: 816-822-3446
Main: 816-333-9400
Mobile: 816-547-1689

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Exhibit KW-1-R
SOAH Docket No. 473-16-2751
PUC Docket No. 45624
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