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APPLICATION OF THE CITY OF  
GARLAND TO AMEND 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 STATE OFFICE

OF

ADMINISTRATIVE HEARINGS

**THE PANOLA COUNTY LANDOWNER GROUP'S BRIEF**

**IN SUPPORT OF THE STIPULATION**

To the honorable Casey A. Bell and Fernando Rodriguez:

Comes now the Panola Landowner Group and files its brief in support of the unopposed Route Stipulation concerning the transmission line route and the condition agreed to by Garland, Southern Cross and Rusk Interconnection LLC concerning condemnation of property for easements. In support thereof, it shows as follows:

**I. INTRODUCTION**

Panola County is a beautiful area of Texas with its gorgeous pine and hardwood forests. Small cattle ranches dot the land. It has also been blessed with natural resources of gas and oil that provided employment opportunities for many residents. Water is plentiful. Some families have had generations live on their land. A close bond exists between the counties' residents, many of them elderly.

However, hard times have come to Panola County because of the downward spiral in the price for oil and natural gas. Bankruptcies are common. A lot of people who have worked for the oil and gas industry no longer have jobs. Construction of gas pipelines are left unfinished.

Yet, the people are resilient and they are supportive of each other. They recognize their equity resides in their homes and land. Thus, they were not happy when they learned that Garland wanted to build a 345-kV electric transmission line across their land destroying or diminishing much of their remaining equity. They recognized they would not be a beneficiary of the line being constructed through the county.

Once they understood the line would be built in Panola County, they joined together to decide on a route for the transmission line that they believed would be in the best interest of the county. This is the route that has been agreed to by the landowner parties, Garland and Southern Cross. Some 49 landowners have filed testimony and statements of Position in support of this route. No party opposes the route they support.

Recognizing that some county residents will still be impacted by the stipulated route, they reached an agreement with Garland, Southern Cross and Rusk Interconnection LLC to ensure that this transmission line will not become another Keystone Project with the line going nowhere and serving no one. There are conditions that must be met before any condemnations can take place.

## **II. ROUTING ISSUES**

### **A. Appropriateness of a Route as a Reasonable Condition**

The Panola Landowner Group believes it is appropriate for the Commission to specify a route as a reasonable condition. Moreover, by their actions, Garland and Southern Cross also acknowledge the Commission's jurisdiction over the routing of the transmission line.

**B. Community Values**

The fact that all of the landowner parties in this proceeding determined that a route made up of Segments 1, 7, 9, 13, 23, 24, 28, 31, 34, 41 and 43 would be in keeping with community values should speak volumes. This is a route that the landowners who live in or own property in Panola County chose. This was not one of the final proposed alternative routes though all of the segments were included in one or more routes. Their opinion should be given great weight.

**C. Recreational and Park Areas**

The Texas Parks and Wildlife Department (TPWD) argued that the Sabine River should not be crossed at Segment 31 because of the existence of boat ramps nearby on Segment 31 at the intersection of FM 699 and Murvaul Creek as shown in the environmental assessment. TPWD believes the existence of boat ramps requires the area to be considered a recreation area thereby constraining the crossing of the river at that segment. Instead, TPWD argued the river should be crossed at Segment 52. Bobby Muhlhauser explained in his cross-rebuttal testimony that there is not a boat ramp as shown at Segment 31 and has never been one there for the 40 years he has boated on the Sabine River. He further explained that the environmental assessment made an additional error by not showing a camping area at Segment 52 near existing boat ramps. A new transmission line paralleling the existing transmission line at the crossing at Segment 52 would be less than 200 feet from the camping area.

Mr. Muhlhauser also discusses why boaters would appreciate the transmission line crossing Segment 31. He noted that avid boaters utilize landmarks for

location and identifiers, especially when they travel the river at night. Having the transmission line at Segment 31 will give boaters one more landmark to utilize.<sup>1</sup>

**D. Historical and Aesthetic Areas**

Numerous testimonies discussed historical sites overlooked by the environmental assessment, but neither route 5 nor the stipulated route have any recorded cultural sites crossed while both areas cross high probability areas for such sites.. Aesthetic values are approximately the same for both areas.

**E. Environmental Integrity**

The stipulated route, being timberland, has more streams and wetlands than Route 5, a more populated area, but neither area is shown as having potential habitat for threatened or endangered species. Both routes have 1 known rare or unique plant species in the area. Both routes have 1 ecologically significant stream crossed. The landowners agree with the testimony of Kevin Mathis that the mitigation measures provided in his testimony will address most of the Texas Parks and Wildlife Department's ecological concerns.<sup>2</sup> They also agree with his conclusion that Garland has the resources and procedures in place for accommodating Texas Parks and Wildlife Department's recommendations.

**F. Engineering Constraints**

No engineering constraints have been shown to exist that would prevent the stipulated route from being used.

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<sup>1</sup> Panola Landowner Group EX. 8, Cross Rebuttal Testimony of Bobby Muhlhauser.

<sup>2</sup> Direct Testimony of Kevin Mathis, Staff Ex. 1, pg. 11, lines 5-10.

**G. Costs**

Route 5 is 37.1 miles. The stipulated route is 38 miles.<sup>3</sup> However, ratepayers in ERCOT will not pay for the transmission line's construction. Rusk Interconnection, LLC, a Southern Cross Affiliate will pay for the line.<sup>4</sup>

**H. Moderation of Impact on the Affected Community Landowners**

The Panola Landowner Group would expect Rusk Interconnection, LLC to work with the affected landowners to moderate the impact of the routing on their land.

**I. Existing Compatible Right-of-way, Property Lines and Other Features**

Garland made no attempt in its proposed alternate routes to reasonably use existing compatible right-of-way, property lines, or other factors. For instance, in Segment 8, a part of Route 5, Garland by paralleling an existing transmission line totally across Jim Holder's property, routed the new line closer to Mr. Holder's back door rather than on the other side of the existing transmission line. The new line would be 150 feet from his back door. The two transmission lines would make approximately 4 out of 5 acres unusable because of the shape of his property and the line crossing all of it.<sup>5</sup> The other landowners on Segments 8 and 15 have told similar stories. The stipulated route replaces the populated areas of Segment 8, 15 and 26 with Segments 13, 23 and 24. These segments consist of timber land, with only one habitable structure, whose owners did not intervene.

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<sup>3</sup> Work paper WP-6 to Staff EX. 1, Garland's Response to Commission Staff's RFI-3-1, which contains environmental and cost information concerning Route RP9, the stipulated route.

<sup>4</sup> Staff EX. 1, Kevin Mathis Direct Testimony, pg. 23, lines 19-21.

<sup>5</sup> Panola Landowner Group EX. 9, Direct Testimony of Jim Holder, pg. 5, line 11, pg. 6, line 6.

Garland admits in Kristi Wise's rebuttal testimony that it followed few property lines as wanted by the landowners. She argues that because of the size, shape and layout of the individual plots of land and the need to balance the cost of the line it was not reasonable to do so. The routing of all of its proposed alternate routes for the most part bisected people's property, which is a primary reason for the landowners original anger over the proposed transmission line. This is easily shown by the Figure 3-4 map, Primary Routes Rusk-Panola Transmission Project, found in the environmental assessment.

**J. Prudent Avoidance**

Perhaps one of the greatest advantages of the stipulated route over Garland's proposed alternative routes is the fact that much fewer habitable structures will be impacted. Garland's Work paper, which contains environmental and cost information for the proposed routes shows that Route 9, the stipulated route, is tied with Route 53 having the fewest habitable structures located within 500 feet of the centerline of the easement. For instance, Route 5 has one of the highest numbers of habitable structures with 25 habitable structures being within 500 feet of the centerline and the stipulated route has only 13 habitable structures within 500 feet of the centerline of the easement, which should be easily avoided.

Many landowners have pointed out habitable structures on their property that are within 500 feet of the centerline of the easement were not shown in the environmental easement. This may have been caused by the forest concealing the structures or habitable structures built after the fly-over to measure the habitable structures.

### **III. REASONABLE CONDITION AGREED TO BY**

#### **GARLAND, SOUTHERN CROSS AND RUSK INTERCONNECTION LLC**

The record shows that Southern Cross has not yet secured funding to construct the Southern Cross Project.<sup>6</sup> Therefore, the Panola landowners are concerned that the Garland 345-kV transmission line may become a transmission line that services no one similar to the Keystone XL Project. Thus, they have negotiated an agreement with Garland, Southern Cross and Rusk Interconnection LLC that they will not, nor will they cause any of their affiliates to seek condemnation of any landowner's land in Panola County for the Garland Project as described in the Direct Testimony of Darrell W. Cline as long as the landowner provides access to the land for surveying and design purposes, until Southern Cross provides the Public Utility Commission of Texas with evidence that it has secured the funding to construct the complete interconnection project, including the Southern Cross Transmission Project as described in the Direct Testimony of David Parquet.

This would require the Commission to establish a compliance docket for this proceeding to ensure that all of the reasonable conditions adopted by the Commission are met. The Panola landowners urge the Commission to establish such a docket to ensure that the public interest is protected.

### **IV. CONCLUSION**

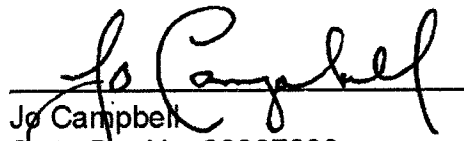
For all of the above reasons, the Panola Landowner Group respectfully requests that the Commission approve the Stipulation in its entirety and set up a compliance docket for the Southern Cross Project as discussed herein.

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<sup>6</sup> Southern Cross Response to Staff RFI 1-9.



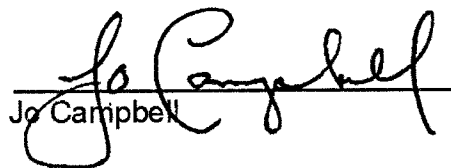
Respectfully submitted,

A handwritten signature in cursive script, reading "Jo Campbell", written over a horizontal line.

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**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing document was served to all parties on the 10<sup>th</sup> day of June, 2016 pursuant to SOAH Order No. 3.

A handwritten signature in cursive script, reading "Jo Campbell", written over a horizontal line.