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PROJECT NO. 45624

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

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CENTERPOINT ENERGY HOUSTON ELECTRIC LLC'S REPLY BRIEF

I. INTRODUCTION

CenterPoint Energy Houston Electric LLC ("CenterPoint Houston") is a transmission and distribution utility serving the greater Houston area, owning and operating a large transmission system in ERCOT, including an interest in the East HVDC-tie. CenterPoint Houston intervened in this case to protect its interests as it relates to any ERCOT protocols and/or Commission policies that may need to be implemented to accommodate the interconnection of the Southern Cross Project to ERCOT.¹

CenterPoint Houston continues to recommend that the Commission allow all technical issues related to the interconnection of the Garland Project and Southern Cross Project to be addressed through the ERCOT stakeholder process.² With respect to the policy issue of cost recovery, CenterPoint Houston reiterates its position that such issues of policy should be resolved through the statutory rulemaking process.³

Although CenterPoint Houston takes no position with respect to the particular factual disputes presented in this case, it respectfully asks the Commission to carefully limit its order to

¹ CenterPoint Houston was a signatory to the Settlement Agreement in the FERC docket led to FERC granting Southern Cross Transmission's ("SCT's") Interconnection Order. *See Southern Cross Transmission LLC, et. Al.*, 147 FERC ¶ 61, 113 (2014).

² CenterPoint Houston Statement of Position at 3-4.

³ *Id.* at 4.

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the facts of the case. As explained below, establishing broad policy with respect to cost recovery for transmission plant necessary for export transactions over DC-ties can impact numerous parties beyond Garland and Southern Cross. This proceeding is not well-suited to determine all of the factual scenarios potentially impacted by a change in policy, nor does it include all of the parties potentially affected. Both Commission Staff and TIEC include language in their briefs largely limiting the applicability of this proceeding strictly to the facts of this case.⁴ CenterPoint Houston agrees with this approach and asks the Commission to carefully limit the applicability of the order in this proceeding to the specific facts and applicants of this case.

II. TECHNICAL ISSUES RELATED TO THE INTERCONNECTION AND OPERATION OF THE GARLAND PROJECT AND THE SOUTHERN CROSS PROJECT SHOULD BE RESOLVED THROUGH ERCOT PROCESSES

As numerous parties have agreed, the technical issues raised by this interconnection must be resolved before the project is energized.⁵ This particular docket, however, does not lend itself to resolving those issues.⁶ No party appears to disagree that technical details should be resolved by the affected parties through the normal ERCOT processes. CenterPoint Houston asks that the Commission condition the issuance of the CCN on the resolution of all necessary technical details and that the Commission allow ERCOT and stakeholders to resolve those details through the normal ERCOT processes.

⁴ See Texas Industrial Energy Consumers' Initial Brief at 9, note 40; Commission Staff's Initial Brief at 21.

⁵ See, e.g., ERCOT's Initial Post-Hearing Brief at 1-2.

⁶ See, e.g., CenterPoint Houston's Statement of Position at 3-4.

III. POLICY ISSUES SHOULD BE STRICTLY LIMITED TO THE FACTS OF THIS CASE

A. Any Broad Change in Cost Recovery Policy for Export Transactions Over DC-Ties Affects Transmission Service Providers (“TSPs”) Other Than the Applicants

Export transactions from ERCOT already occur today over five existing DC-ties, including the East HVDC-tie in which CenterPoint Houston has an ownership interest. Accordingly, changes in policy regarding transmission cost recovery related to export transactions may impact existing TSPs in addition to Garland and SCT if such changes are made in this docket. Further, TSPs in the future could be ordered by FERC and/or the Commission to export energy across a DC-tie, and those transactions could also be impacted by policy decisions made in this docket.⁷ These are but two examples, but the point is that establishing a broad policy about these issues in this limited CCN docket could have wide repercussions and impact parties beyond the applicants in this proceeding. To the extent any change in cost recovery policy is necessary such change should result from the statutory rulemaking process to ensure all interests are taken into account.⁸

B. The Proper Forum for Considering Changes to Existing Cost Recovery Methodologies for TSPs Is a Rulemaking Proceeding

Both TIEC and Staff propose that the Commission initiate rulemaking proceedings to consider changes to cost recovery policy for TSPs and the tracking and reporting of export transactions by TSPs. CenterPoint Houston agrees that these are issues of policy better addressed through rulemaking. Changes in policy should be made only after consideration of all available viewpoints, not just the narrow facts presented in this contested case. Rulemaking

⁷ CenterPoint Houston notes that a TSP ordered by its regulator to incur costs to facilitate the interconnection of a DC-tie or to export power across its facilities is in a materially different position than Garland or similar applicant with respect to TCOS. If a TSP is ordered to incur costs by its regulator, it should be able to rely on the assumption that such costs are necessary, reasonable, and recoverable.

⁸ See *Tex. Bd. Of Pharmacy v. Witcher*, 447 S.W.3d 520 (Tex.App.—Austin 2014, no pet.).

proceedings do not have a statutory clock and the Commission can take the time to flesh out all of the issues that are impacted.⁹ The Commission recently considered some of these issues in Project No. 45124, *Rulemaking Regarding DC-Ties Pursuant to SB 933, Municipally-Owned Utilities Pursuant to SB 776, and Non-ERCOT Utilities Pursuant to HB 1535 of the 84th Legislature (R.S.); Competitive Renewable Energy Zones*. By order issued on June 15, 2016, the Commission ultimately decided not to make any changes in policy at this time given that the narrow focus of that rulemaking was simply implementing the three bills listed in the title. Consequently, any change in policy will require one or more new rulemakings, and CenterPoint Houston does not oppose TIEC's and Staff's recommendations that the Commission initiate these proceedings.

C. The Commission Should Expressly Limit Any Change In Policy to These Facts and These Applicants

Given the potential implications of any broad change in cost recovery policy and the limitations of this CCN docket to anticipate and consider those implications, CenterPoint Houston asks that the Commission carefully limit its Order to eliminate the possibility that any change in policy be applied outside the particular scope of this proceeding. Both Staff and TIEC, the parties asking for assurance that no costs incurred for the interconnection of the Southern Cross Project will be recovered through TCOS, have expressly limited their request to the facts this case.¹⁰ As noted above, changes in policy should result from the rulemaking process that ensures all interested parties have an opportunity to provide input.¹¹ To the extent the

⁹ For instance, a TSP over whose facilities export transactions flow must be made whole for the costs incurred by those transactions. The TSP has no choice but to facilitate the transaction and incur the necessary costs upfront. The extent to which exporters fail to pay their fair share and leave the TSP with unrecovered bad debt should be considered as part of any change in cost recovery policy.

¹⁰ See Texas Industrial Energy Consumers' Initial Brief at 9, note 40; Commission Staff's Initial Brief at 21.

¹¹ See Tex. Gov't Code § 2001, Subchapter B.

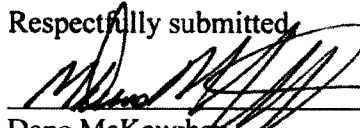
Commission deems it necessary to consider cost recovery policy in this case, CenterPoint Houston asks that the Commission carefully limit the applicability of its Order to the applicants in this case and the specific facts related to this interconnection. CenterPoint Houston asks that the Commission include both a general finding limiting the Order to the specific facts presented,¹² and that the Commission avoid broad statements in its individual findings that could be applied out of context.¹³

IV. CONCLUSION

CenterPoint Houston respectfully asks that the Commission:

1. Condition the issuance of a CCN to Garland upon the successful resolution of all necessary technical issues;
2. Allow ERCOT and stakeholders to resolve all technical issues through the normal ERCOT process;
3. Establish any necessary policy changes through the statutory rulemaking process; and,
4. Limit the applicability of its order strictly to the facts of this case.

Respectfully submitted,



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¹² CenterPoint Houston proposed the following Finding of Fact: "The findings and conclusions of the Commission in this docket are limited to the specific facts of the case."


¹³ For example, although TIEC appropriately limited its proposed findings in most cases and expressly acknowledged that the Order in this case should be based strictly on the specific facts of the case, at least one proposed finding appears overly broad. See Texas Industrial Energy Consumers' Initial Brief at 28, Proposed Finding of Fact No. 2. CenterPoint Houston submits that this finding could be limited as follows: "Exporting power over the SCT Tie from ERCOT to another region does not provide benefits to ERCOT customers under the circumstances presented in this case."

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**ATTORNEYS FOR CENTERPOINT
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CERTIFICATE OF SERVICE

I hereby certify that on this 17th day of June, 2016, a true and correct copy of the above and foregoing was served on all parties of record in accordance with SOAH Order No. 3 Suspending Traditional Service.


Dane McKaughan