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PUBLIC UTILITY COMMISSION
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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 §

BEFORE THE
PUBLIC UTILITY COMMISSION
OF TEXAS

ERCOT'S REPLY TO EXCEPTIONS TO THE PROPOSAL FOR DECISION

Electric Reliability Council of Texas, Inc. (ERCOT) submits this reply to certain exceptions submitted by Southern Cross Transmission LLC ("Southern Cross") and by Luminant Generation Company LLC and Luminant Energy Company LLC ("Luminant") in response to the Proposal for Decision (PFD) issued by the State Office of Administrative Hearings (SOAH) Administrative Law Judges (ALJs) on July 27, 2016.

I. The Commission should decline to impose deadlines on ERCOT's development of standards and system changes needed to ensure the reliable interconnection of the Southern Cross DC tie project.

The PFD reasonably determines that a number of issues requiring further consideration in the ERCOT stakeholder process should be resolved as a condition for interconnection of the Southern Cross project, but should not be subject to resolution by some pre-established deadline. Southern Cross argues that the PFD should have included specific deadlines for each of these issues, pointing to testimony it submitted that proposes a deadline of June 1, 2017 for registration-related issues and to other evidence that it claims implies a deadline of June 1, 2020 for other changes. But the ALJs were not required to accept this testimony, even in the absence of any testimony to the contrary.¹ And while it is likely that ERCOT could resolve many of these issues within SCT's desired timeline, there is no reason to impose an arbitrary deadline for the completion of this process. It is possible that one or more of these issues may require lengthy, substantial discussions in the ERCOT stakeholder process or costly changes to ERCOT systems,² and

¹ *Cent. Power & Light Co. v. Pub. Util. Comm'n*, 36 S.W.3d 547, 557 (Tex. App.—Austin 2000, pet. denied) ("The agency may accept or reject in whole or in part the testimony of the various witnesses who testify.").

² See, e.g., ERCOT Ex. 3, Direct Testimony of Ted Hailu, at 9 (addressing costs of system changes associated with new Market Participant type).

stakeholders will have to determine the priority of any such system changes relative to other system changes that have already been approved for implementation. The potential delay associated with the development and implementation of these standards and system changes is an intrinsic quality of the stakeholder process at ERCOT. Granting a single Market Participant unilateral control over these processes would be contrary to the stakeholder-based governance process established in Section 39.151(g) of the Public Utility Regulatory Act (PURA), as further described in the ERCOT Bylaws and in Section 21 of the Nodal Protocols.³

The order of the Federal Energy Regulatory Commission (FERC) granting Southern Cross's request for interconnection and transmission service cannot reasonably be construed to require the Public Utility Commission of Texas ("PUC" or "Commission") to impose a deadline for various changes necessary to facilitate this project.⁴ Nothing in FERC's order purports to require action within some particular time, nor does it grant Southern Cross unilateral authority to dictate the timing of the interconnection. And construing the order to require the PUC to mandate interconnection of the project before ERCOT may have had sufficient time to develop and implement all necessary standards and systems changes would be contrary to FERC's stated intention to preserve the jurisdictional status quo under which the PUC exercises exclusive jurisdiction over all aspects of the operation of the ERCOT market or delegates that authority to ERCOT.⁵

Southern Cross's project, like any other novel proposal, is not immunized from the development of necessary registration, operations, and market standards just because it has received FERC's approval; indeed, in many cases, the development of these standards is necessary to give the FERC order effect. For example, because Southern Cross does not appear to be eligible for classification as a Transmission Service Provider or a Resource Entity under the ERCOT Protocols as currently written, either a change to the Protocols or a new Market Participant role is necessary to facilitate Southern Cross's integration into the ERCOT System.

FERC's order itself recognizes that the interconnection is subject to PUC and ERCOT

³ See Public Utility Regulatory Act (PURA), Tex. Util. Code §§ 11.001-66.016.

⁴ *Southern Cross Transmission LLC, Pattern Power Marketing LLC*, Final Order, 47 FERC ¶ 61,113 (May 15, 2014).

⁵ 47 FERC ¶ 61113, 61474 ("Compliance with this order and the Offer of Settlement shall not cause ERCOT, Oncor, CenterPoint, or any other ERCOT utility or other entity that is not already a public utility to become a "public utility" as that term is defined by section 201 of the FPA and subject to the jurisdiction of the Commission for any purpose other than for the purpose of carrying out the provisions of sections 210 and 211 of the FPA.").

standards. The order explicitly incorporates the parties' Offer of Settlement, which requires Garland and SCT to "operate the Garland-SCT Interconnection . . . in compliance with all applicable ERCOT and PUCT requirements."⁶ To the extent the Commission determines that these requirements must be modified to accommodate the interconnection of the Southern Cross DC tie, the project is unavoidably subject to any delay that is necessary to achieve those revisions. Nothing in FERC's order suggests that FERC intended to supplant the PUC's authority to determine appropriate rules to ensure reliability of the ERCOT System.

In its exceptions to the PFD—and for the first time in this proceeding—Southern Cross suggests that the 185-day deadline for granting its certificate of convenience and necessity (CCN) prescribed in Section 37.051(c-2) of PURA prohibits the Commission from referring any of the issues identified in this proceeding to a separate process before ERCOT or the Commission for subsequent disposition.⁷ However, this position is facially at odds with Southern Cross's own recommendations in its exceptions that the Commission should establish deadlines for resolving these issues of either June 1, 2017 or June 1, 2020—both of which are well after the 185-day deadline for granting the requested CCN.⁸ If the Commission lacks authority to require any determination or other action after the 185-day deadline has run, it plainly could not require ERCOT to make the findings by the dates Southern Cross proposes. Furthermore, nothing in Section 37.051(c-2) suggests that the Commission's authority to impose "reasonable conditions" on the CCN should not include the right to establish a condition that certain matters be addressed through separate regulatory proceedings that may occur after the date the CCN is granted.

Although ERCOT recommends against imposing a hard deadline for resolving the various issues identified in this case, ERCOT is amenable to the Commission establishing one or more target dates for the achievement of various milestones and requiring ERCOT to report back periodically on its progress towards these various milestones. The Commission could decide to establish such target dates as part of this order, in a separate proceeding, or through informal guidance provided during an open meeting.

⁶ 47 FERC ¶ 61113, 61474 (incorporating Offer of Settlement by reference); Offer of Settlement at 12, para. F.

⁷ See, e.g., Exceptions to the PFD of Southern Cross Transmission LLC at 10-11, 15, 16.

⁸ Exceptions to the PFD of Southern Cross Transmission LLC at 14, 15, 16 (proposing certain issues be resolved by June 1, 2017 or by June 1, 2020).

II. SCT's assertion that its project will generate no reliability-based transmission upgrades is flawed.

ERCOT has taken no position on the question whether the cost of upgrades needed to “accommodate electrical flows across the SCT DC Tie” should be directly allocated to Southern Cross.⁹ However, ERCOT does take issue with Southern Cross’s assertion in its exceptions that its project will not lead to reliability upgrades because “ERCOT will require SCT to operate, and SCT expects to operate within the limits of the ERCOT system.”¹⁰ Southern Cross’s argument assumes that ERCOT will plan the transmission system based on observed historical transfers across the tie, and not based on some other assumption (such as a full export scenario). But as ERCOT witness Warren Lasher testified, ERCOT has not yet determined the appropriate planning assumptions for new DC ties.¹¹ The methodology ERCOT eventually devises may or may not result in the identification of additional upgrades under either reliability or economic criteria.

III. The Commission should decline to adopt Southern Cross’s recommendation to address potentially new Ancillary Services needs through ERCOT’s existing annual process.

Southern Cross notes that ERCOT has not yet identified what additional Ancillary Services may be required to reliably integrate the Southern Cross DC tie with the ERCOT System.¹² Southern Cross proposes that the Commission should simply require ERCOT to determine any incremental Ancillary Services needed as part of ERCOT’s annual review of Ancillary Services, since a separate process could “create confusion about whether a separate process is required.”¹³ Although ERCOT agrees that the determination of the specific types and quantities of Ancillary Services required for a specific year might be made as part of the annual Ancillary Services review process, it might also benefit from a separate set of stakeholder discussions that could address, among other issues, the appropriate categories of risks that should be covered by the Ancillary Service. ERCOT sees no reason at this time to restrict ERCOT stakeholders to discussing these matters only as part of the annual Ancillary Services review. ERCOT therefore disagrees with Southern Cross’s proposed changes.

⁹ See PFD at 81, Finding of Fact 55.

¹⁰ Exceptions of Southern Cross Transmission LLC to the PFD at 17.

¹¹ ERCOT Ex. 1, Direct Testimony of Warren Lasher at 10:14-11:7.

¹² Exceptions to the PFD of Southern Cross Transmission LLC at 33-34.

¹³ Exceptions to the PFD of Southern Cross Transmission LLC at 34.

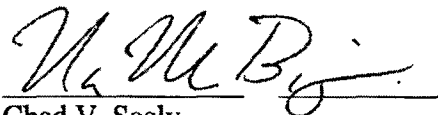
IV. The Commission should decline Luminant's proposal to require ERCOT to adopt a Constraint Management Plan or Special Protection Scheme to resolve congestion created by the Southern Cross DC tie.

Luminant proposes to require ERCOT to address any congestion created by imports over the Southern Cross DC tie by implementing a Constraint Management Plan (CMP) (or Special Protection Scheme (SPS)).¹⁴ ERCOT disagrees with this recommendation because it inappropriately restricts the possible options that may be considered for addressing this congestion. As ERCOT witness Dan Woodfin testified, CMPs—like other possible solutions—have “significant drawbacks” that need to be considered, including changes to the e-Tag rules.¹⁵ The effectiveness of a CMP in resolving congestion is very case-specific and “is unlikely to be a uniform solution for managing congestion in all cases.”¹⁶ For this reason, Mr. Woodfin recommended a “broader discussion by ERCOT stakeholders.”¹⁷ In fact, as described in ERCOT's Exceptions to the PFD, ERCOT recommends broadening the PFD's Findings and Ordering Paragraphs on this issue to allow ERCOT to consider other possible solutions to the congestion.¹⁸

V. Conclusion

For the foregoing reasons, the Commission should decline to address the above-described concerns raised in the exceptions to the PFD filed by Southern Cross and Luminant. ERCOT requests that the Commission adopt the PFD with the modifications described in ERCOT's Exceptions to the Proposal for Decision.

Respectfully submitted,



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¹⁴ Luminant's Exceptions to the PFD at 4.

¹⁵ ERCOT Ex. 2, Direct Testimony of Dan Woodfin, at 9.

¹⁶ ERCOT Ex. 2, Direct Testimony of Dan Woodfin, at 9.

¹⁷ ERCOT Ex. 2, Direct Testimony of Dan Woodfin, at 10.

¹⁸ ERCOT's Exceptions to the PFD at 4.

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RELIABILITY COUNCIL OF TEXAS, INC.

CERTIFICATE OF SERVICE

I hereby certify that a copy of this document was served on all parties of record on August 9, 2016, by posting on the PUC Interchange or by first class U.S. mail in accordance with the provisions regarding service in SOAH Order No. 3 in this proceeding.

A handwritten signature in cursive script, appearing to read "N. M. Bigbee", is written over a horizontal line.