



Control Number 45624



Item Number 391

Addendum StartPage 0

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OPEN MEETING COVER SHEET

MEETING DATE: August 18, 2016

DATE DELIVERED: August 17, 2016

AGENDA ITEM NO. 17

CAPTION: Docket No. 45624; SOAH Docket No. 473-16-2751 - Application of 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

ACTION REQUESTED: Memo from Chairman Nelson

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Public Utility Commission of Texas

Memorandum

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PUBLIC UTILITY COMMISSION
FILING CLERK

TO: Commissioner Kenneth W. Anderson, Jr.
Commissioner Brandy Marty Marquez

FROM: Chairman Donna L. Nelson

DATE: August 17, 2016

RE: **Open Meeting Agenda Item No. 17** – Application of 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

I continue to be concerned about the potential for this project to impact our exclusive jurisdiction over ERCOT. I am also concerned that the CREZ infrastructure will now be used to support the transmission of electricity out of our state. The CREZ infrastructure is funded by ERCOT ratepayers; therefore, I remain committed that any entity exporting electricity outside of ERCOT will be financially committed to paying its pro rata share of the ERCOT transmission infrastructure, including the CREZ infrastructure. I agree with Commission Staff that we should ensure that Texas ratepayers do not end up paying for the Southern Cross DC Tie and related transmission facilities that will provide speculative benefits to those ratepayers.¹ While the language of PURA precludes the Commission from denying the application, we do have the ability to prescribe reasonable conditions to protect the public interest or develop rules or protocols of general applicability.² I remain convinced that the Legislature intended this process to be robust and that they envisioned a proceeding that would protect Texas ratepayers and jurisdiction over the ERCOT market.

As it stands now, the DC tie that is at the heart of this docket would have a full capacity of 2,100 MW—making it ERCOT's new most severe single contingency. I request that the parties provide briefing on the possibility that we order that the DC tie operate below the current most severe single contingency of 1,375 MW until ERCOT completes any required studies and implements any new standards and protocols via the ERCOT proceeding discussed later in this memo. We scheduled an open meeting dedicated to this docket on August 25, 2016. Briefs would be due on Monday, August 22, and replies would be taken in the form of oral argument at the August 25 open meeting.

I have set out the conditions I would prescribe below. These conditions are in addition to those set out in the proposal for decision, unless otherwise stated. The public interest considerations that support the conditions I would impose include protection of our exclusive jurisdiction over

¹ Commission Staff's Exceptions at 2.

² PURA § 37.051(c-2) and (c-3).

ERCOT, the reliability of the ERCOT grid, the ERCOT ratepayers, and the ERCOT wholesale and retail market constructs.

Costs

First and foremost, ERCOT ratepayers should not bear any of the costs to construct, operate, maintain, upgrade, or decommission the facilities. I support adoption of proposed ordering paragraph 12, which would require the City of Garland and Southern Cross Transmission LLC to give effect to and honor their representations in FERC Docket No. TX11-01-001,³ including that Southern Cross cannot seek to recover from ERCOT ratepayers and Garland cannot seek to recover from wholesale or retail customers in Texas the costs incurred in the construction of the interconnection facilities identified in the interconnection agreement between Garland and Southern Cross.

Furthermore, Garland must be required to clearly account for and report any associated costs in any of its wholesale transmission rate requests. I also support restricting Garland from recovering costs paid by Rusk Interconnection LLC, Southern Cross's subsidiary, in its transmission cost of service.

I agree with Commission Staff that we should include a condition that requires Southern Cross to cover the costs for the ERCOT studies, protocol revisions, and any other activities required by this project.⁴ I support a condition that states that ERCOT ratepayers should not bear any additional costs of this project that may arise, including ancillary services costs and costs for negotiating and executing any coordination agreements with other ISOs, RTOs, or Balancing Authorities necessitated by this project. I agree with TIEC that we should directly assign any incremental transmission and ancillary services costs required to support exports over the DC tie to those exports.⁵

I would also add conditions regarding disallowing recovery for this project in a utility's cost of service. Specifically, Garland shall not recover any costs related to the design and construction of the Garland Project in a transmission cost of service,⁶ and no costs related to the Rusk or Panola substations or the Rusk-to-Panola line should be allowed in any transmission cost of service for any utility.⁷ Further, Garland shall bear the burden of establishing that none of the costs it seeks to recover for transmission are related to this project.

Land Condemnation and Construction

I agree with Commission Staff that we should include a condition that Garland may not condemn land or begin construction until Garland or Southern Cross files evidence that Southern Cross has obtained all necessary regulatory approvals in Louisiana and Southern Cross has secured funding

³ Southern Cross Transmission LLC, Pattern Power Marketing LLC, Final Order Directing Interconnection and Transmission Service, 147 FERC ¶ 61,113 (2014).

⁴ Commission Staff's Initial Brief at 19-22.

⁵ TIEC's Reply to Exceptions at 15-18.

⁶ Commission Staff's Exceptions at 6.

⁷ TIEC's Exceptions at 10.

for the full cost of the entire project inside and outside Texas.⁸ These conditions are in addition to the condition set out in the settlement agreement on the transmission line route.

Disconnection of the Line

I agree with most of TIEC's proposals regarding the conditions we should impose regarding requiring disconnection from the Southern Cross DC tie, but I would change the language in the proposal for decision regarding this issue by adding to what is set out in ordering paragraphs 18 and 19: Garland and Southern Cross shall immediately disconnect the Garland Project from the Southern Cross DC tie if: (1) it is necessary to prevent ERCOT or any ERCOT utilities from becoming subject to FERC's jurisdiction; (2) a synchronous connection is ever made to the line outside Texas; or (3) ordered to by the Commission to protect the public interest or the ERCOT system. If the Commission orders disconnection, the disconnection should occur upon issuance of a final Commission order and not after rights to appeal have been exhausted. Furthermore, Southern Cross should be required to back down exports if asked to do so by ERCOT during an ERCOT energy emergency alert.⁹

Affiliate Issues

I would modify ordering paragraph 21 so that it also prohibits Garland from upgrading the Garland Project without prior Commission approval. It is not clear whether Southern Cross has the agency authority to bind Rusk. I ask Southern Cross to be prepared to state on the record whether it has the authority to bind Rusk and to commit on the record, if possible, that Rusk will not ask Garland to upgrade the line under the Transmission Line Agreement.

Market Participant Agreement

I agree with the proposal for decision that Southern Cross must execute a standard market participant agreement before interconnection of the project with ERCOT.¹⁰

Reliability

I would impose a condition that forbids Southern Cross and Garland from operating the line or DC tie in a way that would impair ERCOT's reliability. I would also add a condition that states that Garland and Southern Cross shall not operate the Southern Cross DC tie or the Garland Project in a manner that imperils the thermal capacity of the ERCOT system.

ERCOT Proceeding

I agree with the ALJs that there are several issues that need to be addressed by ERCOT. I would open a separate proceeding where we can specify the exact efforts we require ERCOT to undertake as a result of this project, including:

- Determining what market participant category Southern Cross will be assigned at ERCOT or if a new market participant category should be created;

⁸ Commission Staff's Initial Brief at 24-25.

⁹ TIEC's Initial Brief at 21-22.

¹⁰ Proposal for Decision at 102, proposed ordering paragraph 13.

- Developing coordination agreements with the regional transmission operator, independent system operator, or balancing authority on the eastern end of the Southern Cross DC tie, if necessary;
- Determining when and how ERCOT should include proposed merchant DC tie projects in its transmission planning models;
- Determining what transmission upgrades are necessary to manage congestion resulting from power flows over the Southern Cross DC Tie; and
- Addressing congestion issues; ramp rate restrictions; coordination of outages; primary frequency response and reactive power requirements, if necessary; the impact on ancillary services, including evaluating what additional ancillary services may be necessary for the reliable interconnection of the Southern Cross DC tie; and price formation issues.

Some of these tasks may require stakeholder input. I would also add the following language as an additional ordering paragraph: Southern Cross and Garland shall abide by all Commission rules and ERCOT protocols, including those promulgated after the issuance of this order.

Commission Proceeding

There are also several issues that need further development before the line is interconnected with ERCOT that are more appropriate for the Commission to address, including cost allocation for use of ERCOT transmission facilities, any transmission upgrades related to imports or exports over the DC ties, and cost allocation for ancillary services necessary to facilitate the imports and exports over the DC ties.¹¹ This can be added to Commission Staff's work in Project No. 46203¹² or in a separate project. This proceeding may result in modifying existing rules or creating new rules.

Successors-in-Interest

I agree with TIEC that any conditions that apply to Rusk or Garland should be transferred and assigned to any successor-in-interest¹³ as a condition in the order.

FERC's Plenary Jurisdiction

I agree with ERCOT that we should include the word 'plenary' before the word 'jurisdiction' in findings of fact 122, 124, and 125 and that the term 'FERC rules' should be changed to 'FERC's plenary jurisdiction' in ordering paragraph 18.¹⁴

I look forward to discussing this with you at the open meeting.

¹¹ Commission Staff's Exceptions at 6-7.

¹² *Rulemaking Regarding DC Ties*, Project No. 46203.

¹³ TIEC's Exceptions at 14-15.

¹⁴ ERCOT's Exceptions at 2.