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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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BEFORE THE STATE OFFICE  
OF  
ADMINISTRATIVE HEARINGS

**TEXAS INDUSTRIAL ENERGY CONSUMERS' MOTION FOR REHEARING**

Texas Industrial Energy Consumers (TIEC) generally agrees with the Commission's Final Order, and submits this limited Motion for Rehearing to strengthen and clarify several of the Commission's findings in support of its decision.

**I. DISCUSSION OF PROPOSED CHANGES**

- A. The Final Order should contain an explicit finding that the evidence did not show benefits to customers from interconnecting the Southern Cross DC tie.**

The Commission's Final Order appropriately requires Southern Cross Transmission, LLC (SCT) and entities using the Southern Cross DC tie (SCT Tie) to bear all incremental costs associated with interconnecting the SCT Tie. This condition is a departure from the Commission's typical practice of socializing all transmission and ancillary service costs to customers in ERCOT, and is justified based on the evidence that the SCT Tie will primarily be exporting and will provide no meaningful benefits to ERCOT customers. While TIEC believes that the Commission's rationale was clear from the Open Meeting discussion, there is no finding of fact specifically stating that this cost assignment is premised on the lack of benefits to ERCOT customers. The Commission's Final Order should be strengthened to better withstand a potential appeal by adding a finding that explicitly reflects this rationale.

TIEC proposes the following new finding of fact:

113A. The evidence demonstrates that the Southern Cross DC tie will be exporting the vast majority of the time, and Southern Cross has not shown that interconnecting the DC tie will provide any meaningful benefits to customers in Texas. It is therefore reasonable,

protective of the public interest, and consistent with the FERC Order to depart from the traditional philosophy of "load pays" for this project and directly assign incremental costs associated with ancillary services, transmission upgrades, and other items that may increase costs for ERCOT customers.

**B. Finding of Fact No. 119B could inadvertently undermine the Commission's intent to directly assign costs to the SCT Tie and entities using that tie.**

Finding of Fact No. 119B states that Southern Cross will bear any incremental costs that would otherwise be borne by Texas customers "unless otherwise ordered by Commission rules." Based on the Open Meeting discussion, TIEC understood this finding to give the Commission flexibility to reconsider direct cost assignment in the future if meaningful benefits to ERCOT customers were ever shown. However, as it stands, this finding could inadvertently be read to allow the traditional policy of "load pays," which is embodied in various PUC rules<sup>1</sup> and ERCOT protocols, to trump the Commission's specific findings directly assigning costs to the SCT Tie and the entities that use it. To resolve this potential conflict, TIEC recommends the following changes to Finding of Fact No. 119B:

*119B. It is reasonable, protective of the public interest, and consistent with the FERC Order for any additional associated costs that may arise because of the Garland project or the Southern Cross DC tie that would otherwise be borne by ERCOT ratepayers to be borne instead by Southern Cross Transmission, unless the Commission subsequently amends its rules to provide otherwise required by Commission rules. Such costs include, but are not limited to, transmission upgrade costs, ancillary services costs and the costs of negotiating and executing any coordination agreements with any independent system operator, regional transmission organization, or reliability coordinator.*

**C. The Final Order should be clarified to reflect that the MSSC standard applies only to generation.**

As the Commission correctly found, ERCOT must carry enough reserves to withstand the failure of its largest generation plant, which is the Most Significant Single Contingency (MSSC). The MSSC is specific to generation, and there is currently no standard for designating the equivalent of an MSSC for loads (i.e., on the consumption side). However, Finding of Fact 112 suggests that the SCT Tie would be the MSSC when it is importing or exporting (i.e., acting like

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<sup>1</sup> E.g., PUC Subst. R. 25.192 (the Transmission Cost of Service or "TCOS" rule, which provides for postage stamp transmission pricing).

a load). This suggests that an MSSC-like standard exists for load, despite the fact that this standard applies only to import conditions. To clarify this point, Finding of Fact 112 should be modified as follows:

*112. The Southern Cross DC tie will become the new most-severe single contingency in ERCOT whether it is importing or exporting.*

**D. The Final Order should use consistent wording when directly assigning costs to the SCT Tie and entities using the SCT Tie.**

The Commission's findings of fact and conclusions of law use inconsistent terminology when directly assigning costs to the SCT Tie. In some places, the Commission assigns costs only to "the Southern Cross DC tie," while in other places the costs are also directly assigned to "entities using the Southern Cross DC tie."<sup>2</sup> Also, in some places the Commission directly assigns costs to "imports and exports" over the SCT Tie.<sup>3</sup> The language in Finding of Fact No. 59, which allows costs to be assigned "to Southern Cross Transmission and entities using the Southern Cross DC tie," is the superior and most inclusive terminology. TIEC therefore recommends Findings of Fact 119B and 199C, as well as Ordering Paragraphs 34 and 35, be modified to track the language in Finding of Fact No. 59 and directly assign costs to "Southern Cross transmission and entities using the Southern Cross DC tie."

## **II. CONCLUSION**

TIEC strongly supports the Commission's decision in this case and the intent behind its findings and conclusions in the Final Order. TIEC respectfully requests that the Commission make these limited, clarifying revisions to strengthen the Final Order and preclude potential arguments on appeal or during subsequent enforcement.

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<sup>2</sup> See, e.g., FOF No. 59 (stating that upgrades should be assigned to "Southern Cross Transmission and entities using the Southern Cross DC tie").

<sup>3</sup> Finding of Fact No. 199C.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I, Michael McMillin, Attorney for TIEC, hereby certify that a copy of the foregoing document was served on all parties of record in this proceeding on this 3<sup>rd</sup> day of October, 2016 by facsimile, electronic mail and/or First Class, U.S. Mail, Postage Prepaid.

*Michael McMillin*

Michael McMillin