



Control Number: 49973



Item Number: 14

Addendum StartPage: 0

DOCKET NO. 49973

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2019 DEC 11 AM 10:39

APPLICATION OF WIND ENERGY	§	BEFORE THE PUBLIC
TRANSMISSION TEXAS, LLC TO AMEND	§	PUBLIC UTILITY COMMISSION
ITS CERTIFICATE OF CONVENIENCE	§	FILING CLERK
AND NECESSITY FOR THE JUNO SOLAR	§	UTILITY COMMISSION
STATION-TO-LONG DRAW SWITCHING	§	
STATION 138-KV TRANSMISSION LINE	§	
IN BORDEN COUNTY	§	OF TEXAS

JOINT PROPOSED NOTICE OF APPROVAL AND MOTION TO ADMIT EVIDENCE

Wind Energy Transmission Texas, LLC (WETT) hereby files this Joint Proposed Notice of Approval and Motion to Admit Evidence. The Staff of the Public Utility Commission of Texas (Commission Staff) has reviewed and agreed to the Joint Proposed Notice of Approval attached to this pleading. Order No. 2 required parties to file a proposed order, including fact statements, legal conclusions, and ordering paragraphs by December 12, 2019. Therefore, this Joint Proposed Notice of Approval is timely filed.

I. INTRODUCTION

On October 4, 2019, WETT filed its Application for approval to amend its Certificate of Convenience and Necessity (CCN) to design and construct the proposed Juno Solar Station to Long Draw Switching Station 138-kV Transmission Line in Borden County to interconnect a new solar generation facility. This docket was processed in accordance with applicable statutes and the Public Utility Commission's (Commission) rules. WETT and Commission Staff are the only parties in the docket, and no party requested a hearing on the merits. Based on Commission Staff's Recommendation on Final Disposition, recommending approval of the Application, WETT and Commission Staff jointly propose that the Notice of Approval attached to this pleading as Attachment 1 be approved.

II. MOTION TO ADMIT EVIDENCE

WETT and Commission Staff request that the following evidence be admitted into the record: (a) WETT's application and accompanying attachments, filed on October 4, 2019; (b) WETT's response to Order No.1, filed on October 18, 2019; (c) WETT's affidavit and notice of proof by mail, filed October 24, 2019, attesting that notice was provided to the Texas Parks and

14

Wildlife Department (TPWD), Borden County, the Department of Defense Siting Clearinghouse; neighboring utilities, and the directly affected landowner, and WETT's proof of publication, including the publisher's affidavit, attesting to the October 9, 2019, publication of the public notice in *The Borden Star*, a newspaper of general circulation in Borden County, the county in which the facilities/CCN amendment are requested; (d) Commission Staff's comments on application and notice, and proposed procedural schedule, including the accompanying memorandum, filed on October 31, 2019; (e) Commission Staff's first requests for information to WETT filed November 20 2019; (f) WETT's response to Commission Staff's first Requests for Information, filed November 25, 2019; and (g) Commission Staff's recommendation on final disposition, recommending approval of WETT's application, filed on November 26, 2019.

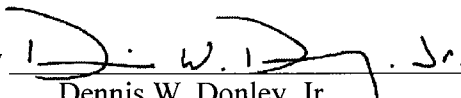
III. PRAYER

WHEREFORE, PREMISES CONSIDERED, WETT respectfully requests that the Notice of Approval attached to this pleading as Attachment 1 be approved, the Motion to Admit Evidence be granted, and for any further relief to which it may be justly entitled.

Dated: December 11, 2019

Respectfully submitted,
Naman, Howell, Smith & Lee, PLLC
8310 N. Capital of Texas Highway, Suite 490
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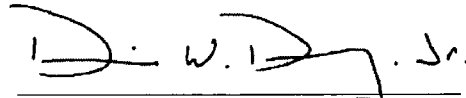
By


Dennis W. Donley, Jr.
State Bar No. 24004620
Stephanie S. Potter
State Bar No. 24065923

Attorneys for Wind Energy Transmission Texas, LLC

CERTIFICATE OF SERVICE

I certify that a copy of this document will be served by electronic mail, facsimile, hand-delivery, overnight delivery, or First Class U.S. Mail on all parties of record in this proceeding on December 11, 2019.


Dennis W. Donley, Jr.

ATTACHMENT 1

DOCKET NO. 49973

APPLICATION OF WIND ENERGY § BEFORE THE PUBLIC
TRANSMISSION TEXAS, LLC TO AMEND §
ITS CERTIFICATE OF CONVENIENCE §
AND NECESSITY FOR THE JUNO SOLAR § UTILITY COMMISSION
STATION-TO-LONG DRAW SWITCHING §
STATION 138-KV TRANSMISSION LINE §
IN BORDEN COUNTY § OF TEXAS

PROPOSED NOTICE OF APPROVAL

This Notice addresses the application of Wind Energy Transmission Texas, LLC (WETT) to amend its certificate of convenience and necessity (CCN) to design and construct the proposed Juno Solar Station to Long Draw Switching Station 138-kV Transmission Line in Borden County to interconnect a new solar generation facility. The Commission approves the application to amend WETT's CCN No. 30197 to construct and operate the proposed line.

The Commission adopts the following findings of fact and conclusions of law.

I. Findings of Fact

Applicant

1. WETT is an electric utility providing service under Certificate of Convenience and Necessity (CCN) No. 30197.

Application

2. On October 4, 2019, WETT filed an application to amend its CCN No. 30197 to design and construct the proposed Juno Solar Station to Long Draw Switching Station 138-kV Transmission Line in Borden County to interconnect a new solar generation facility.
3. WETT retained KP Environmental, Inc. (KPE) to prepare an environmental assessment and alternative route analysis.
4. WETT proposed a single route, which will be approximately six miles in length and constructed primarily on steel monopole structures.
5. On October 31, 2019, Commission Staff recommended that the application be found sufficient for further review on the merits.
6. In Order No. 2, issued on November 6, 2019, the Administrative Law Judge (ALJ) found the application sufficient and materially complete.

Description of the Project

7. WETT will construct new electric transmission facilities in Borden County to interconnect a new solar generation facility. WETT will construct the 138-kV transmission line using self-supporting, single-circuit capable single steel poles (monopoles), from a 138-kV expansion of WETT's existing Long Draw 345-kV high-voltage switching station (located adjacent to Farm-to-Market 1054/Vealmoore Road in Borden County) and the proposed Juno Solar collector substation (which is being developed by generator I.P. Juno, LLC (Juno) approximately 0.6 miles northeast of the intersection of U.S. Highway 180 and Vealmoor Road, and 11.5 miles west of Gail, also in Borden County, Texas).
8. The typical structure for the transmission line will be 80 feet in height and will require a 100-foot wide right-of-way.

Notice

9. On October 24, 2019, WETT filed the affidavit of Derrick Berg attesting that notice was provided on September 27, 2019 to the directly affected landowners and on October 4, 2019 to the Texas Parks and Wildlife Department (TPWD), Borden County officials, the Department of Defense Siting Clearinghouse, and neighboring utilities.
10. WETT's proof of notice included a publisher's affidavit of editor Kerri Dean dated October 9, 2019, attesting to the publication of the public notice on October 9, 2019, in *The Borden Star*, a newspaper having general circulation in the county in which the facilities/CCN amendment are requested.
11. There are no municipalities within five miles of the Project.
12. On October 31, 2019, Commission Staff recommended that WETT's text and provision of notice satisfy the sufficiency requirements of Order No. 1 and 16 TAC § 22.52(a).
13. In Order No. 2, issued on November 6, 2019, the ALJ approved WETT's notice.

Evidentiary Record

14. On December 11, 2019, WETT filed a proposed notice of approval and motion to admit evidence.
15. In Order No. ____, issued on _____, the ALJ admitted the following evidence into the record: (a) WETT's application and accompanying attachments, filed on October 4, 2019; (b) WETT's response to Order No.1, filed on October 18, 2019; (c) WETT's affidavit and notice of proof by mail and proof of publication, filed on October 24, 2019;

Staff's comments on application and notice, and proposed procedural schedule, including the accompanying memorandum, filed on October 31, 2019; (e) Commission Staff's first requests for information to WETT filed November 20, 2019; (f) WETT's response to Commission Staff's first Requests for Information, filed November 25, 2019; and (g) Commission Staff's recommendation on final disposition, recommending approval of WETT's application, filed on November 26, 2019.

Intervention

16. In Order No. 2, the ALJ adopted a procedural schedule setting November 18, 2019 as the deadline to intervene.
17. No interventions were filed.

Public Input

18. There are four affected landowners.
19. No public open-house meeting was required.
20. The Department of Defense received notice of the intention to file the application.

Need for the Proposed Project

21. The proposed 138-kV transmission line Project is necessary to implement the request of I.P. Juno, LLC (Juno) for direct interconnection of its 300-MW solar project to WETT's 138-kV transmission system.
22. On December 22, 2018, WETT and Juno executed the ERCOT Standard Generation Interconnection Agreement to provide transmission service associated with Juno's solar generation project.
23. WETT demonstrated a reasonable need for the transmission line. The need for the Project is not disputed by the parties to this proceeding.

Effect of Granting the CCN on Other Utilities

24. The proposed route will not be directly connected to any other electric utility. No other electric utility is involved in the construction of the Project. The Project does not use existing facilities owned by any other electric utility.

Estimated Costs

25. The estimated cost of the transmission line is approximately \$5.9 million with an additional estimated \$1.6 million in substation construction.

Prudent Avoidance

26. There are no habitable structures located within 500 feet of the centerline of the proposed route.
27. The proposed route complies with the Commission's policy of prudent avoidance.

Alternatives to the Project

28. There are no practical alternatives to the Project to interconnect the Juno solar generation facility.
29. Distribution alternatives would not interconnect the solar generation facility or fulfill the terms of the interconnection agreement.

Community Values

30. The study area for the Project encompasses approximately 1,334 acres in Borden County.
31. WETT and KPE considered information received from local, state, and federal agencies in the routing analysis.
32. KPE analyzed a single route in developing the environmental assessment because agreements had been reached with the four directly affected landowners to acquire the necessary ROW for the Project.
33. The Project will have minimal impact on community values.

Using or Paralleling Compatible Rights-of-Way

34. Approximately 5.4 miles of the proposed route are parallel and adjacent to existing transmission line or compatible ROW.

Engineering Constraints

35. WETT considered engineering and construction constraints, reliability issues, and estimated costs to evaluate the route as it relates to the requirements of the Public Utility Regulatory Act (PURA) and Commission rules.
36. WETT did not identify any engineering constraints that would prevent construction of the Project along the proposed route.

Radio Tower and other Electronic Installations

37. There are no AM radio transmitters located within 10,000 feet of the centerline of the proposed route.
38. There are no FM radio transmitters, microwave towers, or any other electronic installation devices located within 2,000 feet of the centerline of the proposed route.

Airstrips and Airports

39. There are no airports registered with the Federal Aviation Administration (FAA) with runways less than 3,200 feet in length located within 10,000 feet of the centerline of the proposed route.
40. There are no FAA-registered airports with a runway greater than 3,200 feet in length located within 20,000 feet of the centerline of the proposed route.
41. There are no private airstrips located within 10,000 feet of the centerline of the proposed route.
42. There are no heliports located within 5,000 feet of the centerline of the proposed route.

Irrigation Systems

43. The proposed route does not impact any pasture or cropland with traveling irrigation systems.

Recreational and Park Areas

44. No parks or recreational areas owned by a governmental body or an organized group, club, or church were identified as being located within 1,000 feet of the centerline of the proposed route.

Historical and Archeological Values

45. There are no known historical or archaeological sites crossed by the proposed route, and no sites are located within 1,000 feet of the centerline of the proposed route.
46. There are no properties listed on the National Register of Historic Places crossed by or within 1,000 feet of the centerline of the proposed route.
47. No adverse effects to archaeological or historical areas are anticipated as a result of constructing the Project.

Aesthetic Values

48. The study area exhibits a medium to low degree of aesthetic quality.

49. No outstanding aesthetic resources, designated scenic views, or unique visual elements were identified within the study area.
50. The landscape has experienced a moderate degree of alteration due to transportation corridors, oil and gas infrastructure, and existing electric transmission and distribution facilities (including the nearby Long Draw Switching Station and connecting 345-kV lines).
51. There are no wild and scenic rivers, historic trails, national parks, monuments, scenic vistas or battlefields within the Study Area.

Environmental Integrity

52. The Project is not anticipated to have significant impacts to existing land uses or the geological, hydrological, or wetland resources of the area.
53. The Project will not cross any known habitat of federally-listed endangered or threatened species.
54. The Project will not adversely affect the environmental integrity of the area.

TPWD Comments and Recommendations

55. In a letter dated July 26, 2019, TPWD recommended certain construction practices as well as protective measures for migratory birds, the state-listed Texas horned lizard, and certain rare species tracked by TPWD.
56. TPWD was provided a copy of the environmental assessment for the Project.
57. The standard mitigation requirements included in the ordering paragraphs in this Notice, coupled with WETT's standard practices, are reasonable measures for WETT to undertake to protect natural resources and to reduce construction impacts.
58. This Notice addresses only those TPWD recommendations and comments for which there is record evidence.

Permits

59. Before beginning construction of the proposed transmission line, it is appropriate for WETT to conduct a field assessment of the entire length of the transmission line to identify water resources, cultural resources, potential migratory bird issues, and threatened or endangered-species habitat impacted as a result of the transmission line. As a result of these assessments, WETT will identify any additional permits that are necessary, will consult any required

agencies, will obtain all necessary environmental permits, and will comply with the relevant permit conditions during construction and operation of the transmission line.

Coastal Management Program

60. No part of the Project is located within the boundary of the Texas Coastal Management Program as defined in 31 Texas Administrative Code (TAC) § 503.1.

Effect on the State's Renewable Energy Goal

61. The Texas Legislature established a goal in PURA for 10,000 MW of renewable capacity to be installed in Texas by January 1, 2025. This goal has already been met.

62. The Project will not adversely affect the goal for renewable energy development established in PURA § 39.904(a).

Conditional Approval

63. It is reasonable and appropriate for a CCN order not to be valid indefinitely because it is issued based on the facts known at the time of issuance.

64. Seven years is a reasonable and appropriate limit to place on the authority granted in this Notice to construct the Project.

Informal Disposition

65. At least 15 days have passed since the completion of all notice requirements in this docket.

66. WETT and Commission Staff are the only parties to this proceeding.

67. No affected persons or entities intervened.

68. No hearing was requested, and no hearing is necessary.

69. The decision is not adverse to any party.

70. On November 26, 2019, Commission Staff recommended approval of the application.

II. Conclusions of Law

1. The Commission has jurisdiction and authority over this matter under PURA § 37.051(a).

2. WETT is an electric utility as defined in PURA § 31.002(6) and a transmission service provider as defined by 16 TAC § 25.5(140).

3. WETT must obtain the approval of the Commission to construct the Project and provide service to the public using the Project.

4. As a power generation company, Juno is a transmission service customer under 16 TAC § 25.5(139).
5. The application is sufficient under 16 TAC § 22.75(d).
6. The application complies with the requirements of 16 TAC § 25.101.
7. WETT provided notice of the application in compliance with PURA § 37.054 and 16 TAC § 22.52(a).
8. The Commission processed this docket in accordance with the requirements of PURA, the Administrative Procedure Act¹, and Commission rules.
9. The Project using the proposed route is necessary for the service, accommodation, convenience, or safety of the public within the meaning of PURA § 37.056(a).
10. WETT's Project complies with PURA § 37.056(c) and 16 TAC § 25.101(b)(3)(B), including the Commission's policy of prudent avoidance, to the extent reasonable to moderate the impact on the affected community and landowners.
11. The Texas Coastal Management Program does not apply to the Project and the requirements of 16 TAC § 25.102 do not apply to the amended application.
12. The requirements for informal disposition under 16 TAC § 22.35 have been met in this proceeding.
13. The requirements for administrative approval in 16 TAC § 25.101(b)(3)(C) have been met in this proceeding.

III. Ordering Paragraphs

In accordance with these findings of fact and conclusions of law, the Commission issues the following orders:

1. The Commission amends WETT's CCN No. 30197 to construct and operate the Long Draw Switching Station to Juno Solar Station 138-kV transmission line in Borden County using the proposed route.
2. WETT must conduct surveys, if not already completed, to identify metallic pipelines that could be affected by the transmission line and cooperate with pipeline owners in modeling

¹ Tex. Gov't Code §§ 2001.001 – .902
Docket No. 49973

and analyzing potential hazards because of alternating-current interference affecting pipelines being paralleled.

3. If WETT or its contractors encounter any archaeological artifacts or other cultural resources during construction of the transmission facilities, work must cease immediately in the vicinity of the artifact or resource. WETT must report the discovery to the Texas Historical Commission (THC) and take action as directed by THC.
4. WETT must follow the procedures to protect raptors and migratory birds as outlined in the following publications: *Reducing Avian Collisions with Power Lines: State of the Art in 2012*, Edison Electric Institute and Avian Power Line Interaction Committee; *Suggested Practices for Avian Protection on Power Lines: The State of the Art in 2006*, Edison Electric Institute, Avian Power Line Interaction Committee, and the California Energy Commission, Washington, D.C. and Sacramento, CA 2006; and the *Avian Protection Plan Guidelines*, Avian Power Line Interaction Committee and United States Fish and Wildlife Service (USFWS), April 2005. WETT must take precautions to avoid disturbing occupied nests and take steps to minimize the impact of construction on migratory birds during the nesting season of the migratory bird species identified in the area of construction.
5. WETT must use best management practices to minimize the potential impact to migratory birds and threatened or endangered species.
6. WETT must exercise extreme care to avoid affecting non-targeted vegetation or animal life when using chemical herbicides to control vegetation within the right-of-way. Herbicide use must comply with rules and guidelines established in the Federal Insecticide, Fungicide and Rodenticide Act and with Texas Department of Agriculture regulations.
7. WETT must minimize the amount of flora and fauna disturbed during construction of the transmission line, except to the extent necessary to establish appropriate right-of-way clearance for the transmission line. In addition, WETT must re-vegetate using native species and must consider landowner preferences and wildlife needs in doing so. Furthermore, to the maximum extent practicable, WETT must avoid adverse environmental impact to sensitive plant and animal species and their habitats, as identified by TPWD and the USFWS.

8. WETT must implement erosion control measures as appropriate. Erosion control measures may include inspection of the right-of-way before and during construction to identify erosion areas and implement special precautions as determined reasonable to minimize the impact of vehicular traffic over the areas. Also, WETT must return each affected landowner's property to its original contours and grades unless otherwise agreed to by the landowner or landowner's representative. WETT need not restore original contours and grades where a different contour or grade is necessary to ensure the safety or stability of the structures or the safe operation and maintenance of the line.
9. WETT must cooperate with directly affected landowners to implement minor deviations in the approved route to minimize the impact of the transmission line. Any minor deviations in the approved route must only directly affect landowners who were sent notice of the transmission line in accordance with 16 TAC § 22.52(a)(3) and landowners that have agreed to the minor deviation.
10. WETT is not authorized to deviate from the approved route in any instance in which the deviation would be more than a minor deviation, without further amending its CCN.
11. If possible, and subject to the other provisions of this Notice, WETT must prudently implement appropriate final design for the transmission lines so as to avoid being subject to the FAA's notification requirements. If required by federal law, WETT must notify and work with the FAA to ensure compliance with applicable federal laws and regulations. WETT is not authorized to deviate materially from this Notice to meet the FAA's recommendations or requirements. If a material change would be necessary to comply with the FAA's recommendations or requirements, then WETT must file an application to amend its CCN as necessary.
12. WETT must update the reporting of the transmission facilities on its monthly construction progress report before the start of construction to reflect the final estimated cost and schedule in accordance with 16 TAC § 25.83(b). In addition, WETT must provide final construction costs, with any necessary explanation for cost variance, after completion of construction when all charges have been identified.
13. WETT must identify any additional permits that are necessary, must consult any required agencies (such as the United States Army Corps of Engineers and USFWS), must obtain all

necessary environmental permits, and must comply with the relevant conditions during construction and operation of the proposed transmission facilities.

14. The Commission limits the authority granted by this Notice to a period of seven years from the date this Notice is signed unless the transmission line is commercially energized before that time.
15. The Commission denies all other motions and any other requests for general or specific relief, if not expressly granted.

Signed at Austin, Texas the ____ day of ____ 2019.

PUBLIC UTILITY COMMISSION OF TEXAS

ADMINISTRATIVE LAW JUDGE