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Received - 2022-09-30 02:39:40 PM

Control Number - 53758

ItemNumber - 50

PUC DOCKET NO. 53758

APPLICATION OF GRID UNITED	§	
TEXAS LLC FOR PARTIAL	§	
CERTIFICATE OF	§	
CONVENIENCE AND NECESSITY	§	PUBLIC UTILITY COMMISSION
RIGHTS PURSUANT TO PURA §§	§	
37.051(C-1) AND 37.056(B)(2) TO	§	OF TEXAS
INTERCONNECT AN HVDC	§	
FACILITY TO THE ERCOT	§	
TRANSMISSION GRID	§	

TEXAS INDUSTRIAL ENERGY CONSUMERS’ PROPOSED LIST OF ISSUES

Texas Industrial Energy Consumers (TIEC) has members on both sides of Grid United’s proposed HVDC interconnection. Based on the limited information that is available about the project at this time, TIEC is unable to tell whether the proposed interconnection would benefit its members or improve electric service in the state more generally. TIEC is aware that Grid United is not asking the Commission to issue a full CCN at this time, and understands Grid United’s desire to avoid unnecessary work and litigation on issues that would be moot if the Commission ultimately finds that the project is not in the public interest. However, Grid United’s ambiguous request for a “limited” or preliminary public interest finding raises a host of legal and procedural issues that the Commission will need to unwind at the outset of this docket.

Given the novel and unprecedented nature of Grid United’s request, the Commission should take a cautious approach to this proceeding. First, the Commission should take briefing on threshold legal issues and determine whether it has authority to grant Grid United’s “limited” or preliminary request for CCN rights.¹ If so, it is critical for the Commission to clearly define the scope and intended effect of any preliminary public interest determination it might make in this proceeding and avoid compromising its ability to fully evaluate the merits of this project. Due to the large number of uncertainties surrounding this project—including what entity(ies) will own and operate the facilities; how the tie will impact reliability and system operations on either side of the interconnection; whether any portion of the facilities could make their way into customers’ rates; etc.—it is essential that the Commission thoroughly evaluate all public interest

¹ See Application at 1.

considerations. However, given the potentially preclusive effect of a FERC order under Section 210 and 211 of the Federal Power Act, the Commission should resolve all critical public interest questions before Grid United seeks an order from FERC, or it is at risk of losing the opportunity to fully evaluate this project and ensure that it is in the best interest of both Texas and Texans. To avoid any potential loss of authority, the Commission would need to consider whether a broad range of potential conditions should be placed on the requested certificate to protect the public interest, along the lines of the conditions the Commission placed on the CCN for the Southern Cross DC tie.²

With these considerations in mind, TIEC proposes the following list of issues. Given the complexity and importance of the issues involved, TIEC respectfully requests that the Commission identify threshold issues and take briefing on those issues prior to compiling a Preliminary Order.

LIST OF ISSUES TO BE ADDRESSED

1. Does the Commission have authority to grant the relief sought in Grid United's Application?
 - a. Grid United filed its application pursuant to PURA § 37.051(c-1), which states that "The commission *shall apply Section 37.056* in considering an application under this subsection. *In addition*, the commission must determine that the application is consistent with the public interest before granting the certificate."³ Does that language require the Commission to consider or make findings on all of the factors described in PURA § 37.056 prior to issuing a CCN?
 - b. PURA § 37.056(b)(2) states that "[t]he commission may . . . grant the certificate for . . . the partial exercise of the requested right or privilege." Does that provision authorize the Commission to issue an order on a single aspect of a CCN application—public interest—in isolation from the other considerations listed in PURA § 37.056?
 - c. Does PURA 37.056(b)(2) authorize the Commission to make a limited or preliminary public interest determination on a CCN application?

² See *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*, Docket No. 45624, Final Order (Sept. 8, 2016).

³ Emphases added.

- d. Is Grid United’s application actually a request for a “preliminary order” granting conditional CCN rights, as described in PURA § 37.055? If so, is Grid United eligible to request such an order?⁴
 - e. Would the proposed HVDC tie or any facility necessary to interconnect it be subject to PURA § 37.056(e), which limits the entities to which transmission CCNs may be granted? If so, is Grid United eligible to receive the requested certificate?
2. Can the Commission grant the requested CCN without conducting the congestion cost savings analysis required by PURA § 37.056(d) and issuing findings on the results?
 3. Would an order granting Grid United’s requested relief be an advisory opinion?
 4. If the Commission grants the relief sought in Grid United’s application, can the Commission legally retain authority to revisit its public interest determination—or make additional public interest determinations—in a future proceeding after FERC has issued an order under Sections 210 and 211 of the Federal Power Act?
 5. Does Commission Substantive Rule 25.101(b)(4) require ERCOT to study this project? If not, is it in the public interest for the Commission to order ERCOT to study this project?
 6. If a “limited” or preliminary finding is allowed, what is the appropriate scope of that finding? What issues are explicitly reserved for consideration in a future proceeding?
 7. Has Grid United presented sufficient evidence for the Commission to make a limited or preliminary finding?
 8. Who would benefit from the construction and operation of the HVDC tie and any facilities necessary to interconnect it?
 9. Who will bear the costs associated with the construction and operation of the HVDC tie and any facilities necessary to interconnect it?
 10. Are the expected benefits of the HVDC tie and any interconnecting facilities in excess of the expected costs?
 11. Who would own and operate the proposed HVDC interconnection and the facilities necessary to interconnect it to the grid?

⁴ In 2019, the Legislature removed the ability of a “person,” as opposed to an “electric utility,” to request a preliminary order for a CCN. See <https://capitol.texas.gov/tlodocs/86R/billtext/html/SB01938F.HTM>.

12. Would the installation and operation of the proposed HVDC facilities result in Grid United or any other entity becoming an electric utility within the meaning of PURA § 31.002(6)?
13. Would granting the relief sought by Grid United impact any other entity's CCN rights?
14. How would the proposed HVDC interconnection and associated transmission facilities impact reliability on either side of the interconnection? What conditions are necessary to protect the public interest in continued safe and reliable electric service?
15. Would costs related to the HVDC tie constitute transmission assets appropriate for inclusion within an electric utility's rates?
16. Does the public interest require that ratepayers not bear any of the costs associated with the HVDC tie, including, but not limited to:
 - a. the costs to construct, operate, maintain, upgrade, or decommission the facilities;
 - b. costs for the studies, protocol, operating guide, and system changes, and any other activities by ERCOT or WECC that are required as a result of this project; and
 - c. any additional costs associated with the project, including, but not limited to, costs of ancillary services, costs related to necessary transmission upgrades, and costs for negotiating and executing any coordination agreements between independent system operators, regional transmission operators, regional transmission organizations, and reliability coordinators.
17. Would costs related to any of the facilities necessary to interconnect the HVDC tie to the grid on either side of the interconnection be eligible for inclusion within an electric utility's rates?
18. Does the public interest require that ratepayers not bear any of the costs associated with any facilities that are necessary to interconnect the HVDC tie, including, but not limited to the costs to construct, operate, maintain, upgrade, or decommission the facilities?
19. Is it reasonable and protective of the public interest to require all utilities that participate in the project to account for and report any costs associated with the project in future rate requests and bear the burden of demonstrating that none of the costs they seek to recover are related to the project?
20. Does the public interest require that the operator of the proposed HVDC interconnection pay for its use of the ERCOT grid, irrespective of whether it is

importing or exporting power? Should all flows over the tie be accounted for in the assignment of transmission costs in ERCOT?

21. Does the public interest require that the operator of the HVDC interconnection pay for its use of the transmission system in WECC?
22. What oversight authority should the Commission retain over the construction and operation of the HVDC interconnection?
23. Is it reasonable and protective of the public interest to prohibit the energization of the HVDC tie and any interconnecting facilities until the operator(s) of the facilities have executed ERCOT's market-participant agreement?
24. Is it reasonable and protective of the public interest to prohibit the energization of the HVDC tie and any interconnecting facilities until ERCOT negotiates and executes a coordination agreement or agreements between itself and any necessary independent system operator, regional transmission organization, or reliability coordinator on the far side of the tie?
25. Is it reasonable and protective of the public interest to require that all costs incurred by ERCOT in negotiating the agreement(s) referenced in the preceding issue be paid by the owner and/or operator of the HVDC tie?
26. Is it reasonable and protective of the public interest to prohibit the energization of the HVDC tie and any interconnecting facilities until ERCOT studies and determines what transmission upgrades, if any, are necessary to facilitate flows over the tie?
27. Is it reasonable and protective of the public interest for the cost of any necessary transmission upgrades associated with the HVDC tie be assigned directly to the owner and/or operator of the tie?
28. Is it reasonable and protective of the public interest to prohibit the energization of the HVDC tie and any interconnecting facilities until ERCOT studies and makes recommendations regarding any additional features of the HVDC tie's operation, including how it will be dispatched?
29. Is it reasonable and protective of the public interest to require that the operator of the HVDC tie back down or temporarily terminate exports if ERCOT determines such is necessary to avoid or mitigate a potential reliability issue?
30. Is it reasonable and protective of the public interest to prohibit any entity from operating the HVDC tie in a manner that would impair reliability in ERCOT or elsewhere in Texas?
31. Is it reasonable and protective of the public interest to prohibit any entity from operating the HVDC tie in a manner that impairs the thermal capacity of the ERCOT system or other transmission assets in Texas?

32. Is it reasonable and protective of the public interest to prohibit the energization of the HVDC tie and any interconnecting facilities until ERCOT evaluates what additional ancillary services, if any, are necessary for the reliable interconnection of the tie and implements any necessary modifications to ancillary service procurement practices or procedures?
33. Is it reasonable and protective of the public interest for any additional associated costs that may arise because of the HVDC tie or the facilities necessary to interconnect it that would otherwise be borne by ratepayers to be borne instead by the tie's operator, unless otherwise required by Commission rules?
34. Is it reasonable and protective of the public interest for any incremental transmission and ancillary-services costs required in order to support imports or exports over the tie to be assigned directly to those imports or exports?
35. Is it reasonable and protective of the public interest to require that no utility recover any costs associated with the HVDC tie or the facilities necessary to interconnect it in the utility's cost of service or transmission cost of service?
36. Is it reasonable and protective of the public interest to require ERCOT utilities that interconnect to the HVDC tie or its associated facilities to disconnect from those facilities immediately if necessary to avoid ERCOT or any ERCOT utility becoming subject to FERC rules and plenary jurisdiction?
37. Is it reasonable and protective of the public interest to require the operator of the DC tie and any facilities that interconnect to that tie to comply immediately with an effective Commission order to disconnect those facilities in order to protect the public interest or the ERCOT system?
38. Is it reasonable and protective of the public interest to require that any transfer of the CCN for the HVDC tie or any interconnecting facilities be approved by the Commission under PURA § 37.054?
39. Is it reasonable and protective of the public interest to prohibit the owner or operator of the HVDC tie or any facilities necessary to interconnect the tie from upgrading those facilities without prior Commission approval?
40. What other conditions should the Commission place on Grid United's requested CCN to ensure that the project is in the public interest?

Respectfully submitted,

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**ATTORNEYS FOR TEXAS INDUSTRIAL
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CERTIFICATE OF SERVICE

I, John R. Hubbard, Attorney for TIEC, hereby certify that a copy of this document was served on all parties of record in this proceeding on this 30th day of September, 2022 by electronic mail, facsimile, and/or First Class, U.S. Mail, Postage Prepaid.

/s/ John R. Hubbard

John R. Hubbard