

Public Utility Commission of Texas

Memorandum

TO: Chairman Donna L. Nelson
Commissioner Brandy Marty Marquez

FROM: Commissioner Kenneth W. Anderson, Jr.

DATE: April 30, 2015

RE: **Open Meeting of May 1, 2015, Agenda Item No. 3, Docket No. 42467 – Application of Electric Transmission Texas, LLC to Amend its Certificates of Convenience and Necessity for the Proposed Barney Davis to Naval Base 138-kV Single-Circuit Transmission Line in Nueces County**

There is a reason that the vast majority of transmission facilities are built above ground; undergrounding of transmission lines can cost more than ten times the cost of traditional, above ground lines of equivalent distance. I do not believe underground transmission lines are cost effective absent unusual and compelling circumstances. If a community wants underground transmission facilities without such circumstances I believe that they must be willing to pay the incremental cost difference above the expense of traditional facilities. Otherwise, the effect is to force all other ratepayers in the Electric Reliability Council of Texas (ERCOT) region to share disproportionately the cost of the underground facilities because the Public Utility Regulatory Act requires that the cost of transmission be allocated based on a transmission utility's proportional load share of the total transmission load of the ERCOT system.¹

Having reviewed the Proposed Order in this docket and the associated filings, this case presents a really difficult decision for the Commission. Route 11 (the Settlement Route) is considerably more expensive because two of its segments are to be built underground. With that in mind, I was originally inclined to select a less expensive route such as Route 17 even though this Commission strongly encourages settlements in transmission routing cases. Compared to the Settlement Route's total estimated cost of \$44,083,000 (approximately \$5.72 million per mile), Route 17's total estimated cost is \$26,230,000 (approximately \$2.54 million per mile).

In this case, however, there may be unique circumstances that justify undergrounding segments of the Settlement Route. First, the line is being built on a peninsula that has been significantly developed. Second, the peninsula abuts the environmentally sensitive Laguna Madre as well as other environmentally sensitive wetlands. Third, there are two long-established and important military airfields that make routing any transmission line in the area difficult at best. Finally, this is not a case where the parties selected the Settlement Route solely for aesthetic reasons. Therefore, if my colleagues are inclined, I am prepared to support the Settlement Route, but would ask that the order be modified to make clear that our decision in this case is based upon the exceptional and compelling facts before us, and is not precedent with respect to any other future transmission case.

¹ TEX. UTIL. CODE ANN. § 35.004(d) (Vernon 2007 & Supp. 2012).

In addition, if the Commission ultimately approves a transmission line that involves either underground facilities or facilities above water I would also suggest that Ordering Paragraphs 9 and 10 be further modified as follows:

9. ETT shall cooperate with directly affected landowners to implement minor deviations in the approved route to minimize the impact of the Project. Any minor deviation in the approved route shall only directly affect landowners who were sent notice of the transmission line in accordance with P.U.C. PROC. R. 22.52(a)(3) or who have waived notice and agreed to accept the transmission line across their property, and shall directly affect only those landowners that have agreed to the minor deviation, excluding public right-of-way. Any minor deviation affecting underground facilities or facilities across open water also requires prior Commission approval.
10. ETT shall be permitted to deviate from the approved route in any instance in which the deviation would be more than a minor deviation, but only if the following ~~two~~ conditions are met. First, ETT shall receive consent from all landowners who would be affected by the deviation regardless of whether the affected landowner received notice of or participated in this proceeding. Second, the deviation shall result in a reasonably direct path towards the terminus of the line and not cause an unreasonable increase in cost or delay the Project. Additionally, any deviation that is more than a minor deviation and affects underground facilities or facilities across open water also requires prior Commission approval. Unless these ~~two~~ conditions are met, this paragraph does not authorize ETT to deviate from the approved route except as allowed by the other ordering paragraphs in this Order.

I propose this language in order to ensure the Commission's ability to enforce its routing authority (including, without limitation, consideration of costs) and avoid ambiguity as to whether changes to the underground and/or across open water routes can be made solely by agreement of the utility and the landowners.

I look forward to discussing this issue at the open meeting.