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Public Utility Commission of Texas

July 2, 2012

Honorable Members of the Senate Business and Commerce Committee
Texas Senate
P.O. Box 12068-Capitol Station
Austin, Texas 78711

RE: Response to April 10, 2012 Public Hearing Inquiry Regarding Electric Transmission Line Projects by Tres Amigas and Southern Cross

Members:

At the public hearing of the Business and Commerce Committee held on April 10, Sen. Van de Putte raised questions about the electric transmission line projects proposed by Tres Amigas and Southern Cross. Chairman Corona then asked that a follow up response be provided to the committee.

Tres Amigas Project

Tres Amigas proposes to build what it calls its Tres Amigas SuperStation (TASS) near Clovis, New Mexico. According to Tres Amigas, the TASS will allow Tres Amigas to provide transmission access between and among the Electric Reliability Council of Texas (ERCOT), the Southwest Power Pool (SPP), and the Western Electric Coordinating Council (WECC). One of Tres Amigas' stated reasons for siting the project in New Mexico is the proximity to significant renewable resources, specifically wind and solar energy.

Southern Cross Project

Southern Cross Transmission LLCs (Southern Cross) and Pattern Power Marketing LLCs (Pattern Power) (collectively Applicants) propose to construct an approximately 400 mile long high voltage direct current (HVDC) transmission line to move power into and out of ERCOT to potential customers in Mississippi and/or Alabama. Southern Cross plans to interconnect one end of the project to ERCOT at a point near the Texas-Louisiana border and the other end of the project to utilities in Mississippi and/or Alabama. Interconnection of the project within ERCOT would require construction of a switchyard in Rusk County, Texas by Oncor Electric Delivery and construction of a 30 mile transmission line from Rusk County to the Texas-Louisiana border that will ultimately be owned and operated by Garland Power & Light.



Federal Power Act and ERCOT

Both the Tres Amigas and Southern Cross projects are proposals to construct electric transmission lines for the purpose of moving power into and out of ERCOT and other states. This transmission of electric energy across state lines impacts the jurisdiction of the Federal Energy Regulatory Commission (FERC) under the Federal Power Act (FPA).

As you know, ERCOT's status is unique among the independent system operators within in the U.S. ERCOT is wholly contained within Texas and, except for federal reliability standards, is not subject to FERC jurisdiction. Over the years, FERC has approved applications by certain companies under sections 210, 211, and 212 of the FPA to construct High Voltage Direct Current (HVDC) ties for the purposes of importing power into and exporting power from ERCOT. As part of each of these projects, the PUCT requested, and FERC has approved, orders that specify that construction and operation of the projects will not subject ERCOT (or market participants in ERCOT) to new FERC jurisdiction. The PUCT believes these orders have been critical in providing a well-established and firmly-grounded legal basis for the preservation of ERCOT's unique jurisdictional status. We also believe that the 2005 amendments to the FPA expressly recognized and ensconced ERCOT's unique jurisdictional status into federal law.

Southern Cross and Tres Amigas FERC Applications

Southern Cross filed an FPA section 210-211 application at with FERC seeking approval of its proposed project, including a petition that FERC disclaim jurisdiction of ERCOT and market participants in ERCOT. Tres Amigas also filed a petition for disclaimer of jurisdiction in which it requested FERC to find that any transmission owner constructing transmission facilities to interconnect with the Tres Amigas project would not subject that transmission owner, ERCOT, or any other entity in ERCOT to regulation as a public utility under the FPA. The PUCT intervened and filed comments in both of these FERC proceedings. FERC ultimately denied the Tres Amigas petition and granted the Southern Cross application.

A copy of the FERC order in the Tres Amigas 210-211 proceeding is included as Attachment A. A copy of the FERC order in the Southern Cross 210-211 case is included as Attachment B. Each of these orders provides a useful summary of the proposed project, a discussion of the FPA section 210-211 criteria applicable to the project, a summary of the comments provided by interveners (including the PUCT), and FERC's response to the comments and ruling on the application.

As far as PUCT involvement in the Tres Amigas project, it is my understanding that officials from Tres Amigas informed ERCOT of their intent to file an interconnection request at FERC shortly before the filing, but to our knowledge, no one from Tres Amigas discussed their project with the PUCT before making their filings.

In contrast, Southern Cross sought input on their proposed project from the PUCT, ERCOT, and relevant ERCOT market participants. Southern Cross representatives met with the Commissioners and PUCT Staff separately on multiple occasions and were very responsive to questions posed and input provided by the PUCT.

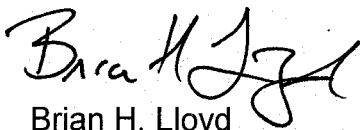
Status of the Projects

The PUCT currently has no information regarding the status of the Tres Amigas project, as it would relate to interconnections to ERCOT. According to one recent press report, Tres Amigas is planning to begin construction of its project in the summer of 2012; however, in order to interconnect to ERCOT, Tres Amigas would need to make a new FPA section 210-211 application with FERC since the previous application was denied.

Southern Cross is awaiting the completion of two studies regarding the need for possible system upgrades that may be necessary to maintain the reliability of the ERCOT system if the Southern Cross project is actually built. These studies are not being conducted by Southern Cross, but Southern Cross has been advised that the studies should be completed in the summer of 2012, at which time Southern Cross will determine if moving forward with the project is viable.

Should you have any further questions, please do not hesitate to contact me or Tom Hunter. Mr. Hunter is Special Counsel for the PUCT and may be reached at (512) 936-7280.

Sincerely,



Brian H. Lloyd
Executive Director

Attachments