

# LOUISIANA PUBLIC SERVICE COMMISSION

GENERAL ORDER 09-10-2024 (R-36199)

LOUISIANA PUBLIC SERVICE COMMISSION, EX PARTE

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*Docket No. R-36199, In re: Review and Possible Modification of the Commission's General Order dated October 10, 2013 Governing Transmission Certification and General Siting.*

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(Decided at the August 14, 2024 Business and Executive Session.)  
(Amends and supersedes General Order dated October 10, 2013, Docket No. R-26018.)

## ORDER

### I. BACKGROUND

This Docket was initiated by a directive at the Louisiana Public Service Commission's ("LPSC" or "Commission") October 20, 2021 Business & Executive Session. At that meeting, Commissioner Skrmetta directed the Staff to:

Take whatever action is necessary, including the hiring of outside counsel and/or consultants if deemed necessary, to open a rulemaking to review and revise, as deemed appropriate, the Commission's Transmission Siting Order to ensure the Commission's jurisdiction over transmission siting within Louisiana is retained and to ensure it considers changes in the law or transmission planning since it was adopted.

There was no opposition to the directive. A "Notice of Rulemaking Proceeding" was issued on November 19, 2021, which was published in the Commission's Official Bulletin # 1259 dated November 24, 2021. Timely interventions were filed on behalf of the Louisiana Energy Users Group ("LEUG"), Cleco Power, LLC ("Cleco"), Entergy Louisiana LLC ("ELL"), Lafayette Utilities System ("LUS"), the Alliance for Affordable Energy ("AAE"), and the Midcontinent Independent System Operator, Inc. ("MISO"). Petitions to intervene out of time were filed on December 30, 2021 by Pointe Coupee Electric Membership Corporation ("PC Electric") and by the Association of Louisiana Electric Cooperatives, Inc. and its member cooperatives, Beauregard Electric Cooperative ("BECI"), Claiborne Electric Cooperative, Inc. ("Claiborne"), Jefferson Davis Electric Cooperative, Inc. ("JDEC"), Panola-Harrison Electric Cooperative, Inc. ("Panola"), South Louisiana Electric Cooperative ("SLECA"), and Washington-St. Tammany Electric Cooperative, Inc. ("WST") (collectively "ALEC"). Those interventions were granted by a "Ruling on Late-Filed Interventions" issued on January 6, 2022. A motion to intervene out of time was filed on behalf of Southwestern Electric Power Company ("SWEPCO") on March 16, 2022. That late intervention was granted on August 31, 2023. A petition to intervene out of time was

submitted by Southern Spirit Transmission, LLC. ("Southern Spirit") on September 22, 2023, which was granted on September 25, 2023. All are herein collectively referred to as "Intervenors."

The "Initial Staff Report and Recommendation for a Revised Siting Order" ("Initial Report") was issued and served on the Intervenors on September 1, 2023, with comments on the Initial Report due by September 25, 2023. Comments on the initial Report were submitted timely by ELL, Cleco, SWEPCO, ALEC, and Southern Spirit.

The Commission issued an additional directive to Staff at the January 24, 2024 Business and Executive Session to propose for comment an amended definition of the term "Transmission Facility" that was then included in the Siting Order. The directive was intended to clarify and preserve Commission jurisdiction over all transmission projects that are physically located within the State of Louisiana. The proposed change allows for Commission authority over a "Transmission Facility...regardless of whether the line provides electric service to customers within the state" and it includes, "a group/portfolio of projects designed to resolve a common transmission-related concern." Notice of these proposed changes were served upon Intervenors in a "Notice" filed into the record on February 9, 2024, with comments due on March 11, 2024. Comments were timely submitted by Southern Spirit, ELL, SWEPCO, and Cleco.

## **II. COMMISSION JURISDICTION**

Transmission facility certification and siting regulation falls within the jurisdiction of the Commission, which has been vested with the authority to regulate public utilities and common carriers and exercises jurisdiction in this proceeding pursuant to Article IV, Section 21(b) of the Louisiana Constitution of 1974, which provides in pertinent part:

The commission shall regulate all common carriers and public utilities and have such other regulatory authority as provided by law. It shall adopt and enforce reasonable rules, regulations, and procedures necessary for the discharge of its duties, and shall have other powers and perform other duties as provided by law.

In addition, La. R.S. 45:1163(A)(1) provides:

The commission shall exercise all necessary power and authority over any street, railway, gas, electric light, heat, power, waterworks, or other local public utility for the purpose of fixing and regulating the rates charged or to be charged by and service furnished by such public utility.

Also, La. R.S. 45:1164(A) provides:

The power, authority, and duties of the commission shall affect and include all matters and things connected with, concerning, and growing out of the service to be given or rendered by such public utility, except in the Parish of Orleans.

Pursuant to these provisions, the Commission's authority over electric utility regulation in Louisiana is exclusive and plenary.<sup>1</sup> Certification and siting authority is included within that plenary authority and is not preempted by federal law.<sup>2</sup> The states have traditionally assumed all jurisdiction to approve or deny permits for the certification and siting of electric transmission facilities.<sup>3</sup> The exercise of jurisdiction over certification and siting of designated transmission facilities protects the Commission's jurisdiction and advances the Commission's ability to achieve the regulatory goal of promoting safe, reliable utility service at the lowest reasonable rates.

### **III. GENERAL ORDER NO. R-26018**

On October 10, 2013, the Louisiana Commission adopted rules, via a general order, setting forth the requirements for entities seeking to site and permit transmission facilities within Louisiana.<sup>4</sup> Per the 2013 Siting Order, the Commission exercised its jurisdiction and authority over the certification and generalized siting of transmission facilities, with specified exceptions. Generally, the 2013 Siting Order requires any person or entity subject to the jurisdiction of the Louisiana Commission, or a transmission facility where the costs of such will be reflected or recovered in retail or wholesale rates of Louisiana residents, to seek and obtain an order from the Louisiana Commission certifying that the public convenience and necessity will be served by the completion and siting of that transmission facility. The Louisiana Commission is required to make a determination that the proposed transmission facility is in the public interest and in the interests of affected ratepayers, enhances reliability of service, and/or provides economic benefits, and/or promotes policy goals by consideration of the expected impacts of the transmission facilities on costs, retail rates, service reliability, reduction of congestion, interstate or intrastate benefits, and is consistent with public policy. Limited exemptions are allowed for construction required due to weather emergencies, routine maintenance, facilities needed to meet NERC Transmission Planning ("TPL") standards, or certain needs related to industrial load growth. The Louisiana Commission has certified several transmission lines since the adoption of its 2013 Siting Order.<sup>5</sup>

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<sup>1</sup> *Louisiana Power & Light Co. v. LPSC*, 609 So.2d 797, 800 (La. 1992); *Bowie v. LPSC*, 627 So.2d 164, 166 (La. 1993); *Entergy Gulf States, Inc. v. LPSC*, 726 So.2d 870, 873 (La. 1999).

<sup>2</sup> Sec. 216 of the Federal Power Act provides for limited backstop siting authority to FERC, which is discussed in Section IV below.

<sup>3</sup> *Piedmont Environmental Council v. FERC*, 558 F.3d 304 (4th Cir. 2009).

<sup>4</sup> General Order dated October 10, 2013, Docket No. R-26018, *In re: Determination As To Whether The Commission Should Issue A General Order Asserting Jurisdiction Over The Certification of Utility Transmission Projects and the Determination of Whether Those Projects Are In The Public Interest* ("2013 Siting Order").

<sup>5</sup> Docket No. U-36661, *Jefferson Davis Electric Cooperative, Inc., ex parte*. *In re: Request for exemption under the Commission's General Order dated October 10, 2013 (The Transmission Siting Order)*.

The 2013 Siting Order did not attempt to assert Commission jurisdiction over eminent domain or land use issues. In review of a proposed siting, the Commission only reviews and considers a generalized substation-to-substation corridor (or similar general arrangement) for the proposed Transmission Facility and does not consider or approve a specific parcel-by-parcel routing. The Commission's certification and siting review was not intended to eliminate any other approvals that may be required under local, state, and/or federal law.<sup>6</sup> Issues related to expropriation, land use planning, zoning, and environmental concerns are not subject to the jurisdiction of the Commission and, as a result, are specifically precluded from consideration in the Commission's certification or siting proceedings.

Prior to the 2013 Siting Order, siting decisions and considerations for electric bulk transmission facilities in Louisiana were predominantly in the hands of the electric utilities subject to judicial oversight, which oversight is not exercised unless affected landowners and utilities fail to reach a consensual resolution on the terms for the needed land rights acquisition. Louisiana courts have required electric utilities exercising expropriation authority, pursuant to La. R.S. 19:2(7), to show that the expropriation serves a public and necessary purpose, and that the route selected is based on sound engineering and economic principles. In determining whether the expropriating authority abused its discretion in selecting a particular route, Louisiana courts also have considered the inconvenience that the selected route may cause the landowner.<sup>7</sup> While the applicable statute imposes limitations on the expropriation power of an electric utility, a judicial inquiry into whether the electric utility has, in fact, complied with statutory requirements does not occur unless a landowner challenges the expropriation in a competent court. Even in situations where a landowner challenges expropriation by an electric utility, a reviewing court is bound to consider only whether the proposed expropriation satisfies the statutory expropriation requirements. A reviewing court does not examine whether the proposed transmission facility will result in service at the lowest reasonable cost consistent with economic, reliability, and safety considerations. That jurisdiction and authority belongs to the Commission, and the 2013 Siting Order sets forth the rules regarding the exercise of that jurisdiction and authority.

The 2013 Siting Order was adopted shortly after the Commission approved the applications of ELL and Cleco to become transmission-owning MISO members.<sup>8</sup> MISO has the authority to

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<sup>6</sup> 2013 Siting Order, pg. 11.

<sup>7</sup> See, e.g., *Louisiana Power & Light Co. v. Caldwell*, 360 So. 2d 848, 851-52 (La. 1978).

<sup>8</sup> See, Order Nos. U-32148 (2012) and U-32631 (2013).

direct construction of properly planned and approved transmission projects by its member transmission-owning utilities, subject to state regulatory approval.

In addition, the 2013 Siting Order was adopted in response to the Federal Energy Regulatory Commission ("FERC") 2011 issuance of Order No. 1000 in Docket No. RM10-23-000. That Order requires each public utility transmission provider to participate in regional and interregional transmission planning processes, requires applicable Open Access Transmission Tariffs ("OATT") to provide for the consideration of transmission needs driven by public policy requirements in the local and regional and interregional transmission planning processes, and requires improved coordination between neighboring transmission planning regions for new interregional transmission facilities.

The 2013 Siting Order was issued also in response to the enactment by Congress of the Energy Policy Act of 2005, which amended Section 216 of the Federal Power Act ("FPA") and established a process by which the Department of Energy ("DOE") would conduct studies of electric transmission needs and designate as "national interest electric transmission corridors" ("NIETCs"), areas experiencing electric transmission constraints or congestion that adversely affect consumers. At the same time, the FERC was given "back-stop" siting authority to issue permits within NIETCs for the construction of electric transmission facilities. In February 2009, the United States Court of Appeals for the Fourth Circuit ruled that the backstop siting authority granted to FERC by the Energy Policy Act of 2005 did not allow FERC to grant a transmission construction permit when a State has exercised its authority to deny siting and certification of NIETC projects within the one-year deadline provided by the 2005 Act.<sup>9</sup>

#### **IV. DEVELOPMENTS SINCE 2013 SUPPORT REEXAMINATION OF THE SITING ORDER**

In 2021, Congress again amended Section 216 of the FPA in an apparent reaction to the Fourth Circuit's *Piedmont* decision. The Infrastructure Investment and Jobs Act ("IIJA") grants FERC the authority to supersede state transmission siting authority when the state fails to act on the application for more than a year, when the state conditions approval in a manner that would prevent significant reduction in transmission constraints or congestion or make the project economically infeasible, or when a state has denied the permit.<sup>10</sup> In addition, the IIJA expanded the DOE's authority to designate NIETCs to include areas *expected* to experience constraints or congestion

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<sup>9</sup> *Piedmont Environmental Council v. FERC*, 558 F.3d 304 (4th Cir. 2009).

<sup>10</sup> H.R. 3684, 117<sup>th</sup> Cong. § 40105 (a)(2) (2021).

into the future, if the project would reduce consumer costs for electricity, or if the transmission project would enhance the ability of generation or transmit firm or intermittent energy to connect to the grid.<sup>11</sup> These provisions significantly expand the DOE's authority over designation of NIETCs and FERC's ability to utilize back-stop siting. FERC opened a rulemaking on its back-stop siting authority in Docket No. RM22-7-000 on December 15, 2022. A final rule was issued in that docket on May 13, 2024.<sup>12</sup> The Louisiana Commission timely sought rehearing of certain aspects of that Order on June 12, 2024. FERC issued a "Notice of Denial of Rehearing by Operation of Law and Providing for Further Consideration" on July 15, 2024.

In addition, MISO, in recent years, created a new initiative named the Long-Range Transmission Planning ("LRTP") process. The LRTP was part of MISO's "Reliability Imperative" and, according to MISO, the LRTP is needed to address reliability and other issues caused by the recent portfolio shift to renewables and the retirement of fossil fuel resources. In July 2022, the MISO Board approved LRTP Tranche 1, which included \$10.3 billion in new transmission projects located in MISO North. Currently, MISO is developing Tranche 2 projects, and it anticipates an additional Tranche 2 set of projects, all in MISO North. Then, MISO anticipates developing Tranche 3 projects to be located in MISO South, followed by a Tranche 4 set of projects intended to increase flows between MISO North and MISO South. Currently, MISO is relying upon its existing Multi-Value Project ("MVP") postage stamp cost allocation methodology to allocate the costs of the Tranche 1 and Tranche 2 projects. Pursuant to the MVP allocation methodology, projects must meet one or more of three goals: reliably and economically enable regional policy needs, provide multiple types of regional economic value, and/or provide a combination or regional reliability and economic value.<sup>13</sup> The projects are approved and cost allocated based upon portfolios and based upon a combination of factors, including reliability, economics, and public policy. MISO does not attempt to divide the projects or costs into individual categories.

Expected investment in transmission has dramatically increased in both the top-down LRTP and bottom-up MISO Transmission Expansion Plan ("MTEP") planning processes. ELL proposed twenty-nine new projects for MTEP 23 Appendix A at an estimated cost of \$2.7 billion. Thirteen are listed as Baseline Reliability Projects, ten listed as "other" projects and six listed as

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<sup>11</sup> *Id.* § 40105 (a)(3).

<sup>12</sup> FERC Order No. 1977, Docket RM22-7.

<sup>13</sup> <https://www.misoenergy.org/planning/planning/multi-value-projects-mvps/#t=10&p=0&s=&sd=>.

generator interconnection projects.<sup>14</sup> In contrast, in MTEP 22, ELL proposed nine projects at an estimated cost of \$209.75 million and in MTEP 21 eleven projects at an estimated cost of \$155.8 million. The MISO Board of Directors approved approximately \$9 billion of MTEP 23 projects on December 7, 2023, including \$3.9 billion for bottom-up projects in Louisiana and Texas.

Louisiana is not the only state with transmission siting regulations in place. Approximately 84 percent of states have a formalized certification and siting process.<sup>15</sup> Those states include Alabama, Mississippi, Arkansas, Texas, Florida, North Carolina, South Carolina, Tennessee, Virginia, Missouri, Minnesota, Iowa, North Dakota, South Dakota, and Illinois.<sup>16</sup>

## V. APPLICATIONS FOR EXEMPTIONS

Paragraph XII of the 2013 Siting Order requires Staff and any Intervenors to file a statement within 45 days of the date of publication of the notice of any siting Application identifying whether it has objections to the Application. If any objection is raised, the matter is assigned to the Administrative Hearings Division for an expedited hearing process that would allow, but not require, Commission consideration without a final Administrative Law Judge recommendation within the time guidelines set forth in the Siting Order. It was not clear from the 2013 Siting Order whether or not this procedure applied to requests for exemptions to the Order, so Staff proposed in its Initial Report in this docket a requirement that the application procedures set forth in Section I of the Proposed Rule apply to both applications for certification as well as requests for exemptions under Section VIII.

## VI. COMMENTS TO THE STAFF'S INITIAL REPORT

Comments to the Staff's Initial Report in this proceeding were submitted by September 25, 2023 by ELL, Cleco, SWEPCO, Southern Spirit, and ALEC.

ELL expressed concern that any new regulatory requirements or delays created by the Proposed Rule be balanced and protect customer needs, that the addition of language to the definition of "Transmission Facility" related to a "group/portfolio" of projects be limited to projects mitigating the same constraint or problem, and not to projects linked to a common timeline or application submission, that the monetary thresholds should be updated and/or should include an automatic future update linked to an inflation index, and that decision timelines be consistent

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<sup>14</sup><https://cdn.misoenergy.org/20230608%20SSPM2%20Item%2003c-1%20Louisiana%20Proposed%20Projects629149.pdf>

<sup>15</sup><https://closup.umich.edu/sites/closup/files/uploads/working-papers/closup-wp-53-Goldfarb-Nasir-Spinner-Electric-Transmission-Policy-in-the-United-States.pdf>

<sup>16</sup> *Id.* App. A.

and not cause undue delay to time sensitive transmission needs. ELL further expressed concerns that requiring Commission pre-approval for exemptions is not practical and would introduce delay that could threaten the ability of Louisiana to compete for new economic development projects, that utilities be allowed to commence right-of-way acquisition, expropriation activities and vegetation clearing before a Commission certification order is issued, that expedited consideration be allowed for previously planned and approved MTEP 23 projects, that material changes in construction costs, routing, and that facility scopes be included in semi-annual reports, rather than for each individual change and/or that material changes be defined as a percentage of the project cost estimate instead of a fixed dollar amount. ELL also urged that if it is determined that an application process is required for some exemptions, it should not be required for all exemptions. For example, immediate repairs needed due to hurricanes or other extreme weather should not require pre-approval for an exemption, and neither should exemptions to remedy NERC violations or to serve new or expanding industrial loads.

Cleco expressed concerns similar to ELL's regarding the Staff's proposed changes to the rule requiring applications and approval of exemptions, particularly for exemptions related to emergency repairs, routine maintenance, and construction of or upgrades to distribution facilities. Cleco also sought clarification of the applicability of Sec. VIII (E) of the Staff's Initial Recommendation to projects approved pursuant to the MISO MTEP process.

Likewise, SWEPCO urged that there should be no requirement to apply for any exemptions allowed by the rule, and the Commission should be notified of any exempt projects in reports filed with the Commission each year. It advised that requiring applications for exemptions would harm reliability and economic growth and would create an administrative backlog at the Commission. It argued that there should be a new exemption included in the rule for any transmission project to which all impacted landowners consent, citing to similar exemptions in Texas and Arkansas. It urged that any rule changes should not apply to transmission projects planned under the existing rules. Finally, SWEPCO did not object to proposed changes addressing NIETCs.

ALEC opposed the proposed requirement that material changes in routing and scope and cost changes exceeding one million dollars for transmission projects be reported to the Commission within 30 days. It urged that the phrase "material changes" is ill-defined and that no clear timeline is provided. ALEC offered some alternative language to consider for reporting of material changes. It objected to the removal of exemption language in section VIII (E) related to

reliability and urged that projects needed for reliability outside of NERC compliance also should be allowed an exemption from certification. Finally, ALEC stated that any changes to the rule be applied prospectively only and that the final rule should reference NERC Reliability Standards consistently.

Southern Spirit filed comments describing its proposed HVDC line that will travel from the Texas/Louisiana border to Mississippi and its request for certification pending in Docket No. U-36669. It stated that its project will allow for deliverability in MISO South and that in the future a Louisiana electric utility could contract to be a subscriber to its open access tariff and acquire power through a purchase power agreement ("PPA"). It urged that since the costs of the Southern Spirit project will be borne solely by Southern Spirit, it is exempt under the current siting order. Southern Spirit also urged that the scope of Commission siting involvement should continue to exclude land use, expropriation, and environmental issues and should continue to include only generalized routing. Finally, Southern Spirit argued that any changes to the rule be applied prospectively only.

## **VII. THE COMMISSION'S JANUARY 2024 DIRECTIVE**

The Commission issued a directive to Staff at the January 24, 2024 Business and Executive Session to propose for comment an amended definition of the term "Transmission Facility" included in the 2013 Siting Order. The directive was intended to clarify and preserve Commission jurisdiction over all transmission projects that are physically located within the State of Louisiana. The proposed change would allow for Commission authority over a "Transmission Facility" regardless of "whether the line provides electric service to customers within the state" and it includes, "a group/portfolio of projects designed to resolve a common transmission-related concern." Notice of these proposed changes were served upon Intervenors in a "Notice" filed into the record on February 9, 2024, with comments due on March 11, 2024. Comments were timely submitted by Southern Spirit, ELL, SWEPCO, and Cleco. Southern Spirit stated that "it has no issue with the proposed language," but argued that the proposed changes should be applied prospectively only, and therefore should not apply to any existing certification proceedings. Specifically, Southern Spirit urged that this change should not delay or impact its certification proceeding in Docket No. U-36669.<sup>17</sup> ELL agreed that the definition changes to include projects

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<sup>17</sup> A Final recommendation of the Administrative Law Judge was issued on June 5, 2024. The Commission approved that Final Recommendation at the August 14, 2024 Business and Executive Session.

not providing electrical service to Louisiana customers is appropriate because the line may still have impacts on Louisiana customers. It also urged that the revision should not be interpreted to include Commission review over landowner or environmental concerns. Finally, ELL sought clarification regarding the revision that includes a "portfolio" of projects to make certain that projects are not considered together based upon their timelines or application submission timeframes. SWEPCO had no objection to the "Transmission Facility" language revisions, but it urged that guidance regarding substations and switching stations would be helpful to future certification applicants. Cleco had no comments on the proposed definition change, but it re-urged its September 2023 concerns by reference.

## **VIII. DISCUSSION**

### **A. Application for Exemptions.**

In its Initial Staff Report and Recommendation, Staff proposed amendments that would require entities seeking exemptions under Section VIII to make a formal application with the Commission and bear the burden to prove that the proposed transmission project qualified for that exemption. ELL provided comments urging that the formal application process for many of the exemption categories would be impracticable and may delay time sensitive repairs or projects. For example, ELL indicated that an application process for exemptions for storm repairs, routine maintenance, and the upgrading of distribution lines could create delays that could harm customer interests. Cleco, ALEC, and SWEPCO expressed similar concerns in their comments.

Based upon the Staff recommendation, the Commission agrees that an exemption application process could be impracticable and could create delays, under some circumstances, that are not in the best interests of ratepayers. The revised rule below removes the proposed amendments requiring exemption applications. It replaces that proposal with a requirement that the Section XIII annual report include information regarding whether any identified projects qualify for Section VIII exemptions. In addition, the revised rule maintains the position that the utility or Transco remains at risk for the Section XI penalty for non-compliance.

### **B. Addition of "Group/Portfolio" to the Definition of Transmission Facility**

In its initial recommendation, Staff proposed that the definition of Transmission Facility in Section II a. be amended to include a "group/portfolio of projects" designed to resolve a common transmission-related concern. ELL commented that these groups or portfolios should be limited to multi-component projects addressing the same specific constraint, and it went on to state that

the projects should not be lumped into a portfolio simply because they are in the same planning period, or have similar timelines, etc. The intention of the language addition was to group projects into a group or portfolio only if they were "designed to resolve a common transmission-related concern" as set forth in that definition. As a result, to make the definition clear, language is added to the definition of "Transmission Facility" to address ELL's concerns.

**C. Preliminary Construction Activities.**

ELL expressed concerns that Section I "Applicability", which prohibits commencement of construction until certification is received, should not include preliminary construction activities like right-of-way acquisition and vegetation clearing. The proposed change is reasonable and included in the revised rule. However, this change does not constitute an approval of the costs incurred or the prudence of the expenses for ratemaking purposes and any such approval shall be considered in a separate docket.

**D. Timing of Commission Review Concerns.**

ELL commented that the "best efforts" timelines provided for Commission decisions on applications are critical and should balance the need for Commission review with the need of the utilities to quickly respond to the needs of customers and prospective customers. ELL also stated that some of those deadlines are inconsistent in the proposed rule. Staff's recommendation eliminated the best efforts 120-day timeline for facilities deemed critical by the RTO/ISO, because experience demonstrates that RTOs/ISOs do not differentiate transmission projects as critical or non-critical; thus, a best-efforts deadline is not necessary. The additions to Section IV addressing NIETCs was designed to have in place rules that are consistent with the NIETC project approval and backstop siting requirements. The one-year deadline is consistent with the NIETC process. The revised rule balances the timing needs for transmission certification with the needs of the Commission, Staff, and intervenors for adequate review opportunities. If a utility has a need for a more rapid timeline on a case-by-case basis, the utility should bring that fact to the attention of the Commission as soon as practicable.

**E. Construction Reporting**

Staff recommended a change in Section VI of the Siting Order to require, "[w]ithin 30 days after any change in the construction costs exceeding one million dollars, or any material change in the routing or scope of the Transmission Facility, the Applicant shall file a report with the Commission detailing those changes and the causes for those changes." The reason for the

proposed change was to require a utility that has obtained certification to timely update the Commission on material changes to the scope and costs of the project. ELL commented that the \$1 million threshold was too low and could require numerous reports, particularly for higher cost projects. ELL suggested that the reporting obligation be triggered using a percentage of the project estimate as an alternative. ELL also requested clarification on the definition of "construction costs" and whether that term refers to the estimated costs considered in the certification process or something else. ALEC urged that the proposed changes to the Section VI Construction Report requiring updates were not supported and clarification was needed to understand what a "material change" in the routing or scope means and to understand when the obligation to report these changes ends. The Commission does not intend to create any more of an administrative reporting burden than needed to keep it and its staff informed of substantial changes on certified projects. The recommendation to move from a dollar threshold to a percentage of costs threshold does not align with that goal because 5% of a \$100,000,000 project is \$5,000,000 and 5% of a \$1,000,000 project is \$50,000. The Commission's concern is over large dollar amounts, not percentages. However, in order to reduce the administrative burden, the rule increases the dollar threshold to \$5,000,000 and allows for semi-annual reports.

In addition, to respond to the clarification request, the "construction costs" will be the cost relied upon by the Commission in granting the certification request. Regarding the issues raised by ALEC, the new information requested is needed to keep the Commission informed regarding important changes to the location and costs of facilities that were certified or changes in information previously provided to the Commission. There is no basis to eliminate a reporting requirement. As to the meaning of "material change," those words were included to prevent a requirement that reports be made of all changes, including trivial changes. ALEC proposed some more specific language, and the term "material change" was amended to include language similar to that suggested by ALEC.

#### **F. Proposed Changes to Exemption for NERC Criteria Violations**

In its initial report, Staff recommended changes to Section VIII(E), the exemption for NERC criteria violations. Those recommendations increased the dollar threshold from \$20 million to \$75 million, created a requirement that the project be needed within 3 years, and eliminated the language stating that the project be needed "primarily or entirely for reliability purposes." ELL urged that if a project is needed for NERC criteria violations, it should not matter how much it

costs or whether it is needed beyond three years into the future; it should be exempt under Section VIII. Staff indicated, however, that the issue it was intending to address with the proposed revisions to the exemptions is that what constitutes a reliability project, for NERC or otherwise, appears to be increasingly in the eye of the beholder. Recent experiences that, at least for long-term transmission planning purposes, projects are being promoted by asserting that they are "reliability projects" regardless of whether they are needed in the near term and regardless of the other needs (economic, interconnection etc.) that transmission may be intended to address. These exemptions were never intended to exempt expensive projects that can serve multiple purposes and that may be planned by looking many years into the future. They were intended to prevent delays to projects that are needed in the short term to serve customer needs in circumstances where a certification process would be harmful to ratepayers. The proposed revisions were designed to more clearly limit the applicability of the exemption to near-term NERC reliability requirements, and to increase the dollar threshold (to avoid certification of NERC required projects that cost less than \$75 million instead of \$20 million or less). ALEC pointed out that there are local planning criteria reliability projects that serve the same purposes as the NERC criteria and should be afforded a similar exemption. The proposed revisions should better limit the exemption to shorter term reliability projects, and it includes language allowing an exemption for similar local criteria reliability projects.

**G. Whether the Proposed Revisions to the Rule Should be Retroactive**

In their comments, Southern Spirit and ALEC urged that any changes adopted in this proposed Rule should not be applied retroactively and they should not impact any pending certification docket. However, it is not the intent of this rulemaking to address on a generic basis the retroactive effects of its amended provisions. It is beyond the scope of this proceeding. Those effects would be subject to the existing and future body of law and precedent regarding the potential retroactivity of new or amended rules.

**H. Should There Be a New Exemption For Projects Located Entirely on Property When All Landowners Consent**

SWEPCO urged that there should be an exemption from the certification requirement for transmission facilities located on properties where all impacted landowners have consented to the construction, citing to a statute in Arkansas and a rule in Texas containing siting exemptions for projects with full landowner consent. SWEPCO asserted that such an exemption would promote economic growth and allow Louisiana to have an equal opportunity to compete for projects

proposed in Arkansas or Texas. However, such an exemption would not take into consideration the need, prudence, rate impact, or other ratemaking issues that may be considered in the transmission certification process. The LPSC's jurisdiction is over rates and services and does not extend to land use issues. The Siting rules specifically exclude land use issues from consideration, and there no basis to change the rule to include such consideration. SWEPCO's proposed exemption, if adopted, would remove the opportunity for the Commission to review important ratemaking issues that could impact customers merely because landowners consent. That would be at odds with the purpose of this rule, which is to allow Commission oversight on significant transmission investments except under narrow circumstances where customer harm could result from the delay. As a result, Staff determined that a proposed additional exemption is not necessary, and thus it is not included in the revisions below.

#### **I. Certification of Transmission Projects Regardless of Whether the Line Provides Electric Service to Customers in Louisiana**

The Commission's January 24, 2024 B&E directive was issued to clarify and preserve Commission jurisdiction over transmission projects that are physically located within the State of Louisiana.

As discussed above, since no Intervenor opposed the new definition to give Commission authority over projects, even if they do not provide electric service in the state, those revisions are included in the proposed rule below. The Commission agrees that, even if the project does not provide electric service in the state, it could do so in the future. Southern Spirit in its comments confirmed that, while it currently does not have an agreement to serve Louisiana customers, it is willing to serve Louisiana customers in the future. In addition, the project could have impacts on existing lines located in Louisiana and in MISO. As a result, the rules are amended to be applicable to transmission located in whole or in part in Louisiana, even if it does not currently provide electric service in the State.

#### **IX. CONCLUSIONS**

Based upon the Staff recommendation, the Commission hereby approves revised certification and generalized siting rules set forth below. The Siting Order was designed to require Commission certification of transmission facilities for major transmission projects, while allowing limited exceptions - mainly for facilities that require completion within a timeframe in which certification proceedings could create delays beyond the dates the facilities are needed. These revised rules should continue to respect those concerns. However, some changes are

recommended to make clear that some projects exceeding a cost threshold and/or that create more than one type of benefit require certification. In addition, the revised rules should be cognizant of the changes to the FPA adopted by the IJJA.

The Commission is charged with the responsibility of enforcing a regulatory framework that is "in the public interest, designed to assure the furnishing of adequate service to all public utility patrons at the lowest reasonable rates consistent with the interests both of the public and of the utilities."<sup>18</sup> Regulation of public utilities is authorized as an exercise of police power, which is the power of the state to regulate, to promote, or to protect the public welfare.<sup>19</sup> Part of the Commission's authority to regulate includes the regulation and control over the expansion, modification, certification, and siting of transmission facilities. By asserting some additional regulatory control over the transmission facility certification and siting process, the Commission will be in a better position to maintain Louisiana's electric rates at reasonable levels, to protect Louisiana's sovereignty over its jurisdictional electric utilities, and to ensure reliable electric service.

In addition, by asserting additional regulatory control over transmission, the Louisiana Commission will be in a better position to exercise jurisdiction over the certification, siting, and construction process of transmission projects should areas in Louisiana be included in the designated national interest electric corridors; should transmission be required or recommended by MISO or SPP; or should transmission be recommended due to the FERC Order No. 1000 or other FERC requirements, or other planning processes. This assertion of authority also gives the Commission the opportunity to consider the level of costs for any new transmission construction that ultimately may be reflected in retail rates or transmission located in Louisiana whether or not the line provides electric service to customers within the state. Absent the exercise of this authority, decisions as to the planning and construction of transmission in Louisiana will be made by others and the impacts on Louisiana customers or facilities may not be considered or addressed.

## **X. COMMISSION CONSIDERATION**

The matter was considered by the Commission at its August 14, 2024 Business and Executive Session. After discussion, on motion of Commissioner Campbell, seconded by Vice-Chairman Lewis, with Commissioner Greene concurring, and Chairman Francis and

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<sup>18</sup> *Plaquemine v. Louisiana Public Service Commission*, 282 So. 2d 440, 443 (La. 1973).

<sup>19</sup> *Gulf States Utilities Co. v. Louisiana Public Service Comm'n*, 633 So. 2d 1258 (La. 1994).

Commissioner Skrmetta opposing, the Commission voted to adopt the Revised Siting Order filed into the record on July 31, 2024. The motion passed with a vote of 3-2.

**THEREFORE, IT IS ORDERED:**

1. The "Final Staff Report and Recommendation for a Revised Siting Order" filed into this docket on July 31, 2024 is hereby adopted.
2. The "Electric Transmission Facility Certification and Siting Rules" included in that Final Staff Report, which are also separately appended to this Order as "Attachment A" are hereby adopted. As such, these rules amend and supersede the Commission's October 10, 2013 General Order dated October 10, 2013, Docket No. R-26018, *In re: Determination As To Whether The Commission Should Issue A General Order Asserting Jurisdiction Over The Certification of Utility Transmission Projects and the Determination of Whether Those Projects Are In The Public Interest.*

This order is effective immediately.

**BY ORDER OF THE COMMISSION**  
**BATON ROUGE, LOUISIANA**  
September 10, 2024



**OPPOSED**

**DISTRICT IV**

**CHAIRMAN MIKE FRANCIS**

A blue ink signature of Mike Francis, written in a cursive style.

**DISTRICT III**

**VICE CHAIRMAN DAVANTE LEWIS**

**DISTRICT I**

**COMMISSIONER FOSTER L. CAMPBELL**

**OPPOSED**

**DISTRICT I**

**COMMISSIONER ERIC F. SKRMETTA**

**DISTRICT II**

**COMMISSIONER CRAIG GREENE**

A blue ink signature of Brandon M. Frey, written in a cursive style.

**BRANDON M. FREY**  
**SECRETARY**

# **ATTACHMENT A**

## **ELECTRIC TRANSMISSION FACILITY CERTIFICATION AND SITING RULES**

## LOUISIANA PUBLIC SERVICE COMMISSION

### ELECTRIC TRANSMISSION FACILITY CERTIFICATION AND SITING RULES

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#### PURPOSE

The Louisiana Public Service Commission (“LPSC”) establishes the following rules to exercise its jurisdiction and authority over transmission certification and siting and to update and supersede its *General Order dated October 10, 2013*, Docket No. R-26018.

#### AUTHORITY

Article IV, Section 21 of the Louisiana Constitution of 1974 provides the Commission with the following authority:

**Powers and Duties.** The Commission shall regulate all common carriers and public utilities and have such other regulatory authority as provided by Law. It shall adopt and enforce reasonable rules, regulations and procedures necessary for the discharge of its duties, and shall have other powers and perform other duties as provided by Law.

Consistent with the above authority, the Commission has adopted rules and regulations through Commission Orders that apply to utilities in general, and in some instances, electric utilities specifically. The blanket authority to regulate public utilities granted above; however, is not absolute, as it is subject to the following limitations regarding utilities owned, operated, or regulated by a political subdivision:

**Limitation.** The Commission shall have no power to regulate any common carrier or public utility owned, operated, or regulated on the effective date of this constitution by the governing authority of one or more political subdivisions, except by the approval of a majority of the electors voting in an election held for that purpose; however, a political subdivision may reinvest itself with such regulatory power in the manner in which it was surrendered. This paragraph shall not apply to safety regulations pertaining to the operation of such utilities.

I. **APPLICABILITY:** No person or entity subject to the jurisdiction or regulatory authority of this Commission shall commence construction of any Transmission Facility located in whole or in part within the State of Louisiana, outside of the City of New Orleans, unless qualifying for exemptions set forth in section VIII below, without first having applied for and received from the Louisiana Public Service Commission ("Commission" or "LPSC") an order certifying that the public convenience and necessity would be served through the completion and siting of that Transmission Facility. For purposes of this Rule, "commence construction" shall not include site selection, right-of-way acquisition activities, expropriation proceedings or vegetation clearing, which may be performed prior to submitting an Application or receiving certification. However, any such activities shall be performed at the Applicant's risk, and cost recovery is not guaranteed. The Commission intends to exercise its jurisdiction and authority over any Transmission Facility if the costs of the Transmission Facility, and the costs of any associated retail rate impacts, will be reflected or recovered in the retail or wholesale rates to be assessed to customers of Louisiana electric public utilities including cooperatives, and if the facility is physically located in Louisiana regardless of whether the line provides electric service to customers within the state. These certification and advanced notification rules shall not apply and shall not be required for transmission facilities of municipalities or political subdivisions of the State of Louisiana that are not subject to the jurisdiction of the LPSC. Further, certification and advance notice requirements in these rules shall not apply to and shall not be required for transmission facilities that are privately constructed, owned and paid for by any industrial or other customer for their own use only and are not subject to the jurisdiction of this Commission. These rules and advance notice requirements shall apply to a Transco.

## II. DEFINITIONS:

- a. **Transmission Facility:** For the purposes of this General Order only, the term "Transmission Facility" shall be defined to include a system of structures, wires, insulators and associated hardware, but not including switching or substations, that carry electric energy over distances and that are located in whole or in part within the State of Louisiana, regardless of whether the line provides electric service to customers within the state, and that would be constructed and operated at or above a nominal 100 kV, exceeds one mile in length, and the estimated cost to construct exceeds \$20 million.<sup>1</sup> A Transmission Facility shall include the construction of any projects, or group/portfolio of projects, designed to resolve a common transmission-related concern. A "group/portfolio of projects" does not include projects grouped merely because they are submitted in the same planning period or a similar application time-frame or timeline. A single Application process should be utilized to obtain approval for such projects, and the estimated total costs of the projects should be aggregated for the purpose of determining whether the \$20 million threshold is met.
- b. **Transco:** An Independent Transmission Company or other entity that owns or controls Transmission Facilities (or that proposes to construct or own new Transmission Facilities) that currently may not be a public utility subject to the Commission's jurisdiction but which has planned, proposed, or seeks to construct a Transmission Facility and demonstrates in its Application to the Commission, in

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<sup>1</sup> The \$20 million threshold should be calculated to include the total cost of the project where a Transmission Facility is being constructed by more than one entity, and not to the individual cost of each entity participating in the project, and the \$20 million threshold also should be calculated to include all of the project costs, including the costs of switching and substations associated with the Transmission Facility.

addition to the other requirements of this General Order, that it can construct and thereafter own and operate the proposed Transmission Facility. A Transco, in addition to complying with other requirements of this rule, must consent to the jurisdiction of the Commission in order to file an Application for and obtain a Certificate of Public Convenience and Necessity ("Certificate").

- c. **NIETC:** a National Interest Electric Transmission Corridor designated by the United States Department of Energy ("DOE") under federal law.

**III. BURDEN OF PROOF:** The Applicant shall bear the burden to prove that the proposed Transmission Facility is in the public interest and therefore should be sited and issued the Certificate.

**IV. SCOPE OF COMMISSION REVIEW AND APPROVAL:** In consideration of any Application required under this Order, the Commission may approve the Application if it finds the proposed Transmission Facility to be in the public interest and the interests of affected ratepayers. In making that determination the Commission may consider the expected impact of such Transmission Facility on costs, retail rates, service reliability, reduction of congestion, material economic benefits, the interstate or intrastate benefits expected to be achieved, and whether the proposed Transmission Facility is consistent with public policy, including policy goals of the Commission. The Commission also may consider whether the generalized siting of the proposed Transmission Facility is appropriate and whether construction of this Transmission Facility (as opposed to construction of another transmission facility or construction of generation, or non-transmission alternative, for example) is a reasonable and cost-effective solution to the problem being addressed by the Transmission Facility proposed in the Application. In

addition, the Commission may consider criteria required in or established under federal statutes, FERC Order No. 1000, other FERC Orders, and/or regulations, and potential impacts on other affected utilities and the customers of those utilities.

- a. If the facility is to be located within a properly designated NIETC, the Commission shall issue a decision on the Application prior to the expiration of one year from the date that the Applicant submits an Application that reasonably complies with the requirements of Section V below. The Commission Executive Secretary shall issue a letter in the Docket establishing the official start date for the one-year period. If the actions or inactions of the Applicant during the pendency of the proceeding result in delaying the proceeding, the one-year clock on the proceeding shall be suspended until that delay is remedied, and the Commission Secretary shall issue a letter in the Docket describing the suspension period, the reasons supporting the suspension, and setting forth the new end date for the one-year period. If a federal proceeding or pre-filing process is initiated for federal siting of the same or similar transmission facilities, the Commission may participate in those federal proceedings, and take any positions it determines are needed, without prejudice to its ability and authority to issue a fair and impartial decision in the related Commission Docket.
- b. Further, if the Commission denies approval of the Application or conditions its approval of the Application, the Commission's Order reflecting those decisions and the reasoning for those decisions may be filed in any federal dockets considering permitting approval or cost recovery for the same Transmission Facility.
- c. The Commission's certification and siting review shall be in addition to, and is not intended to eliminate, any other approvals that may be required under local, state and/or federal law. In review of the proposed siting, the Commission will only review and approve a generalized substation-to-substation corridor (or similar general arrangement) for the proposed Transmission Facility, and it will not consider or approve a specific parcel-by-parcel routing. Issues related to expropriation, land use planning, zoning and environmental concerns are not subject to the jurisdiction of the Commission and, as a result, shall not be considered in the certification or siting proceedings. It is the intent of the Commission that the issuance of a Certificate shall create presumptive evidence of the need and "public and necessary purpose" of a Transmission Facility in any expropriation proceeding.

V. **APPLICATION CONTENTS:** An Applicant for a Certificate shall file with the Louisiana Public Service Commission a verified Application seeking Commission approval containing at least the following:

- a. The name, business address, and electronic addresses of the Applicant(s), as well as for all participants if the Transmission Facility is comprised of projects of multiple entities;
- b. A general description of the proposed Transmission Facility;
- c. Supporting testimony and exhibits explaining and demonstrating the justifications for the proposed Transmission Facility and a cost/benefit and benefits metrics analysis, documenting why the proposed Transmission Facility is a reasonable solution to the problem being addressed. If the Applicant is a member of a FERC-approved RTO or ISO, a cost/benefit analysis conducted by that RTO/ISO, if available, shall be provided along with all other documentation prepared by the RTO/ISO identifying the need for construction of the Facility, including alternative transmission or non-transmission alternatives considered and why those alternatives were rejected
- d. An identification of whether the proposed Transmission Facility is located within a NIETC, including detailed information regarding where, when, and why the NIETC was established;
- e. An identification of any federal proceeding or pre-filing process related to back-stop siting of the proposed Transmission Facility and any deadlines required by those federal processes;
- f. A description of the proposed location and siting of the Transmission Facility in the form of a generalized substation-to-substation corridor and not a specific parcel-by-parcel routing;
- g. A description of anticipated sources of funding for the proposed Transmission Facility;
- h. An itemized estimate of the costs of the proposed Transmission Facility, including land and/or right of way acquisition costs, and carrying costs during construction;
- i. An analysis, with supporting data, of the estimated effects on costs to ratepayers attributable to the proposed Transmission Facility, including an estimate of the impact of the cost of the Transmission Facility on rates of all the entity's customers within Louisiana;
- j. A single-line drawing of the proposed typical structure of the Transmission Facility;
- k. An estimated time-line, with milestones, for completion of the Transmission Facility;
- l. A description of whether rights of way will have to be acquired for the construction of the Transmission Facility or whether existing rights of way will be utilized.

- m. Such other information that the Applicant may consider relevant to support a Public Interest determination. The Commission or Commission Staff upon finding an Application to be insufficient also may request the Applicant to supplement an Application with additional information after the filing of the Applicant's certification and siting request. Applicant must respond promptly to any such request, but in no event more than 10 business days after the request is made. Such request by the Commission or Commission Staff shall not alone act to extend any time guidelines for Commission action set forth herein or limit a party or Intervenor's rights to issue discovery in the proceeding.

**VI. CONSTRUCTION REPORTING:** Semi-annually by February 1 and August 1 of each year after any change in the construction costs of a certified Transmission Facility exceeding five (5) million dollars, or any material change in the routing or scope of the Transmission Facility, the Applicant shall file a report with the Commission detailing those changes and the causes for those changes. For the purposes of this Section, "material change" shall be defined as changes to impacts on landowners, changes in the voltage of the lines, changes in the types of poles or towers to be used or the type of equipment used in substations. Within 120 days after the completion of the in-service date of the Transmission Facility, the Applicant shall file a report with the Commission showing the date of completion of the Transmission Facility authorized by the approval, and the total time to construct the facility. The report shall include a detailed statement of the actual costs to each participant to complete the facility, including the cost of AFUDC, cost of land acquisition/rights of way, and the estimated rate effects. For purposes of this Section VI, "construction costs" refers to the costs estimated by the utility and relied upon by the Commission in the certification docket to site and complete the transmission project.

**VII. NOTICE OF APPLICATION:** Notice of the filing of the Application for a Certificate shall be published in the Commission's Official Bulletin and published as otherwise may be required by law.

**VIII. EXEMPTIONS:** For good cause shown, at the formal request of an Applicant, the Commission shall have the authority to exempt or suspend the Application of one or more of these rules to a Transmission Facility. In addition, a Certificate and siting approval will not be required for the following:

- a. A new switching station, or substation;
- b. The repair or reconstruction of an existing transmission facility due to weather or other emergencies;
- c. The construction or upgrading of distribution facilities (defined as facilities 100 kV or below) within the electric utility's service area;
- d. Routine maintenance and other activities associated with existing transmission facilities;
- e. Facilities that are projected to cost less than \$75 million and that the Applicant is able to demonstrate to the satisfaction of the Commission are needed within three years from the application date to eliminate local criteria or NERC TPL reliability violations or requirements *e.g.*, relating to the NERC reliability standard requirements in the TPL 001, 002, 003, and 004 standards et al, or their successors;
- f. New transmission point-of-delivery facilities, including radial lines, loop flow lines, switching stations, and substations undertaken for the sole purpose of interconnecting specifically identified industrial customers located in Louisiana that have executed an interconnection agreement or accommodating a new or expanding load for specifically identified customers located in Louisiana that have executed interconnection agreements and/or electric service agreements ("ESA");
- g. The replacement, modification, or expansion of existing equipment or facilities with similar equipment or facilities in substantially the same location or the rebuilding, upgrading, modernizing, or reconstruction of equipment or facilities in substantially the same location that increases the capacity of existing equipment or facilities and that is projected to cost less than \$75 million.
- h. If the costs of the Transmission Facility, and the cost of any associated System Impacts, will never be reflected or recovered in the retail or wholesale rates to be assessed to customers of Louisiana electric utilities including cooperatives.

**IX. OTHER JURISDICTIONS AND NIETCS:** If the proposed Transmission Facility otherwise requires LPSC approval and will be located in more than one state or jurisdiction

or within a NIETC, the Commission and the Commission Staff are authorized to coordinate with the regulatory bodies of the other affected states and affected regional transmission organizations, power pools or independent coordinators of transmission and federal agencies in order to reduce costs and to work toward a consensual resolution of any interstate or multi-jurisdictional issues related to the proposed project. The Commission shall consider the impact on Louisiana ratepayers of the investment in and construction of the Transmission Facility in other states.

- X. COMMISSION ACTION:** The Commission will use its best efforts to act on an Application filed under this order within 90 days when the Application is uncontested by Staff or Intervenors or if expedited consideration is requested by the Applicant and granted by the Commission Executive Secretary. The Commission will use its best efforts to rule on any contested Application within 180 days. The Commission shall use its best efforts to rule on any contested Application located within an NIETC within the time requirements set forth in Section IV above.
- XI. PENALTY FOR NON-COMPLIANCE:** If a utility or Transco, subject to the jurisdiction of this Commission violates this Order in a material way, or fails to seek timely Commission authority under this Order when required, the Commission retains full authority to deny rate recovery for any costs associated with that project.
- XII. PROCEDURE:** Applications shall be initially referred to and reviewed by Commission Staff and shall not be assigned to the ALJ Division. Staff and Intervenors shall file a statement within 45 days of the date of the publishing of the notice of the Application identifying whether they will have objections to the Application. If any objection is raised, the matter will be assigned to the ALJ Division for an expedited hearing process that would

allow, but not require, Commission consideration without a final ALJ recommendation one year from the filing of a complete Application. If no objection is raised, the Staff shall provide a written recommendation to the Commission and seek Commission action on the Application at the next Commission Business & Executive Session.

**XIII. ADVANCE NOTICE REQUIREMENTS:** Any entity subject to these rules that is planning the construction of Transmission Facilities, regardless of whether a Certificate is required, shall provide annually, by February 1 of each year, notice of those plans as set forth below.

- a. This notice requirement applies to every project for the construction of new electric transmission facilities<sup>2</sup> ("Project or Projects") planned and/or to be constructed in Louisiana. Projects include all potential construction of transmission lines and facilities from the time they are proposed to be considered in the entities' current construction plan or proposed to the Regional Transmission Organization ("RTO") for approval (or equivalent). Projects include all planned construction of transmission lines and facilities whether the construction will be recommended and/or required by the utility, the North American Electric Reliability Corporation ("NERC"), the Federal Energy Regulatory Commission ("FERC"), the Department of Energy ("DOE"), the Independent Coordinator of Transmission ("ICT"), any Regional Transmission "RTO", or Transco.
- b. Each entity subject to these rules shall designate an individual to provide the information regarding the Projects outlined in paragraph "c" below to the Commission, the Commissioners, and the Executive Secretary. Each entity shall inform all Commissioners and the Executive Secretary of the identity and all contact information of this individual.
- c. For each Project, at the earliest possible date, each entity subject to these rules shall provide the following information to the Executive Secretary of the Commission and each Commissioner:
  - i. The location of the Project;
  - ii. A short description of the scope of the Project;
  - iii. The calendar quarter when it is anticipated the project will be placed into service and, as available, the calendar quarter when contact with landowners

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<sup>2</sup> This notice requirement is intended to apply to all transmission projects planned and/or to be constructed in Louisiana, including projects that do not meet the criteria requiring siting and certification approval.

for acquisition of rights is expected to begin, and the calendar quarter when work is expected to begin;

- iv. A brief description of the problem to be addressed and the support for the need or basis for the Project, including whether it was recommended to be constructed by an RTO or similar entity, or it is needed to comply with industry or NERC Standards;
- v. All analyses performed that demonstrate that the Project is a reasonable solution to the problem being addressed;
- vi. All analyses performed that demonstrate that the chosen route is generally appropriate and reasonably considers the needs of the respective affected entities and communities;
- vii. The desired in-service date of the Project;
- viii. Whether acquisition or potential expropriation of property will be required or whether the Project will be constructed on an existing right of way;
- ix. The estimated cost of the Project;
- x. Any Section VIII exemption(s) that the project relies upon; and
- xi. All of the information in paragraph "c" should be updated as conditions or estimates change as required herein, but no less frequently than annually until Project completion, and those updates should be provided to the Executive Secretary of the Commission and to the Commissioners.

**XIV. CONFIDENTIALITY:** Nothing in these rules shall require an entity to publicly disclose confidential information. To the extent an entity would like to maintain the confidentiality of information submitted under these rules, it shall file a redacted version of the document and submit to the Commission the confidential version.