

BEFORE THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

In the Matter of the Investigation into the)
Principles and Priorities to be Established for)
Evaluating the Reasonableness of the Location) Docket No. 24-GIME-102-GIE
of a Proposed Transmission Line in Future)
Line Siting Proceedings)

MIDWEST ENERGY, INC. COMMENTS IN RESPONSE TO
STAFF'S SECOND REPORT AND RECOMMENDATION

COMES NOW, Midwest Energy, Inc. ("Midwest Energy") and files this Response and Comments to the Staff of the State Corporation Commission of the State of Kansas (the "Staff" and "Commission" respectively) regarding Staff's Second Report and Recommendation, including suggested scope of the instant general investigation, topics outside the scope of the general investigation, and the development of standardized line routing criteria and weighting, and states as follows:

I. Background

1. On August 3, 2023, the Commission issued its Order Opening General Investigation ("Opening Order"). The Opening Order referenced Docket No. 23-NETE-585-STG ("23-585 Docket"), in which NEET Southwest applied for and was granted siting authority for the Wolf Creek to Blackberry Project. In the 23-585 Docket, the Commission stated its intent to "open a general investigation into principles and priorities to be used in future line siting proceedings."¹

2. The Opening Order directed Staff to "file a Report and Recommendation in this Docket suggesting the scope of this general investigation, including topics that should be addressed." The Opening Order also directed the parties to this Docket to "collaborate to recommend a procedural schedule by February 12, 2024."²

¹ Docket No. 23-NETE-585-STG, Order on Siting Application, ¶ 69 (May 24, 2023).

² Opening Order, ¶ 5.

3. On December 1, 2023, Staff filed its First Report and Recommendation (“First Report”), suggesting the scope of the general investigation, including “a list of topics that may be included in the list to be developed by the participants in the Investigation.”³ Staff’s First Report recommended two categories of focus for the investigation:

- (1) Provide insight into the appropriate role of state jurisdictional authorities in the SPP process to develop parameters for consideration in a SPP Request for Proposal (RFP) for a competitively bid transmission construction project (FERC 1000 Project).
- (2) Establish guidelines of land use parameters and construction practices that should be considered in determining the reasonableness of the route in rural areas of an electric transmission line.

4. In its response to Staff’s First Report and Recommendation Midwest Energy stated its belief that both of the broad topic categories proposed by Staff were appropriate, particularly in light of the expectation of continued transmission projects resulting from the transmission planning process conducted on a recurring basis by the Southwest Power Pool (“SPP”). The fact that some of these projects will likely be deemed to be competitive, consistent with the requirements of Order 1000 from the Federal Energy Regulatory Commission (“FERC”), supports the importance of having the results of the instant general investigation integrated into the Order 1000 competitive transmission bidding process of the SPP.

5. On March 15, 2024, Staff filed its Second Report and Recommendation, Staff recommended that “[i]n order to complete this docket in a timely manner, . . . the General Investigation focus only on Category 2, establishing guidelines of land use parameters and construction practices that should be considered in determining the reasonableness of the route.”⁴

6. In the Second Report and Recommendation Staff further recommended “the Commission consider adopting a standardized list of criteria and weights that are considered to negatively affect (impact) landowners.”⁵

³ First Report, p. 7.

⁴ Second Report and Recommendation, p. 1.

⁵ *Id.* p. 3

II. COMMENTS

7. While Midwest Energy continues to believe that increased interaction between the SPP Order 1000 process and the siting requirements of individual states is an important issue, we also find merit in the recommendation from Staff that the scope be narrowed to establishing guidelines of land use parameters and construction practices in order to conclude the General Investigation in a timely manner, bring clarity to Kansas utilities, transmission developers, and landowners.

8. Staff's Second Report and Recommendation included a further narrowing of the scope of the General Investigation, including recommendations that (i) "the scope for establishing route selection criteria be limited to only transmission projects in rural areas", and (ii) lines in congested ROW areas such as urban areas or when approaching substations should be excluded from any established guideline criteria".⁶ Midwest Energy concurs with this recommendation as well, though the concept of an exception for applicability "when approaching substations" may need to be better defined.

9. Included in Staff's Second Report and Recommendation is a recommendation that "the scope of this General Investigation be limited to determining criteria and appropriate weighting factors that are considered to negatively affect (impact) landowners in rural areas. The criteria list to be determined by this General Investigation should only include standardized criteria that typically are applicable for electrical transmission projects in Kansas. Additionally, Staff recommends the following:

1. A formal routing study that proposes siting criteria and criteria prioritization be required as part of the application in all future line siting dockets.
2. The utility may add criteria with Commission approval if additional parameters are warranted due to site specific conditions.
3. The utility may also request modifications to line siting criteria and their weights subject to Commission approval.
4. With the goal of this General Investigation being the improvement of the line siting process, Staff recommends interested parties propose additional line siting criteria

⁶ *Id.* p. 5

and prioritization factors to be considered by the Commission as part of this proceeding.”⁷

10. With respect to the first recommendation, Midwest Energy concurs that a routing study that proposes siting criteria and criteria prioritization be required as part of the application in all future line siting dockets.

11. Regarding the second and third recommendations made by Staff, Midwest Energy notes that it is not clear how or when a utility would request authorization to add or modify routing criteria or their weights, nor how/when the Commission would approve such requests. However, the first Staff recommendation will require that a routing study must be submitted as part of a siting application. It isn’t clear whether the routing study submitted with the siting application should be based on the default criteria set by the Commission, or rather be based on one or more modifications to the default criteria, thereby requesting Commission approval of such modifications. Discussion on this topic should include clarification of the process to obtain such authorization to modify the default routing criteria.

12. Staff also included in their Second Report and Recommendation a recommended list of eighteen standard line siting criteria:

- Residential Proximity (each residence within 300 feet).
- Cultivated Crop Impact (acres in right of way).
- Reliability (ability to maintain after construction).
- Length along Transmission Mains (miles).
- Length not along Parcel Boundaries (miles).
- Public Facilities within 300 feet (each).
- Length Not along Roads (miles).
- Sensitive Species Impacts (unit-less).
- Woodland impacts (acres).
- Visibility (e.g. impact on curbside appeal).
- Cultural Site within 1,320 feet (each).
- Center Pivot Irrigation Impacts (each).

⁷ *Id.* p. 8.

- Wetland/River Environmental Impacts (acres in right of way).
- Total Length (miles).
- River Crossings Engineering Impact (each).
- Area not in Grassland/Pasture (acres in right of way).
- Deflections over 30 degrees (each).
- Road Crossings (state/interstate highways, each).
- Transmission Line Crossings (each).

13. While Midwest Energy notes that the establishment of eighteen separate criteria that must be addressed in a routing study is a large number, we will not propose any deletions to this list of criteria at this time. However, Midwest Energy will propose, based on previous projects, that the following criteria be added:

- Proximity of oil or natural gas production facilities or storage tanks. Like many of the other criteria it may not be applicable on every transmission line project in Kansas, but where there are oil and gas assets near the proposed transmission line there are safety implications if such transmission line is placed in close proximity to those assets.
- Length of line through FAA obstruction zones – a means of discouraging routes that potentially will be infeasible or difficult to comply with FAA regulations.
- FEMA flood plain, in acres, within proposed right-of-way area. A flood plain can present challenges to both the construction and maintenance of an overhead line, and possibly have a detrimental impact on the flooding properties in that area. It may be most logical to add this to the “Wetland/River Environmental Impacts” criterion proposed by Staff.

14. It will also be essential that the discussion in the General Investigation include recognition of those existing features and related criteria that may be deemed favorable to a transmission line route, for example grassland or pasture areas, as opposed to those that may be deemed to be detrimental to a proposed route, perhaps including residential proximity, state or national parks, or cultivation/wetland impacts. Midwest Energy submits that a final list of criteria should be consistent in their structure such that all criteria are favorable to a particular route, or detrimental to that potential route, but not a mixture of both. This will help promote consistent

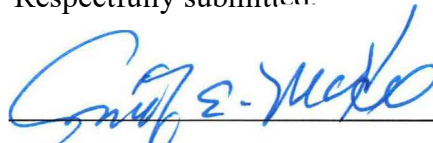
route scoring methodologies, and the development of weighting for such criteria. Midwest Energy will also comment further on the various proposed criteria during the proceeding, as we observe that some criteria may double-count the same land impact, and that others will need to be better defined to allow consistent application.

15. Though Midwest Energy has proposed additions to the list of criteria used to evaluate individual routes in a route study no position has been taken at this time on the original eighteen criteria proposed by Staff. Midwest specifically reserves the right to comment on specific criteria during the course of the instant proceeding.

16. Based on Staff's Second Report and Recommendation, as well as any comments received by other intervenors in this proceeding, Midwest Energy requests that the Commission issue an order establishing the scope of the General Investigation and a procedural schedule as soon as possible.

WHEREFORE, Midwest Energy submits these comments in response to the Staff's Second Report and Recommendation for further review and consideration by the Commission and looks forward to further orders setting the topics to be addressed in the instant general investigation and the procedural schedule, as well as any other relief the Commission may deem to be just and reasonable.

Respectfully submitted.

A handwritten signature in blue ink, appearing to read "Timothy E. McKee", is written over a horizontal line.

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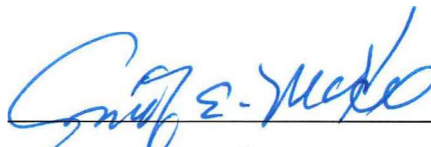
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