



Legislation Text

File #: 2018-072, Version: 1

Resolution - Determination and Approval of Necessity and Public Use for Acquisition of Easements for the Wirtz to Mountain Top Transmission Line Rebuild and Upgrade; and Authorization of the Cooperative to Use Eminent Domain to Acquire Property for the Wirtz to Mountain Top Transmission Line Rebuild and Upgrade - P Lochte

Submitted By: Audri Nelson

Department: Engineering

Financial Impact and Cost/Benefit Considerations: As discussed in Executive Session

The Cooperative will consider the necessity and public use for acquisition of easements located in Blanco and Burnet Counties, Texas for a transmission line rebuild and upgrade from Wirtz to Mountain Top substations (the "Wirtz to Mountain Top Project") and acquisition of the said property through eminent domain proceedings. Pedernales Electric Cooperative, Inc. ("PEC" or the "Cooperative") is a Texas electric cooperative corporation. PEC finds it is necessary to acquire easements in order to carry out its purposes authorized by the Texas Utilities Code and other applicable law. The properties are more particularly described in Exhibit "A," attached hereto (collectively, the "Property") and such Exhibit A to be publically available at such time as such transfers have occurred or as otherwise determined. PEC has determined that the Wirtz to Mountain Top Project is necessary for a transmission line rebuild and upgrade for its electric utility system serving its members and the electric grid for the State of Texas. PEC has delivered initial offers, in accordance with Chapter 21 of the Texas Property Code, to affected landowners. In the event PEC is unable to acquire the easement interests in the Wirtz to Mountain Top Project through negotiation and purchase, the Cooperative will seek to acquire the Property through its power of eminent domain.

WHEREAS, the Board of Directors of PEC, pursuant to Texas Utilities Code, Section 161.125 and Chapter 21 of the Texas Property Code, hereby finds that the Wirtz to Mountain Top Project is for public use and in the public interest to acquire the interests in the Property through eminent domain proceedings;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF PEDERNALES ELECTRIC COOPERATIVE, INC. that acquisition of the Property for installation, construction, operation and maintenance of a transmission line rebuild and upgrade and all necessary appurtenant facilities is for public use and in the public interest to ensure system reliability for its members and the electric grid for the State of Texas; and

BE IT FURTHER RESOLVED BY THE BOARD OF DIRECTORS OF THE COOPERATIVE that the Chief Executive Officer of the Cooperative or any person designated by her for such purpose, be and each of them hereby is, authorized as a duly authorized officer or agent of the Cooperative, for and in the name and on behalf of the Cooperative, to engage any title company, third-party surveyor, engineer, environmental engineers and appraisers, as needed, to perform professional services in connection with the Wirtz to Mountain Top Project, or any other service provider in connection with the Wirtz to Mountain Top Project; to negotiate, settle and agree on a purchase price for said Property or to determine the amount of damages and compensation to be paid to the owners of the Property as necessary, and to make official, written, bona fide offers to the owners for the appraised value of said Wirtz to Mountain Top Property, in each case in such form and containing such terms and conditions as such officer or agent may in his or her reasonable discretion deem necessary, appropriate, or desirable; and

BE IT FURTHER RESOLVED BY THE BOARD OF DIRECTORS OF THE COOPERATIVE that if it is

determined that an agreement as to the value of said Property, damages and/or compensation to be paid cannot be reached, then the General Counsel of the Cooperative or any attorney designated by him for such purpose, be and each of them hereby is authorized to file or cause to be filed, against the owners, lien holders and other holders of an interest in the Property, proceedings using the Cooperative's power of eminent domain to acquire interests in and to the Property, in order to allow the Cooperative and/or its assigns to complete said Wirtz to Mountain Top Project, and to perform and undertake all other proceedings necessary to complete the acquisition of the Property; and

BE IT FURTHER RESOLVED BY THE BOARD OF DIRECTORS OF THE COOPERATIVE that above recitals are true and correct and it is the intent of the Board of Directors of the Cooperative that this resolution authorizes all processes and procedures for the acquisition or the condemnation of all Property required to complete the Wirtz to Mountain Top Project; and if it is later determined that there are any errors in the property descriptions contained herein or if later surveys contain more accurate revised descriptions, the Cooperative's attorney is authorized to have such errors corrected or revisions made without the necessity of obtaining a new resolution from the Board of Directors authorizing the use of its power of eminent domain of the corrected or revised Property; and

BE IT FURTHER RESOLVED BY THE BOARD OF DIRECTORS OF THE COOPERATIVE, that the Chief Executive Officer of the Cooperative, the General Counsel or any persons designated by either of them for such purpose, be and each of them hereby is, authorized as a duly authorized officer or agent of the Cooperative, for and in the name and on behalf of the Cooperative, to do any and all acts deemed by such officer in such officer's reasonable judgment to be necessary or appropriate in the best interests of the Cooperative to give effect to the foregoing resolution; and

BE IT FURTHER RESOLVED BY THE BOARD OF DIRECTORS OF THE COOPERATIVE, that all actions taken prior to the effective date hereof by the officers and duly authorized agents of the Cooperative, including, but not limited to, the delivery of any relevant document in the name of and on behalf of the Cooperative relating to any bona fide offer to the owners are hereby confirmed, ratified and approved.