

## ACTION FORM BRYAN CITY COUNCIL

<b>DATE OF COUNCIL MEETING:</b> May 14, 2013		<b>DATE SUBMITTED:</b> May 6, 2013	
<b>DEPARTMENT OF ORIGIN:</b> BTU		<b>SUBMITTED BY:</b> Gary Miller	
<b>MEETING TYPE:</b>	<b>CLASSIFICATION:</b>	<b>ORDINANCE:</b>	<b>STRATEGIC INITIATIVE:</b>
<input type="checkbox"/> BCD	<input type="checkbox"/> PUBLIC HEARING	<input type="checkbox"/> 1ST READING	<input type="checkbox"/> PUBLIC SAFETY
<input type="checkbox"/> SPECIAL	<input type="checkbox"/> CONSENT	<input type="checkbox"/> 2ND READING	<input type="checkbox"/> SERVICE
<input type="checkbox"/> REGULAR			<input type="checkbox"/> ECONOMIC DEVELOP.
<input type="checkbox"/> WORKSHOP	<input type="checkbox"/> REGULAR		<input type="checkbox"/> INFRASTRUCTURE
			<input type="checkbox"/> QUALITY OF LIFE
<p><b>AGENDA ITEM DESCRIPTION:</b> Consider adopting a resolution approving the transfer of certain transmission assets from the Texas Municipal Power Agency (TMPA) to the Member Cities and from the Member Cities to the City of Bryan d/b/a Bryan Texas Utilities (BTU) and Brazos Electric Cooperative, and further authorizing the Mayor to execute deeds without warranty, bills of sale, assignments of easements and other documents necessary to the conveyance.</p>			
<p><b>SUMMARY STATEMENT:</b> TMPA is a joint power agency whose member cities are the cities of Bryan, Denton, Garland and Greenville (the "Member Cities").</p> <p>Several of the transmission lines currently owned by TMPA are actually operated by other entities. This situation has developed over the years due to agreements TMPA entered into for the administration of contracts for the sale of power between the Member Cities (Cities of Bryan, Denton, Garland, and Greenville) and the Cities of Bowie, Bridgeport, and College Station. As part of these contracts, TMPA constructed certain transmission facilities ("Off-System Sales Facilities") and acquired certain transmission rights-of-way ("Off-System Sales Transmission Rights-of-Way") in order to support the sales under these contracts. Until NERC (North American Electric Reliability Corporation) compliance rules became effective a couple of years ago, facility ownership was not an issue as long as it was clear who operated them. With the advent of NERC compliance regulations, it is now critical that both ownership and operation be clearly defined.</p> <p>To clearly delineate ownership and operation of certain lines, TMPA desires to transfer ownership of three lines to the Member cities and the Member Cities desire that certain of the transmission facilities and rights of way, to wit: the 138kV transmission line from Gibbons Creek to Greens Prairie be transferred to the City of Bryan, and certain of the transmission facilities and rights of way be transferred to the Brazos Electric Power Cooperative, to wit: the Patterson St. (Bowie)-Brazos Tap 138kV Line, in Montague County, Texas, extending 2.05 miles; and the Bridgeport-Brazos Tap 138kV Line, in Wise County, Texas, extending 7.7 miles and the Bridgeport-Oncor Tap 138kV Line, extending .4 miles.</p> <p>In order for the transfer to take place, the Bryan City Council must adopt a resolution approving the transfer of the transmission assets from TMPA to the Member Cities and from the Member Cities to the City of Bryan and Brazos Electric Cooperative, and must further authorize the Mayor to execute deeds without warranty, bills of sale, assignments of easements and other documents necessary to the conveyance.</p>			
<p><b>STAFF ANALYSIS AND RECOMMENDATION:</b> Staff recommends the approval of the resolution. Due to the NERC compliance provisions associated with the Off System Sales Facilities, the Member Cities (through TMPA) maintain a potential regulatory liability with continued ownership of these facilities. The conveyance of these Off-System Sales Facilities and Off-System Sales Transmission Rights-of-Way from TMPA to the Member Cities and from the Member Cities to the City of Bryan and Brazos Electric Power Cooperative will provide the clear definition of ownership and operation as required by NERC regulations. Because of the current operations, as well as their geographical position, the assets are best conveyed to the City of Bryan and the Brazos Electric Power Cooperative.</p>			

**OPTIONS (In Suggested Order of Staff Preference):**

1. Approve the resolution
2. Modify the resolution, which could require additional City Council action at a future Council meeting.
3. Deny the resolution and provide direction to staff

**ATTACHMENTS:** Resolution and Exhibits.

**FUNDING SOURCE:**

**APPROVALS:** Hugh R. Walker, 05/06/2013

**APPROVED FOR SUBMITTAL: CITY MANAGER**

**APPROVED FOR SUBMITTAL: CITY ATTORNEY** Janis K. Hampton, 05/06/2013

Revised 04/2013

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE BRYAN CITY COUNCIL APPROVING THE TRANSFER OF CERTAIN ELECTRIC TRANSMISSION ASSETS FROM TMPA TO THE MEMBER CITIES AND FROM THE MEMBER CITIES TO THE CITY OF BRYAN, TEXAS AND BRAZOS ELECTRIC POWER COOPERATIVE AND AUTHORIZING THE MAYOR TO EXECUTE DEEDS WITHOUT WARRANTY, BILLS OF SALE, ASSIGNMENTS OF EASEMENTS AND OTHER DOCUMENTS NECESSARY TO THE CONVEYANCE; AND PROVIDING AN EFFECTIVE DATE.**

WHEREAS, the Texas Municipal Power Agency (“TMPA”) is a joint powers agency whose member cities are the cities of Bryan, Denton, Garland and Greenville (the “Member Cities”); and

WHEREAS, on October 11, 1991, TMPA entered into a contract for the administration of a contract for the sale of power between the Member Cities, as sellers, and the City of Bridgeport, as purchaser; and

WHEREAS, on February 4, 1992, TMPA entered into a contract for the administration of a contract for the sale of power between the Member Cities, as sellers, and the City of College Station, as purchaser;

WHEREAS, under such contracts (hereinafter, the “Administration Contracts”), and in order to support such sales, TMPA constructed certain transmission facilities (the “Off-System Sales Facilities”) and acquired certain transmission rights of way (the “Off-System Sales Transmission Rights of Way”), the cost of which the Members Cities had fully reimbursed TMPA as of September 30, 1996; and

WHEREAS, TMPA has held title to the Off-System Sales Facilities and Off-System Sales Transmission Rights of Way in trust for the Member Cities under the terms of the Administration Contracts since September 30, 1996; and

WHEREAS, under the terms of the Administration Contracts, the Member Cities are entitled to require TMPA to convey the transmission facilities and rights of way to the Member Cities after TMPA has been reimbursed its costs for construction; and

WHEREAS, the Member Cities have requested that TMPA transfer title to the Member Cities as required under the Administration Contracts; and

WHEREAS, after TMPA transfers the transmission facilities and rights of way to the Member Cities, the Member Cities desire that certain of the transmission facilities and rights of way, to wit: the 138kV transmission line from Gibbons Creek to Greens Prairie be transferred to the City of Bryan, and certain of the transmission facilities and rights of way be transferred to the Brazos Electric Power Cooperative, to wit: the Patterson St. (Bowie)-Brazos Tap 138kV Line, in Montague County, Texas, extending 2.05 miles; and the Bridgeport-Brazos Tap 138kV Line, in Wise County, Texas, extending 7.7 miles and the Bridgeport-Oncor Tap 138kV Line, extending .4 miles;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BRYAN, TEXAS:

Section 1.

That the Bryan City Council approves and accepts the transfer of ownership from TMPA to the Member Cities and from the Member Cities to the City of Bryan, d/b/a Bryan Texas Utilities of those certain

electric facilities, in place, and known as the 138kV transmission line from Gibbons Creek to Greens Prairie, and authorizes the mayor to execute the Bills of Sale and Assignments of Easements in the form and substance of those attached hereto as Exhibit "A", and such other documents as may be necessary or desirable to effect said transfer.

Section 2.

That the Bryan City Council does hereby approve of the transfer of ownership from TMPA to the Member Cities and from the Member Cities to the Brazos Cooperative Electric Power Cooperative, Inc. of those certain electric facilities, in place, known as the Patterson St. (Bowie)-Brazos Tap 138kV Line, in Montague County, Texas, extending 2.05 miles; and the Bridgeport-Brazos Tap 138kV Line, in Wise County, Texas, extending 7.7 miles and the Bridgeport-Oncor Tap 138kV Line, extending .4 miles, and does hereby authorize the mayor to execute the Bills of Sale and Assignments of Easements in the form and substance of those attached hereto as Exhibit "B", and such other documents as may be necessary or desirable to effect said transfer.

Section 3.

This Resolution shall be immediately effective upon its passage and adoption.

PASSED AND APPROVED by affirmative vote of the Bryan City Council meeting in regular session this 14<sup>th</sup> day of May, 2013.

ATTEST:

CITY OF BRYAN

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Mary Lynne Stratta, City Secretary

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Jason P. Bienski, Mayor

APPROVED AS TO FORM:

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Janis K. Hampton, City Attorney