

**PUC DOCKET NO. 37407
SOAH DOCKET NO. 473-10-0399**

**APPLICATION OF ONCOR ELECTRIC §
DELIVERY COMPANY, L.L.C., TO §
AMEND ITS CERTIFICATE OF §
CONVENIENCE AND NECESSITY FOR §
THE TONKAWA - SWEETWATER §
EAST - CENTRAL BLUFF CREZ §
345 KV TRANSMISSION LINE IN §
SCURRY, MITCHELL, FISHER, §
NOLAN AND TAYLOR COUNTIES, §
TEXAS §**

**PUBLIC UTILITY COMMISSION
OF TEXAS**

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ORDER

This Order addresses the application of Oncor Electric Delivery Company, LLC to amend its certificate of convenience and necessity (CCN) to include two Competitive Renewable Energy Zone (CREZ) priority projects: the Tonkawa to Sweetwater East double-circuit, 345-kV line and the Sweetwater East to Central Bluff double-circuit, 345-kV line. The Tonkawa to Sweetwater East transmission line extends from Oncor's existing Tonkawa switching station, located in the southeastern portion of Scurry County, to the new Oncor Sweetwater East switching station located east of Sweetwater, Texas in Nolan County. The second transmission line extends from the Sweetwater East switching station to the new Oncor Central Bluff switching station located in southeast Nolan County.

On February 12, 2010, the State Office of Administrative Hearings' (SOAH) administrative law judge (ALJ) issued a proposal for decision in which the judge recommended granting Oncor's application. The ALJ recommended that the Commission adopt Oncor's preferred Tonkawa to Sweetwater East route (TO-SE5) because it is the least expensive and was not contested by any intervenors. Furthermore, the ALJ recommended that the Commission adopt Staff's recommended alternate route (SE-CB14) for the Sweetwater East to Central Bluff portion of the line. The ALJ reasoned that route SE-CB14 is the shortest in length and the least costly of the proposed Sweetwater East to Central Bluff routes. The Commission adopts in part

and rejects in part the proposal for decision issued by the ALJ in this proceeding, including findings of fact and conclusions of law.

The Commission adopts the ALJ's recommendation that Oncor's Tonkawa to Sweetwater East preferred route (TO-SE5) should be constructed.

However, with respect to the Sweetwater East to Central Bluff portion of the project, the Commission disagrees with the ALJ's recommendation of Staff' proposed route (SE-CB14). Route SE-CB14 has two intervenors, including the Finches, whose property would be directly impacted by the route. In addition, route SE-CB14 has 28 habitable structures within 500 feet of the proposed centerline. The Commission rejects route SE-CB14 because of that route's unreasonably adverse affects to the Finch property as well as the high number of habitable structures within 500 feet of its centerline. Instead, the Commission adopts Oncor's alternate Sweetwater East to Central Bluff route (SE-CB15). Route SE-CB15 has no intervenors, will not affect the Finch property and has only sixteen habitable structures within 500 feet of its centerline.

To reflect the Commission's decisions on this issue, the Commission modifies the following findings of fact: 23, 30, 35, 36, 37, 39, 42, 46, 49, 50, 51, 65, 68, 70, 77, 81, 82 and 83; adds new findings of fact 31A and 32A; and deletes findings of fact 31, 32, 47 and 61. Additionally, the Commission modifies conclusions of law 7 and 8.

The Commission acknowledges the Railroad Commission of Texas' (RRC) duty to require that inactive oil and gas wells be properly plugged to prevent pollution of usable quality surface and subsurface water.¹ The Commission, however, agrees with the ALJ that the RRC's proposed ordering paragraph is too restrictive, as it could require Oncor to accept indefinite delay in its construction schedule or plug the well itself, the cost of which will likely be borne by electric ratepayers.² As an alternative means of addressing the RRC's concerns, the Commission finds it appropriate to include an ordering paragraph composed of an enhanced version of the language suggested by Commission Staff.³ This new ordering paragraph 8 should assist the

¹ Railroad Commission's Statewide Rule 14 (16 Texas Administrative Code § 3.14).

² See Proposal for Decision at 38.

³ See Proposal for Decision at 37.

RRC in discharging its duty to plug abandoned wells, while avoiding the risk of unreasonable delay.

In conjunction with this addition, the Commission deletes the ALJ's proposed finding of fact 105, which addressed in less detail the RRC's concerns now addressed in ordering paragraph 8.

I. Findings of Fact

Procedural History and General Project Description

1. Oncor Electric Delivery Company, LLC is an investor-owned electric utility providing service under certificate of convenience and necessity no. 30158.
2. On September 16, 2009, Oncor filed an application to amend its certificate of convenience and necessity for a proposed 345-kV transmission line in Scurry, Mitchell, Fisher, Nolan, and Taylor Counties. P.U.C. Docket No. 37407 was assigned to the proceeding.
3. In the application, Oncor requested approval to construct two new double-circuit 345-kV transmission lines. The first of the lines would extend from Oncor's existing Tonkawa Switching Station located approximately 16.8 miles west/northwest of Sweetwater, Texas, in southeastern Scurry County to the new Oncor Sweetwater East Switching Station located approximately 11.2 miles east of Sweetwater in Nolan County. The second line would extend from the new Sweetwater East Switching Station to the new Oncor Central Bluff Switching Station located approximately 29.3 miles south/southeast of Sweetwater in Nolan County.
4. On September 16, 2009, Oncor: (1) mailed written notice of the application, including a map, to each municipality within five miles of the requested facilities, including the Cities of Blackwell, Loraine, Merkel, Roscoe, Sweetwater, and Trent; (2) either hand-delivered or mailed written notice of the application, including a map, to each county in which the requested facilities will be located, including Scurry, Mitchell, Fisher, Nolan, and Taylor Counties; (3) provided notice of the application to Big Country Electric Cooperative, Inc., Cap Rock Energy Corporation, AEP Texas North Company, Concho Valley Electric Cooperative, Inc., Coleman County Electric Cooperative, Inc., and Taylor Electric Cooperative, Inc.; and (4) mailed written notice by first class mail of the application, including a map, to each landowner as stated on current county tax rolls that will be directly affected if the requested CCN amendment is granted.

5. On September 21, 2009, the application was referred to the State Office of Administrative Hearings.
6. On September 24, 2009, Oncor published notice of its application in the *Snyder Daily News*, *Rotan Advance – Star Record*, *Colorado City Record*, *Sweetwater Reporter*, and *Abilene Reporter-News*, all of which are newspapers of general circulation within the counties where the CCN is being requested.
7. On September 25, 2009, Oncor filed its affidavit attesting to the provision of a copy of the environmental assessment and routing study to the Texas Parks and Wildlife Department (TPWD).
8. A prehearing conference was held on October 6, 2009.
9. On October 7, 2009, Oncor filed its affidavit attesting to the provision of notice.
10. On October 9, 2009, Staff filed its response to Order No. 2, indicating that Oncor's notice was sufficient and that "Oncor has complied with the notice provisions set out in P.U.C. PROC. R. 22.52(a) and Order No. 2."
11. On October 15, 2009, Order No. 3 found that notice was adequate and that Oncor's application was sufficient. Order No. 3 also granted the motions to intervene of Stan Payne, N. Dale and Mary K. Finch, Robert Fowler, Joe and Mattie Neill, George (Tex) Quesada, Joshua Mashburn, Don Russom, Lisa Hughes, Gary Landers, J.D. and Aleta Alexander, Johnny and Deborah Martin, Robert Rowlett, Lindell K. and Roberta L. Hammack-Smith, David Cason, Chris Rhodes, Joe Bob Davis, David Scott, Ronnie Ray, Jerry and Syra Patterson, Linda Romick, Colleen Richards, Curt Hoskins, James L. Wilks, and Leon Richard Walker.
12. On October 26, 2009, Order No. 4 granted the motions to intervene of Landa Grohman, Mike and Diane Hale, Janet Vincik, J.D. Tatum, Brad Street, Northwest Texas Annual Conference of the United Methodist Church, Beverly Butman, Mark C. Morrow, Patsy Ruth Gesin, OXO Family Partnership, Suez Temple, Inc., Mary H. Nicholson, Sandra and Robert S. Martin, David and Ruth Stark, Kaye Blonkvist, Allen and Shirley Morgan, Jan J. Quesada, Broadview Baptist Church of Abilene, Jess Lambert, Louis Brooks Ranch Ltd., Rodney Rodgers, Roy and Peggy Knowles, Robert R. Petty, Jr., and Donnie Rannefeld.
13. On November 4, 2009, the City of Garland filed a motion to intervene. Both Oncor and Commission Staff filed motions objecting to the City of Garland's motion to intervene.
14. TPWD provided a project review document dated November 13, 2009 that was filed in this docket on November 17, 2009.

15. On November 18, 2009, Order No. 8 denied the City of Garland's motion to intervene.
16. On December 1, 2009, a supplemental preliminary order issued, adding issues relating to TPWD recommendations to the issues to be addressed in this docket.
17. On December 1, 2009, the Railroad Commission of Texas (RRC) filed a motion to intervene.
18. On December 1, 2009, Order No. 9 dismissed the following intervenors because they failed to file a statement of position or direct testimony: Stan Payne, Joshua Mashburn, Gary Landers, Johnny and Deborah Martin, Robert Rowlett, Joe Bob Davis, Linda Romick, Landa Grohman, J.D. Tatum, Brad Street, Northwest Texas Annual Conference of the United Methodist Church, Beverly Butman, Allen and Shirley Morgan, Jess Lambert, Robert R. Petty, Jr., and Donnie Rannefeld.
19. On December 4, 2009, Order No. 10 issued, sustaining in part and denying in part Oncor's objections to direct testimony filed by intervenors. The order also required additional information regarding the RRC's motion to intervene.
20. On December 9, 2009, the RRC responded to Order No. 10, stating that RRC records indicate various gas or oil facilities in the right-of-way of some of the alternate routes in this docket. As a result, the RRC requested approval to continue to participate in this proceeding as an intervenor.
21. On December 11, 2009, Order No. 12 reinstated Brad Street and the Northwest Texas Annual Conference of the United Methodist Church as intervenors.
22. The hearing on the merits convened on December 14, 2009, and concluded on December 15, 2009. The record closed on January 12, 2010, with the filing of reply briefs.

Project Description

23. The project consists of constructing two new 345-kV double circuit transmission lines. The first of the lines would extend from Oncor's existing Tonkawa Switching Station located approximately 16.8 miles west/northwest of Sweetwater, Texas, in southeastern Scurry County to the new Oncor Sweetwater East Switching Station located approximately 11.2 miles east of Sweetwater in Nolan County. The second line would extend from the new Sweetwater East Switching Station to the new Oncor Central Bluff Switching Station located approximately 29.3 miles south/southeast of Sweetwater in Nolan County. The Tonkawa to Sweetwater East portion of the project (Tonkawa portion) is approximately 32 miles long along Oncor's preferred route TO-SE5 (Oncor's

preferred Tonkawa route), and the Sweetwater East to Central Bluff portion of the project (Central Bluff portion) is approximately 38 miles long along Oncor's alternate route SE-CB15 (Oncor's alternate Central Bluff route). The project is to be constructed using Oncor's standard lattice steel "V" tower capable of supporting two 345-kV circuits. Both circuits will be installed using twin-bundled 1926.9 kcmil ACSS/TW conductor. The project will be constructed on a 160 foot right-of-way (ROW).

24. The project is a Competitive Renewable Energy Zone priority project.
25. The project will accomplish the intended results for the two CREZ priority projects designated as the "Tonkawa to Sweetwater double-circuit 345-kV line" and the "Sweetwater to Central Bluff double-circuit 345-kV line" and ordered by the Commission in dockets no. 35665, *Commission Staff's Petition for Selection of Entities Responsible for Transmission Improvements Necessary to Deliver Renewable Energy from Competitive Renewable-Energy Zones* (Mar. 30, 2009), and 36801, *Proceeding to Sequence Certificate of Convenience and Necessity Applications for the Priority Projects for the Competitive Renewable Energy Zones* (Jul. 8, 2009).

Routing of the Project

26. Oncor retained HDR Engineering, Inc. (HDR) to prepare environmental assessments and routing studies (environmental assessments) for both portions of the project.
27. Because the project consists of two separate CREZ priority projects, Oncor filed separate routes for the Tonkawa portion of the project and for the Central Bluff portion of the project.
28. For the Tonkawa portion of the project, Oncor filed Oncor's preferred Tonkawa route (TO-SE5) and six alternate routes. For the Sweetwater East to Central Bluff portion, Oncor filed one preferred route (SE-CB13) (Oncor's preferred Central Bluff route) and six alternate routes.
29. Oncor considered and submitted a sufficient number of geographically diverse routes for the project.
30. The project will be constructed on Oncor's preferred Tonkawa route (TO-SE5) for the Tonkawa portion of the project, and on Oncor's alternate Central Bluff route (SE-CB15) for the Central Bluff portion of the project.
31. DELETED.
- 31A. Oncor's alternate Sweetwater East to Central Bluff route (SE-CB15) has no intervenors and has the least amount of habitable structures within 500 feet of the centerline.

32. DELETED.
- 32A. Oncor's alternate Sweetwater East to Central Bluff route (SE-CB15) will not adversely affect the property of intervenors N. Dale and Mary K. Finch.

Community Values

33. Oncor and HDR held one public participation meeting for each portion of the project. The meeting for the Tonkawa portion of the project was held on April 29, 2009 at the Nolan County Coliseum Annex in Sweetwater, Texas. The meeting for the Central Bluff portion of the project was held in the same location on April 30, 2009.
34. Information received from the public open-house meetings and from local, state and federal agencies was considered and incorporated into both HDR's routing analysis and the eventual selection by Oncor of preferred and alternative routes.
35. Concerning the Central Bluff portion of the project, routing the project along Oncor's preferred Central Bluff route (SE-CB13), Staff's recommended Central Bluff route (SE-CB14), or Oncor's alternate route (SE-CB15), where landowners have developed more commercial operations and have emphasized their economic concerns, has a smaller negative effect on community values than routing the project along one of the eastern routes (SE-CB5, SE-CB 6, SE-CB7, and SE-CB 8) (collectively, the Mulberry Canyon routes), which are less developed, such as those routes running through the Mulberry Canyon area.
36. Oncor's preferred Tonkawa route (TO-SE5) has one FAA-registered airstrip within 20,000 feet of its centerline. There are no FAA registered airstrips within 20,000 feet of Oncor's alternate Central Bluff route (SE-CB15), but there are two private airstrips within 10,000 feet of the centerline of Oncor's alternate Central Bluff route.
37. Oncor's preferred Tonkawa route (TO-SE5) has one AM radio transmitter within 10,000 feet and six electronic installations within 2,000 feet of its centerline. There are four electronic installations within 2,000 feet of the centerline of Oncor's alternate Central Bluff route (SE-CB15).
38. There are no significant impacts to any airports, airstrips, or heliports anticipated from construction of the project.
39. Neither Oncor's preferred Tonkawa route (TO-SE5) nor Oncor's alternate Central Bluff route (SE-CB15) traverses any pasture or cropland irrigated by traveling irrigation systems.

40. During the hearing on the merits, Oncor and intervenors Louis Brooks Ranch, Ltd., and Curt Hoskins agreed that if the route selected for the transmission line project from Sweetwater East to Central Bluff included Link W, Oncor would support a minor modification to move to the west the location of the proposed transmission line along the Brooks and Hoskins properties so that the new transmission line parallels an existing transmission line. The selected route includes Link W.

Recreation and Park Areas

41. The project is not anticipated to have any impacts on the use or enjoyment of park and recreational facilities.
42. Neither Oncor's preferred Tonkawa route (TO-SE5) nor Oncor's alternate Central Bluff route (SE-CB15) crosses or is located within 1,000 feet of parks or recreational areas owned by a governmental body or an organized group, club, or church.

Historical Values

43. The project will have no known impact on historical or archaeological resources.
44. Three recorded cultural resource sites are reported to be within 1,000 feet of the centerline of Oncor's preferred Tonkawa route (TO-SE5).
45. No recorded cultural resource sites are crossed by Oncor's preferred Tonkawa route.
46. Three recorded cultural resource sites are reported to be within 1,000 feet of the centerline of Oncor's alternate Central Bluff route (SE-CB15).
47. DELETED.

Aesthetic Values

48. Of the estimated 32 miles crossed by Oncor's preferred Tonkawa route (TO-SE5), approximately 0.2 miles lie within the visual foreground of park or recreation areas, and approximately 3.95 miles lie within the foreground visual zone of State or U.S. highways.
49. Of the 38 miles crossed by Oncor's alternate Central Bluff route (SE-CB15), approximately 1.7 miles lie within the visual foreground of park or recreation areas, and approximately 14.25 miles lie within the foreground visual zone of State or U.S. highways.
50. Concerning the Central Bluff portion of the project, the impact of the transmission line and towers on the view from highways along Oncor's preferred Central Bluff route (SE-

CB13), Staff's recommended Central Bluff route (SE-CB14), and Oncor's alternate route (SE-CB15) is tempered somewhat by the already conspicuous, numerous wind turbines in the western part of the study area. Yet in the eastern part of the Central Bluff portion, along the Mulberry Canyon routes, the wind turbines appear to be relatively scarce, and the presence of transmission line facilities would be more noticeable.

51. Oncor's alternate Central Bluff route (SE-CB15) avoids scenic eastern portions of the study area, including Mulberry Canyon.

Environmental Integrity

52. Oncor retained HDR to prepare environmental assessments for both portions of the project.
53. HDR contacted the United States Fish and Wildlife Service (USFWS) and TPWD to obtain information regarding the possibility of encountering any endangered or threatened species in the area affected by the project.
54. No significant impacts to land use, ecological, geological, hydrological, or wetland resources are anticipated as a result of the construction of either portion of the project on any of the alternative routes.
55. Construction of the proposed transmission lines will not have any significant effect on the physiographic or geologic features or resources of the area.
56. Construction of the project is not anticipated to have significant impact to prime farmland.
57. There is also no anticipated significant impact to surface water features or potential wetlands from this project.
58. The project has the potential to have minor impacts on plant and animal species in the area.
59. Oncor and HDR appropriately performed an evaluation of the impacts of the project on endangered and threatened species.
60. The project does not pose any significant risk of impact to endangered plant or animal species.
61. DELETED.

Goal for Renewable Energy

62. To fulfill the renewable energy goals established by the Legislature in Section 39.904(a) of PURA, the Commission adopted, in *Commission Staff's Petition for Designation of Competitive Renewable-Energy Zones*, Docket No. 33672, a transmission plan to deliver renewable energy to market and, in Docket No. 35665, designated certain transmission service providers to build the required transmission facilities.
63. In Docket No. 33672, the Commission determined that the transmission facilities identified in its final order – including both portions of the project – were necessary to deliver to customers renewable generated in the CREZ.

Compatible Corridors

64. Oncor's preferred Tonkawa route (TO-SE5) uses or parallels existing compatible corridors (including apparent property boundaries) for approximately 98 percent of its length.
65. Oncor's alternate Central Bluff route (SE-CB15) uses or parallels existing compatible corridors (including apparent property boundaries) for approximately 87 percent of its length.

Prudent Avoidance

66. Oncor considered and avoided population centers and other locations where people gather and live when routing all of its proposed routes for the project.
67. Oncor's preferred Tonkawa route (TO-SE5) has 27 habitable structures located within 500 feet of its centerline.
68. Oncor's alternate Central Bluff route (SE-CB15) has 16 habitable structures located within 500 feet of its centerline.

Engineering Constraints

69. Oncor's preferred Tonkawa route (TO-SE5) presents no engineering constraints for Oncor.
70. Oncor's alternate Central Bluff route (SE-CB15) presents no engineering constraints for Oncor.

Financial Commitments

71. Pursuant to P.U.C. SUBST. R. 25.174(d)(10), the level of financial commitment by generators is sufficient to approve Oncor's application for these CREZ priority projects.

Proposed Modifications to the Scope of Work Contained in the CREZ Transmission Optimization Study (CTO)

72. Oncor proposes using a bundled 1926.9 kcmil ACSS/TW conductor instead of the CTO-proposed 1433.6 conductor.
73. The 1926.9 conductor is standard on Oncor's system, and using it in place of the 1433.6 conductor creates numerous implementation advantages and operational and functional efficiencies that are not available if the 1433.6 conductor is used.
74. A move from the existing Sweetwater Cogen Station to the new Sweetwater East Station as an endpoint is necessary because the Sweetwater Cogen Station cannot be expanded to handle the new circuits necessary for CREZ transmission projects.
75. Additional substation work will be required to the existing Tonkawa Switching Station. While this work was not provided a cost estimate in the CTO, both the CTO and the September 10, 2009, letter from the Electric Reliability Council of Texas (ERCOT) contemplate that this type of work would be necessary for the upgrade of existing facilities. Cost estimates associated with the substation work on the existing Tonkawa Switching Station are included in Oncor's application in Docket No. 37409, *Application of Oncor Electric Delivery Company, L.L.C., to Amend its Certificate of Convenience and Necessity for the Central B – Central A – Tonkawa 345-kV CREZ Transmission Line in Scurry and Mitchell Counties* (pending).
76. The CTO listed the distance from Tonkawa to Sweetwater as 18 miles and the distance from Sweetwater to Central Bluff as 25 miles.
77. The estimated distance for the preferred route TO-SE5 for the Tonkawa to Sweetwater portion of the project is 32 miles, and Oncor's alternate route SE-CB15 for the Sweetwater East to Central Bluff portion of the project is approximately 38 miles.
78. The modifications to the CTO achieve technical efficiencies, are cost-effective, and are consistent with the CREZ Transmission Plan
79. Oncor submitted information regarding the modifications to ERCOT. ERCOT concluded that Oncor's modifications to the CTO were both cost-effective and consistent with the intent of the CTO.

Estimated Costs

80. The estimated transmission line cost for Oncor's preferred Tonkawa route (TO-SE5) is \$38,903,000. This is the least expensive route.
81. The estimated transmission line cost for Oncor's alternate Central Bluff route (SE-CB15) is \$52,809,000.
82. The cost estimate for the transmission line work for both portions of the project is \$91,712,000.
83. The CTO estimate for transmission line costs for the Tonkawa portion of the project is \$33,840,000. The CTO estimate for transmission line costs for the Central Bluff portion of the project is \$47,000,000. The CTO's estimate for the transmission line work for both portions of the project is \$80,840,000. Oncor's projected transmission line costs are approximately 13.4 percent higher than the CTO's estimate. The difference is largely attributable to differences in length.
84. Construction of the Sweetwater East Switching Station will cost an estimated \$14,780,000, and construction of the Central Bluff Switching Station will cost an estimated \$32,210,000. While this work was contemplated in the CTO, no cost estimate was provided in the CTO.
85. The reasonableness of any actual construction costs for the project, including related switching station costs, shall be determined in future Oncor cost of service proceedings.

Need for the Proposed Transmission Line

86. Both portions of the project were specifically listed as CREZ priority projects in the Commission's final orders in Docket Nos. 35665 and 36801.
87. As a CREZ transmission project identified in Docket Nos. 35665 and 36801, the project is exempt under Sections 39.203(e) and 39.904(h) of PURA and P.U.C. SUBST. R. 25.174(d)(2) from the requirement to consider the factors in Sections 37.056(c)(1)-(3) and (4)(E) of PURA.

Alternative Options to the Project

88. Because both portions of the project were identified in the CTO as CREZ priority projects, no alternatives to the project have been considered.

TPWD's Written Comments and Recommendations

89. TPWD provided a project review document (TPWD letter) dated November 13, 2009 that was filed in this docket on November 17, 2009.
90. Oncor must comply with all environmental laws and regulations governing endangered species.
91. Once routes are chosen and Oncor can access private property, Oncor performs a more detailed assessment of the affected area, determines how threatened and endangered species habitat may be impacted, and – if further environmental permits are necessary – receives and complies with all permit conditions.
92. No modifications to the project are required as a result of the recommendations and comments made in the TPWD letter.
93. Mitigation measures relating to raptor protection, herbicide use, flora and fauna disturbance, and erosion control are included in ordering paragraphs nos. 2-6.
94. Oncor currently uses permitted biological monitors to ensure compliance with the Endangered Species Act and other applicable regulatory requirements. Additionally, Oncor conducts assessments to determine if federally listed threatened and endangered species habitat is present.
95. Performing a biological evaluation before the routes are selected will cause extensive delays and significant cost increases. Oncor will perform a biological assessment once a route is selected.
96. TPWD's recommendation that Oncor perform a biological assessment before preferred routes are selected would require Oncor to assess the entire study area. It is impractical and unnecessary to undertake a comprehensive biological assessment of a study area before a final order identifying a route is issued by the Commission.
97. Oncor currently complies with all aspects of the Migratory Bird Treaty Act.
98. Oncor will use best management practices to minimize the potential impact to migratory birds in proximity to playa lakes.
99. If Oncor were prohibited from conducting clearing activities for six months out of the year, it would cause an extensive and unreasonable delay in the construction of the project.

100. Oncor's current method of clearing ROW has been used for years and is necessary to ensure the safety and reliability of the line.
101. The standard mitigation requirements included in the ordering paragraphs in this order, coupled with Oncor's current practices, are reasonable measures for a utility to undertake when constructing a transmission line.

Railroad Commission Proposal

102. Oncor has already considered oil and gas well data from the RRC when preparing its proposed routing and will, upon final approval of the route, conduct pedestrian surveys of the actual ROW before commencing construction to determine what, if any, oil and gas wells are within the ROW.
103. Oncor routes around active oil and gas wells when routing a transmission line.
104. There is no evidence in the record to indicate that plugged, active oil and gas wells constitute a potential routing constraint.
105. DELETED.

II. Conclusions of law

1. Oncor is an electric utility as defined in PURA §§11.004 and 31.002(6).
2. The Commission has jurisdiction over this matter pursuant to PURA §§14.001, 32.001, 37.051, 37.053, 37.054, 37.056, and 39.203(e).
3. Oncor provided proper notice of the Application in compliance with PURA §37.054 and P.U.C. PROC. R. 22.52(a).
4. Oncor's application is sufficient and Oncor's notice was adequate.
5. SOAH exercised jurisdiction over this docket pursuant to PURA §14.053 and TEX. GOV'T CODE ANN. §2003.049 (Vernon 2008).
6. This docket was processed in accordance with the requirements of PURA and the Administrative Procedure Act, TEX. GOV'T CODE ANN. Chapter 2001 (Vernon 2008).
7. Oncor is entitled to approval of the application, as described in the findings of fact, using Oncor's preferred Tonkawa route (TO-SE5) and Oncor's alternate Central Bluff

route (SE-CB15), taking into consideration the factors set out in PURA §37.056 and P.U.C. SUBST. R. 25.101.

8. Oncor's preferred Tonkawa route (TO-SE5) and Oncor's alternate Central Bluff route (SE-CB15) comply with all aspects of PURA §37.056 and P.U.C. SUBST. R. 25.101, including the Commission's policy of prudent avoidance.
9. The project, as a CREZ transmission project identified in Docket Nos. 33672 and 35665, is exempt under PURA §§39.203(e) and 39.904(h) and P.U.C. SUBST. R. 25.174(d)(2) from the requirement of proving that the construction ordered is necessary for the service, accommodation, convenience, or safety of the public and need not address the adequacy of existing service, the need for additional service, the effect of granting the certificate on the recipient of the certificate and any electric utility serving the proximate area, and the probable improvement of service or lowering of cost to consumers in the area if the certificate is granted.
10. The project is consistent with and in furtherance of the goals and mandates of Section 39.904 of PURA.
11. Pursuant to P.U.C. SUBST. R. 25.174(d)(10), the level of financial commitment by generators is sufficient under PURA §39.904(g)(3) to grant Oncor's application for a CCN in this docket.

III. Ordering Paragraphs

In accordance with these findings of fact and conclusions of law, the Commission issues the following orders:

1. Oncor's CCN No. 30158 is amended and Oncor's application to build two new 345-kV double-circuit transmission lines that extend from Oncor's existing Tonkawa Switching Station to the new Oncor Sweetwater East Switching Station and from the Sweetwater East Switching Station to the new Oncor Central Bluff Switching Station, respectively, is approved. The project will follow the routes described as route TO-SE5 for the Tonkawa to Sweetwater East portion of the project and route SE-CB15 for the Sweetwater East to Central Bluff portion of the project.
2. Oncor shall implement erosion control measures as appropriate and return each affected landowner's property to its original contours and grades unless otherwise agreed to by the landowners or landowners' representatives.
3. In the event Oncor or its contractors encounter any archaeological artifacts or other cultural resources during construction of the project, Oncor shall cease work immediately

in the vicinity of the resource and report the discovery to the Texas Historical Commission (THC) and take action as directed by the THC.

4. Oncor shall follow the procedures outlined in the following publications for protecting raptors: *Suggested Practices for Avian Protection on Power Lines, The State of the Art in 2006*, Avian Power Line Interaction Committee (APLIC), 2006 and the *Avian Protection Plan Guidelines* published by APLIC in April 2005.
5. Oncor shall minimize the amount of flora and fauna disturbed during construction of the project, except to the extent necessary to establish appropriate right-of-way clearance for the transmission line. Oncor shall re-vegetate using native species considering landowner preferences and to the maximum extent practical avoid adverse environmental impacts to sensitive plant and animal species and their habitats as identified by TPWD and USFWS.
6. Oncor shall exercise extreme care to avoid affecting non-targeted vegetation or animal life when using chemical herbicides for controlling vegetation within the right-of-way and that such herbicide use comply with rules and guidelines established in the *Federal Insecticide, Fungicide and Rodenticide Act* and with the Texas Department of Agriculture regulations.
7. Oncor shall cooperate with directly affected landowners to implement minor deviations in the approved route to minimize the impact of the project. Any minor deviations in the approved route shall only directly affect landowners who received notice of the transmission line in accordance with P.U.C. PROC. Rule 22.52(a)(3) and shall directly affect only those landowners that have agreed to the minor deviation.
8. Oncor shall provide a copy of this order to the Railroad Commission of Texas along with topographical map(s) of the selected route in electronic form and a schedule for completion of the project, no later than ten days from the date this order becomes final. Oncor shall supplement the map(s) provided to RRC in a reasonable time upon discovery of any previously unidentified oil and gas wells. Oncor shall coordinate its planning and construction schedules for the selected route, to the extent practicable, with the RRC to allow the RRC to inspect any wells identified by Oncor in the right of way of the transmission project and to take appropriate action in regards to such wells as the RRC determines necessary. Any issues that cannot be resolved by Oncor and the RRC shall immediately be brought to the attention of the Chairman of the Public Utility Commission of Texas and the Chairman of the Railroad Commission of Texas.
9. Oncor shall update the reporting of this project on their monthly construction progress report prior to the start of construction to reflect final estimated cost and schedule in accordance with P.U.C. Subst. R. 25.83(b). In addition, Oncor shall provide final construction costs, with any necessary explanation for cost variance, after completion of construction and when all charges have been identified.

10. All other motions, requests for entry of specific findings of fact and conclusions of law, and *any other requests* for general or specific relief, if not expressly granted, are denied.

SIGNED AT AUSTIN, TEXAS the 11th day of March 2010

PUBLIC UTILITY COMMISSION OF TEXAS



BARRY T. SMITHERMAN, CHAIRMAN



DONNA L. NELSON, COMMISSIONER



KENNETH W. ANDERSON, JR., COMMISSIONER