

**PUC DOCKET NO. 37408  
SOAH DOCKET NO. 473-10-0398**

**APPLICATION OF ONCOR ELECTRIC  
DELIVERY COMPANY, L.L.C., TO  
AMEND ITS CERTIFICATE OF  
CONVENIENCE AND NECESSITY FOR  
THE RILEY-BOWMAN 345-kV CREZ  
TRANSMISSION LINE (FORMERLY  
OKLAUNION-BOWMAN LINE) WITHIN  
ARCHER, WICHITA, AND WILBARGER  
COUNTIES, TEXAS**

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**PUBLIC UTILITY COMMISSION  
OF TEXAS**

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**ORDER**

This Order addresses the application of Oncor Electric Delivery Company, L.L.C., to amend its certificate of convenience and necessity (CCN) to build a 345-kV double-circuit transmission line in the north Texas counties of Archer, Wichita, and Wilbarger. Originally known as the Oklaunion-Bowman 345-kV Transmission Line Project, the proposed project is now named the Riley-Bowman 345-kV Transmission Line Project, because space limitations at American Electric Power's existing Oklaunion switching station require construction of the new Riley station (to be owned by Electric Transmission Texas, LLC) to serve as the northwestern termination point for the new line. From this new Riley station, located in Wilbarger County about one mile east of the Oklaunion station, the new line will cross the southwestern portion of Wichita County and terminate at Oncor's existing Bowman switching station in northern Archer County.

Though the proposed line does not lie within any of the areas designated by the Commission to be Competitive Renewable Energy Zones (CREZs), it has been deemed a priority CREZ transmission line by the Commission.

The Commission adopts the administrative law judge's (ALJ's) proposal for decision, including findings of facts and conclusions of law, but with certain modifications. First, the Commission includes an ordering paragraph to address the concerns of the Railroad Commission of Texas (RRC) that additional measures may need to be taken to address the potential impacts a transmission line may have on oil and gas well sites lying within the right of way (ROW) for the

route selected for the transmission line. Second, the Commission deletes one finding of fact, adds certain findings of fact, and modifies or adds certain ordering paragraphs to more explicitly address the recommendations contained in the letter dated November 12, 2009 and filed on November 13, 2009 by the Texas Parks and Wildlife Department (TPWD). Finally, the Commission modifies finding of fact 52 to more properly reflect the record.

### **I. Language Addressing Concerns of Railroad Commission of Texas**

The Commission acknowledges the RRC's duty to require that "inactive oil and gas wells be properly plugged to prevent pollution of usable quality surface and subsurface water."<sup>1</sup> 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."<sup>2</sup> 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.<sup>3</sup> This new ordering paragraph 3 should assist the 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 97, which addressed in less detail the RRC's concerns now addressed in ordering paragraph 8.

### **II. Recommendations of Texas Parks and Wildlife Department**

As noted by the ALJ,<sup>4</sup> in 2009 the Texas Legislature amended § 12.0011 of the Texas Parks and Wildlife Code<sup>5</sup> to require the Commission to provide a written response to each recommendation or informational comment made by the TPWD on or after September 1, 2009. The TPWD filed such a letter on November 13, 2009. Consequently, on November 30, 2009, the

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<sup>1</sup> Railroad Commission's Exceptions to Proposal for Decision. at 1 (Feb. 19, 2010), citing Railroad Commission's Statewide Rule 14 (16 Texas Administrative Code § 3.14).

<sup>2</sup> Proposal for Decision (PFD) at 7 (Feb. 12, 2010).

<sup>3</sup> See PFD at 5.

<sup>4</sup> PFD at 10, finding of fact 19.

<sup>5</sup> TEX. PARKS & WILD. CODE ANN. (Vernon 2002 & Supp. 2009).

Commission adopted a supplemental preliminary order including issues to be addressed regarding the TPWD's comments. Pursuant to the above-cited amendment, the Commission finds it appropriate to address the TPWD's specific recommendations.

First, the Commission memorializes Oncor's agreement and current compliance with the TPWD's recommendations regarding whooping cranes<sup>6</sup> by adding finding of fact 87A and an ordering paragraph.

The TPWD's second recommendation was that Oncor employ a permitted biological monitor during clearing and construction activities to safeguard the Texas horned lizard and the Texas kangaroo rat, two state-listed threatened species residing in the transmission-line study area. Oncor responded that it would, "if required by the Commission, expend the resources necessary to monitor for the Texas [h]orned [l]izard and Texas [k]angaroo [r]at during clearing and construction activities for the Proposed Transmission Line Project."<sup>7</sup> This willingness is stated in finding of fact 87B. The Commission, however, finds that Oncor's current practice, which is to employ a permitted biological monitor for only federally listed species, is adequate; Oncor is not required to hire an additional permitted monitor for the Texas horned lizard and the Texas kangaroo rat.

The TPWD's third recommendation was that before it selected a preferred route, Oncor undertake a thorough biological evaluation of the potential impacts on endangered species, wildlife habitat, and other important biological resources to determine whether constructing the transmission line would harm those resources. Oncor contended that conducting such a comprehensive biological assessment of the entire study area is neither practical nor necessary.<sup>8</sup> As stated in finding of fact 87C, the Commission agrees with Oncor's conclusion.

The TPWD's fourth recommendation was that Oncor take measures to ensure that migratory birds within and near the project area are not harmed by construction and maintenance activities. To avoid violating the Migratory Bird Treaty Act (MBTA), the TPWD stated that Oncor should refrain from clearing activities during the general bird-nesting season of March

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<sup>6</sup> Oncor Ex. 9, Rebuttal Testimony of Deborah Boyle at 7.

<sup>7</sup> *Id.*

through August. In response, Oncor testified that it will continue to comply with the MBTA, as by relocating to the Rogers Wildlife Rehabilitation Center young nesting birds of many species when their nests are affected by construction. Oncor also asserted that an absolute ban on clearing vegetation from March through August is not reasonable or practical and would cause extensive delay in the construction of this transmission line.<sup>9</sup> The Commission agrees: as stated in finding of fact 87D, there is no evidentiary basis for requiring Oncor to completely avoid clearing activities during March through August.

The TPWD's fifth recommendation was for Oncor to follow the recommendations for vegetation clearing set forth in the *TPWD Recommendations for Electrical Transmission/Distribution Line Design and Construction* and illustrated in the schematic drawing attached to TPWD's letter. In response, Oncor testified that TPWD's preferred method is inconsistent with Oncor's long-time method of clearing ROW for constructing and maintaining a transmission line. Oncor asserted that the TPWD's method does not promote safety and reliability as well as Oncor's method, which normally involves the removal of all trees, brush, and undergrowth, other than low-growing ground cover.<sup>10</sup> As stated in finding of fact 87E, the Commission agrees with Oncor's position.

The TPWD's sixth recommendation concerned the need to minimize impacts on water resources. The TPWD recommended that Oncor's trucks use existing bridges and culverts when possible to avoid disturbing stream substrates and riparian vegetation. In addition, the TPWD stated that if temporary waterway crossings are necessary, the geomorphology of the waterways should not be altered, in order to avoid degrading fish and wildlife habitat. Oncor agreed with these recommendations, and noted that in its current post-certification process, Oncor coordinates its activities with such regulatory agencies as the U.S. Army Corps of Engineers to obtain and comply with all required permits.<sup>11</sup> This agreement is memorialized in finding of fact 87F.

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<sup>8</sup> *Id.* at 8.

<sup>9</sup> *Id.* at 9.

<sup>10</sup> *Id.* at 7.

<sup>11</sup> *Id.* at 10.

Consistent with the above discussion of the Commission's findings regarding the TPWD's recommendations, the Commission deletes findings of fact 88 and 89.

Lastly, the Commission notes that the TPWD's final recommendation, concerning the recreational trail near the City of Holliday, is adequately addressed in finding of fact 50.

The Commission adopts the following findings of fact and conclusions of law:

### **I. Findings of Fact**

#### **Procedural History and General Project Description**

1. Oncor Electric Delivery Company LLC (Oncor) is an investor-owned electric utility providing service under Certificate of Convenience and Necessity (CCN) No. 30158.
2. On September 16, 2009, Oncor filed an application (application) to amend its CCN for a proposed Competitive Renewable Energy Zone (CREZ) 345 kilovolt (kV) transmission line within Archer, Wichita, and Wilbarger Counties as shown on the maps filed with the application. The name of the project (which was formerly the Oklaunion-Bowman 345 kV Transmission Line Project) is the Riley-Bowman 345 kV Transmission Line Project (Proposed Transmission Line Project).
3. The application requested approval to construct a new 345 kV double circuit transmission line that extends from the new Electric Transmission Texas, LLC (ETT) Riley station, located south of the intersection of Farm to Market Road (FM) 2897 and County Road 134 in the southeastern portion of Wilbarger County, Texas, through the southwestern portion of Wichita County to the existing Oncor Bowman switching station, located south of FM 1954 and east of Seel Road in the northern portion of Archer County, Texas. The Proposed Transmission Line Project is not located within any particular CREZ.
4. The right-of-way (ROW) for the Proposed Transmission Line Project will be 160 feet wide. The transmission line will be constructed on double circuit lattice steel towers using 1590-kcmil ACSR twin-bundle conductors.

5. Thirteen alternative routes, including the preferred route, were filed with the application.
6. On September 16, 2009, pursuant to P.U.C. PROC. R. 22.52(a)(3), Oncor mailed written notice by first class mail of the filing of the application, including a map, to each landowner of record, as determined by review of the current county tax rolls, that would be directly affected, as defined by P.U.C. PROC. R. 22.52(a)(3), if the application was granted.
7. On September 16, 2009, pursuant to P.U.C. PROC. R. 22.52(a)(2), Oncor mailed by first-class mail written notice of the filing of the application, including a map, to all electric utilities within five miles of the Proposed Transmission Line Project, including American Electric Power (AEP) Texas North Company, ETT, Western Farmers Electric Cooperative (WFEC), Southwest Rural Electric Association, J-A-C Electric Cooperative, Inc., and Electra Municipal Utilities, all of which are utilities providing the same utility service within five miles of the requested facilities.
8. On September 16, 2009, pursuant to P.U.C. PROC. R. 22.52(a)(2), Oncor mailed written notice of the filing of the application, including a map, to all municipalities located within five miles of the Proposed Transmission Line project, including the municipalities of Electra, Holliday, Lakeside City, and Wichita Falls.
9. On September 16, 2009, pursuant to P.U.C. PROC. R. 22.52(a)(2), Oncor provided written notice by hand-delivery or mail of the filing of the application, including a map, to all counties in which the Proposed Transmission Line Project could be located including, Archer, Wichita, and Wilbarger.
10. On September 21, 2009, the Public Utility Commission of Texas (Commission) referred this matter to the State Office of Administrative Hearings (SOAH). The order of referral listed a number of issues to be addressed in this docket.

11. On September 24, 2009, pursuant to P.U.C. PROC. R. 22.52(a), Oncor published notice of its application in the *Archer County News and Archer County Advocate*, *Wichita Falls Times-Record-News*, and the *Vernon Daily Record*, all of which are newspapers of general circulation within the counties where the CCN is being requested.
12. Notice of the application was published in the *Texas Register* on October 2, 2009.
13. A prehearing conference was held on October 6, 2009, and was attended by representatives of Oncor, Staff and the Henry family. The Henry family was granted intervenor status at the October 6, 2009 prehearing conference.
14. On October 7, 2009, Oncor filed an affidavit attesting to the delivery of notice to landowners, neighboring utilities, cities, and counties.
15. On October 15, 2009, Order No. 4 found the application was materially sufficient and contains no deficiencies and that notice was sufficient.
16. A second prehearing and a technical conference was held on October 21, 2009, and was attended by representatives of Oncor, Staff, and the Henry family.
17. On October 28, 2009, Order No. 5 granted the motions to intervene of the W.T. Waggoner Estate, Grady Stowe, and George Parkey.
18. On November 4, 2009, the City of Garland filed a motion to intervene.
19. The Texas Legislature amended section 12.0011 of the Texas Parks and Wildlife Code to require that an agency with statewide jurisdiction provide a written response to each recommendation or informational comment made by the Texas Parks and Wildlife Department (TPWD). As a result, on November 30, 2009, the Commission adopted the Supplemental Preliminary Order including issues to be addressed regarding any comments that the TPWD might provide in this proceeding.

20. The TPWD filed comments regarding this proceeding on November 13, 2009.
21. On November 13, 2009, Oncor filed a supplemental affidavit attesting to the provision of notice.
22. The City of Garland's motion to intervene was denied on November 18, 2009.
23. On December 1, 2009, the Railroad Commission of Texas (RRC) filed a request for leave to file a late motion to intervene.
24. The RRC's motion to intervene was conditionally granted on December 7, 2009, by Order No. 10.
25. On December 9, 2009, the RRC filed a response to Order No. 10 demonstrating a justiciable interest in this proceeding.
26. On December 11, 2009, Oncor, intervenors W.T. Waggoner Estate, Grady Stowe, the Henry family, and George Parkey, and Staff filed a Joint Notice of Status of Settlement. Attached to the Joint Notice of Status of Settlement was a settlement agreement executed by those parties as well as two non-parties to this proceeding, Mobil Producing Texas & New Mexico Inc. (Mobil) and John Holmes, Wayne Hallmark, and John Bills (collectively Holmes Group) regarding a settlement of this matter. The settlement agreement resolved all issues in this docket with respect to those parties. Pursuant to the settlement agreement, the parties agreed they would seek the Commission's approval of Alternative Route 20 in the application, as modified by the settlement agreement (Modified Alternative Route 20).
27. The hearing in this matter was held on December 16, 2009, limited to the issues raised by the RRC in its motion to intervene. Oncor, Staff, RRC, the Henry family, and George Parkey made appearances and participated.

28. The RRC stated on the record during the hearing on the merits that it did not oppose the settlement agreement or the selection of Modified Alternative Route 20.
29. On January 6, 2010, Oncor, Staff, W.T. Waggoner Estate, Grady Stowe, and George Parkey filed Agreed Findings of Fact and Conclusions of Law in this docket. The Henry family submitted the following statement to the parties: "The Henrys have entered into a joint settlement agreement filed in this Docket and the Henrys support approval of Modified Route 20, per the terms of this joint settlement agreement. Accordingly, the Henrys are not a participant to the agreed findings of fact and conclusions of law and reserve their right to challenge if Modified Route 20 is not selected."

**Application**

30. Oncor's application to amend its CCN is adequate. On October 15, 2009, in Order No. 4, the ALJ found Oncor's application "is materially sufficient and contains no deficiencies." The application presented an adequate number of reasonably differentiated alternative routes.
31. Oncor's application meets the filing requirements set forth in P.U.C. SUBST. R. 25.216(g)(2) and (3). In its filing, Oncor used the Commission form entitled "Application for a Certificate of Convenience and Necessity for a Proposed Transmission Line Pursuant to P.U.C. Subst. R. 25.174." Oncor filed direct testimony in support of the application at the same time the application was filed on September 16, 2009.
32. Oncor submitted its application in compliance with the orders in *Commission Staff's Petition for Selection of Entities Responsible for Transmission Improvements Necessary to Deliver Renewable Energy from Competitive Renewable Energy Zones*, Docket No. 35665 (March 30, 2009) and *Proceeding to Sequence Certificate of Convenience and Necessity Applications for the Priority Projects for the Competitive Renewable Energy Zones*, Docket No. 36801 (Jul. 8, 2009), designating the Proposed Transmission Line Project as a CREZ Transmission Plan (CTP) facility.

33. Oncor's completion of the Proposed Transmission Line Project will accomplish the intended result for the CREZ project designated as "Oklaunion-Bowman 345-kV Transmission Line Project" in the CREZ Transmission Plan and ordered by the Commission in Docket Nos. 35665 and 36801.

Route

34. Pursuant to the settlement agreement, the parties seek Commission approval of Modified Alternative Route 20.
35. No intervenor, landowner, or other entity contests the use of Modified Alternative Route 20 for the Proposed Transmission Line Project.
36. No alternative routes or facilities configurations have been proposed that would have a less negative impact on landowners.
37. Pursuant to the settlement agreement, the parties agreed to a minor modification in Alternative Route 20. The parties agreed to modify Alternative Route 20 where Route 20 traverses the Waggoner Estate, Stowe, Mobil, and Holmes Group property on portions of Links A, C, and F. The Proposed Transmission Line Project in those areas will be roughly parallel to and be constructed between two existing transmission lines that are already in place – the existing AEP 69 kV transmission line and the existing WFEC 69 kV transmission line. This modification will minimize the impact to the land owned by the W.T. Waggoner Estate, Grady Stowe, Mobil, and the Holmes Group along these portions of Links A, C, and F.
38. The accommodation is not estimated to increase the costs associated with the construction of Alternative Route 20. The intervenors and non-parties have made an adequate contribution by agreeing to support the approval of Modified Alternative Route 20.

39. Modified Alternative Route 20 will not diminish the electric efficiency or the reliability of the Proposed Transmission Line Project.
40. The estimated cost of Alternative Route 20 is less than the estimated cost of the Preferred Route or any other alternative route in Oncor's application. The estimated cost for Modified Alternative Route 20 will not vary in any material way from that for filed Alternative Route 20.
41. The ROW for Modified Alternative Route 20 will be 160 feet wide.
42. The transmission line for Modified Alternative Route 20 will be constructed on double-circuit lattice steel towers using 1590-kcmil ACSR twin-bundle conductors.

**Engineering Constraints**

43. There are no known significant engineering constraints along Modified Alternative Route 20.

**Community Values**

44. Oncor retained Halff Associates Incorporated (Halff) to perform an independent Environmental Assessment and Routing Study for the Proposed Transmission Line Project. Oncor and Halff sought input regarding the routing of the Proposed Transmission Line Project from residents, landowners, public officials, and other interested parties. In connection with their work, Halff sent letters to the mayor, council members, and other officials of the municipalities of, among others, Electra, Holliday, Iowa Park and Vernon as well as to county officials in Archer, Wichita, and Wilbarger, and to other state and federal officials.
45. In addition to those letters, representatives from Oncor and Halff held two public open-house meetings on April 22, 2009, in Electra and on April 23, 2009, in Holliday to provide information about the Proposed Transmission Line Project, including potential benefits, impacts of the project, and the certification process, and to obtain input from the

public that would ensure that the values and concerns of the public were adequately identified and considered. Oncor sent notice of those meetings to approximately 242 individual landowners who own property within 500 feet of the centerline of each preliminary route segment. Oncor also published notice of these public meetings in local newspapers.

46. Information received from the public open-house meetings and from local, state and federal officials and agencies was considered and incorporated into the Environmental Assessment and Routing Study prepared by Halff and was considered by Oncor in the eventual selection of the preferred and alternative routes Oncor filed with the application.
47. There are no commercial AM radio transmitters located within 10,000 feet of the centerline of Modified Alternative Route 20.
48. There is one FAA-registered airport within 20,000 feet of Modified Alternative Route 20. There are no private, unnamed airstrips within 10,000 feet of Modified Alternative Route 20. There are no heliports within 5,000 feet of Modified Alternative Route 20.
49. Modified Alternative Route 20 does not traverse any cropland irrigated by mobile irrigation systems.

**Recreational and Park Areas**

50. Only one recreational area, a recreational trail owned by the North Texas Rural Rail Transportation District, is within 1,000 feet of the centerline of Modified Alternative Route 20. Modified Alternative Route 20 crosses this recreational trail. No other recreational areas or parks owned by a governmental body or an organized group, club, or church are located within 1,000 feet of the centerline of Modified Alternative Route 20.
51. Modified Alternative Route 20 will not impact the use and enjoyment of the recreational trail discussed above.

**Historical Values**

52. Approximately 6.7 percent of Modified Alternative Route 20 traverses areas of high archeological or historical-site potential. Modified Alternative Route 20 does not cross any recorded cultural-resource sites. There are two recorded cultural-resource sites known to exist within 1,000 feet of the centerline of Modified Alternative Route 20.
53. Staff recommends that in the event Oncor or any of its contractors encounter any artifacts or cultural resources during project construction that work shall cease immediately in the vicinity of the resource and the discovery shall be reported to the Texas Historical Commission (THC) and that Oncor will take action as directed by the THC.

**Aesthetic Values**

54. Approximately 11,453 feet of the ROW for Modified Alternative Route 20 are within the foreground visual zone of parks and recreations areas.
55. Approximately 28,183 feet of the ROW for Modified Alternative Route 20 are located within the foreground visual zone of U.S. and state highways.

**Environmental Integrity**

56. In connection with preparing the Environmental Assessment and Routing Study, Halff contacted the TPWD, the U.S. Fish and Wildlife Services, and the Natural Resources Conservation Service to obtain information regarding the possibility of encountering any endangered or threatened fauna or flora, sensitive communities, or special environmental concerns.
57. Oncor and Halff appropriately performed an evaluation of the impacts of the Proposed Transmission Line Project on endangered or threatened species.
58. No known rare or unique plant species occur within the ROW of Modified Alternative Route 20 and there will be no impact on any rare or unique plant species as a result of the construction of Modified Alternative Route 20.

59. Modified Alternative Route 20 does not cross through any known habitat of endangered or threatened species.
60. The process of transmission line construction and operation is not likely to have a negative effect on endangered or threatened wildlife species that could potentially occur in the area of Modified Alternative Route 20.
61. With the exception of minor erosion that may occur during the clearing of the ROW, no impact is expected on the soils in the project area for Modified Alternative Route 20.
62. There is no anticipated impact on water resources in the area due to the construction, operation, and maintenance of Modified Alternative Route 20.
63. The construction, operation, and maintenance of Modified Alternative Route 20 is not expected to adversely affect groundwater resources within or in the vicinity of the area.
64. The Proposed Transmission Line Project is not located either in whole or in part within the Texas Coastal Management Program boundary.
65. Modified Alternative Route 20 will have no significant adverse impact on park areas, community, historical or aesthetic values, or environmental integrity.

**Goal for Renewable Energy**

66. 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.

67. 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 energy generated in the CREZ.

**Consideration of P.U.C. Subst. R. 25.101(b)(3)(B)**

68. Approximately 64 percent of the total length of Modified Alternative Route 20 parallels existing transmission lines.
69. Approximately 87 percent of the total length of Modified Alternative Route 20 parallels existing compatible ROW.

**Prudent Avoidance**

70. Modified Alternative Route 20 complies with the policy of prudent avoidance.
71. There are 14 habitable structures within 500 feet of the centerline of Modified Alternative Route 20.

**Financial Commitment**

72. Pursuant to P.U.C. SUBST. R. 25.174(d)(10), no financial commitment is needed since this is a priority line as designated by the Commission.

**Proposed Modifications from the CTO**

**Riley Endpoint**

73. The Proposed Transmission Line Project is a CREZ priority project that consists of constructing a new 345-kV double-circuit transmission line that extends from the new ETT Riley station to the existing Oncor Bowman switching station. The Riley station will be located south of the intersection of Farm to Market Road (FM) 2897 and County Road 134 in the southeastern portion of Wilbarger County, Texas. The Bowman switching station is located south of FM 1954 and east of Seel Road in the northern portion of Archer County, Texas.

74. The CREZ Transmission Optimization Study (CTO) proposed terminating the line at the AEP-owned Oklaunion generating station. AEP informed both ERCOT and Oncor that terminating at the Oklaunion station was not feasible due to space limitations. AEP therefore proposed a new western endpoint at the new Riley station, which will be located approximately one mile east of the Oklaunion station.
75. AEP, an affiliate of ETT, informed ERCOT of the need to terminate the Proposed Project at the Riley station. ERCOT concluded that the change was both cost-effective and consistent with the intent of the CTO, and ERCOT approved Riley as an expansion of the originally planned endpoint at Oklaunion on September 10, 2009. ERCOT noted in its September 10, 2009 letter that the Riley station "is not a different endpoint for the circuits, but rather an extension of the existing Oklaunion substation required by siting requirements and space limitations."
76. As noted in the September 10, 2009 ERCOT letter, the move from the Oklaunion station to the new Riley station is necessary because the existing "Oklaunion substation cannot be expanded to handle the eight new circuits." ERCOT also concluded in that letter that the construction of the Riley station "is a reasonable and a cost-effective change to the CREZ Transmission Plan (CTP) and, as such, is consistent with the CTO Study."
77. The costs associated with the line termination at the Riley station are not included in this docket and will be incurred by ETT.

***Project Length***

78. Based on a straight-line length analysis, the CTO estimated that the Oklaunion to Bowman project was 37 miles long. The actual straight-line distance from Oklaunion to Bowman is approximately 38 miles. As noted by ERCOT in the CTO, "[t]he planning level costs of new transmission lines were estimated using straight-line lengths for the purposes of [the CTO]. It is likely that, during the routing process for individual transmission lines, the overall length of a line may increase from these straight-line estimates, due to land use and similar considerations."

79. Oncor has determined that the length of the Proposed Transmission Project using Modified Alternative Route 20 is approximately 42.67 miles long.

***Upgrades to Bowman Station***

80. To accommodate the new CREZ circuits that will connect to the Bowman station, the Bowman station must be upgraded and expanded. Station work that was not identified in the CTO was required to the Bowman station for this and other CREZ projects. CREZ projects that will connect to the Bowman station are designed to operate at approximately 5,000 amperes. The existing bus work at Bowman does not possess this operational capacity and thus required upgrading to operate at approximately 5,000 amperes. Additionally, given the two new CREZ circuits from this Proposed Transmission Line Project and other circuits that will terminate at the Bowman station, the station required expansion and reconfiguration to a breaker and a half format. While a cost estimate was not included for this work in the CTO, as explained in ERCOT's letter of September 10, 2009, this work was contemplated in the CTO and is necessary to achieve the goals of the CTO.
81. The costs associated with the station work at the Bowman station are not included in the project costs in this docket. Those costs are captured in the CREZ Default project *Bowman Switching Station to Jacksboro Switching Station 345 kV Transmission Line Project*, Docket No. 37015 (Sept. 29, 2009).
82. The proposed modifications to the Proposed Transmission Line Project from the CREZ order and CTO are necessary to handle the capacity of the new CREZ circuits; the modifications achieve technical efficiencies, are cost-effective, reliable, and are consistent with the CREZ Transmission Plan.

***Estimated Costs***

83. In the CTO study, the estimated cost for the Oklaunion to Bowman 345-kV Transmission Line Project was \$62,160,000.

84. In the application, the total cost for construction of the Proposed Transmission Line Project along Alternative Route 20 is estimated to be approximately \$46,180,000. Alternative Route 20 is estimated to be less expensive than any other route filed by Oncor in its application.

85. The estimated cost for Modified Alternative Route 20 will not vary in any material way from that for filed Alternative Route 20.

***TPWD's Written Comments and Recommendations***

86. TPWD filed a comment letter dated November 12, 2009 in this docket on November 13, 2009.

87. No modifications to the Proposed Transmission Line Project are required as the result of the recommendations and comments made by TPWD in its November 12, 2009 letter.

87A. The TPWD stated that the project area lies within the migratory route used by the federal and state listed endangered whooping crane. Upon approval of Oncor's application, Oncor will identify whooping-crane locations and use best practices to avoid or minimize potential impact to that federally listed endangered species.

87B. Oncor will comply with all applicable regulatory requirements in constructing the proposed transmission line. Oncor currently uses permitted biological monitors to ensure compliance with the Endangered Species Act and other applicable regulatory requirements. Additionally, Oncor stated that it would, if required by the Commission, expend the resources necessary to monitor for the Texas horned lizard and the Texas kangaroo rat during the clearing and construction activities for the transmission line.

87C. It is neither practical nor necessary to perform a comprehensive biological evaluation of the entire transmission-line study area before the Commission issues a final order identifying the actual route to be used for constructing the transmission line. Once the

route is selected, Oncor will have the right of entry to conduct the necessary surveys and to determine whether any federally listed species' habitat is present.

87D. There is no evidentiary basis for requiring Oncor to avoid all clearing activities during the months of March through August.

87E. The method recommended by the TPWD for clearing ROW for constructing and maintaining a transmission line does not promote safety and reliability as well as Oncor's long-time method, which normally involves the removal of all trees, brush, and undergrowth, other than low-growing ground cover.

87F. Oncor agrees with the TPWD's recommendations for avoiding impacts on water resources in the project area and to obtain a permit from the TPWD for any disturbance of state-owned resources. Oncor's current post-certification process includes an assessment to determine potential impacts on water resources in the project area. Oncor coordinates with regulatory agencies such as the United States Army Corps of Engineers, applies for and obtains all required permits, and complies with all conditions to the issued permits.

88. Deleted.

89. Deleted

***Probable Improvements of Service or Lowering of Costs to Consumers***

90. Modified Alternative Route 20 will be financed by Oncor with a combination of debt and equity in compliance with its authorized capital structure.

91. Modified Alternative Route 20 provides the lowest overall cost for the needed improvements when compared to the alternatives.

92. Improved service and reliability will result from the Modified Alternative Route 20 and will inure to the benefit of electric customers.

***RRC Proposal***

93. RRC mapping records show 147 oil and gas well sites, including 29 existing wells that are not plugged, located within the 160 foot corridor for Route 20.
94. Oncor 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.
95. Oncor routes around active oil and gas wells when routing a transmission line.
96. There is no evidence in the record to indicate that plugged, inactive oil and gas wells constitute a potential routing constraint.
97. Deleted.

**II. Conclusions of Law**

1. Oncor is an electric utility as defined in Public Utility Regulatory Act (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. SOAH has jurisdiction over this proceeding pursuant to PURA § 14.053 and TEX. GOV'T CODE ANN. § 2003.049 (Vernon 2008).

4. Oncor provided proper notice of the application in compliance with PURA § 37.054 and P.U.C. PROC. R. 22.52(a).
5. 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).
6. Oncor is entitled to approval of the application as described in the findings of fact utilizing Modified Alternative Route 20, taking into consideration the factors set out in PURA § 37.056.
7. Modified Alternative Route 20 complies with the Commission's policy of prudent avoidance.
8. Weighing the factors set forth in PURA § 37.056(c)(4), excluding 4(E), and P.U.C. SUBST. R. 25.101(b)(3)(B), Modified Alternative Route 20 is the best alternative route. Modified Alternative Route 20 complies with the routing factors in PURA § 37.056 and P.U.C. SUBST. R. 25.101.
9. The Proposed Transmission Line 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 Proposed Transmission Line Project is consistent with and in furtherance of the goals and mandates of PURA § 39.904.

11. Oncor has complied with P.U.C. SUBST. R. 25.101 and 25.174(d) in its application for a CCN.

### III. Ordering Paragraphs

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

1. Oncor's CCN No. 30158 is amended and Oncor's application to build a new 345-kV double-circuit transmission line that extends from the Riley station to the existing Oncor Bowman switching station is approved. The Proposed Transmission Line Project will follow the route described as Alternative Route 20 in the application as modified by the December 2, 2009 settlement agreement filed in this proceeding on December 11, 2009.
2. In the event Oncor or its contractors encounter any archaeological artifacts or other cultural resources during construction of the transmission line, Oncor shall cease work immediately in the vicinity of the resource and report the discovery to the THC and take action as directed by the THC.
3. Oncor shall follow the procedures outlined in the following publication 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.
4. Oncor shall exercise extreme care to avoid affecting non-targeted vegetation or animal life when using chemical herbicides to control vegetation within the ROW.
5. Oncor shall minimize the amount of flora and fauna disturbed during construction of the transmission line, except to the extent necessary to establish appropriate ROW clearance for the transmission line. In addition, Oncor shall re-vegetate using native species considering landowner preferences and to the maximum extent practical avoid adverse

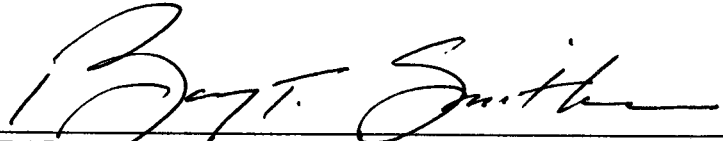
environmental impacts to sensitive plant and animal species and their habitats as identified by TPWD and the U.S. Fish and Wildlife Service.

6. Oncor shall implement erosion-control measures as appropriate and return the site to its original contours and grades unless otherwise agreed to by the landowners. Oncor also shall take measures to minimize impacts on water resources. Consistent with its post-certification process, Oncor shall assess the project area to determine potential impacts on water resources, and shall coordinate its activities with regulatory agencies, apply for and obtain all required permits, and comply with all conditions to the issued permits.
7. Oncor shall cooperate with directly affected landowners to implement minor deviations in the approved route to minimize the impact of the transmission line. 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 (RRC), 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 the 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 and the chairman of the RRC.
9. Oncor shall identify whooping-crane locations and use best practices to avoid or minimize potential impact on that federally listed endangered species.

10. Oncor shall implement its process for monitoring the impact on federally listed endangered species during construction, as by employing permitted biological monitors to ensure compliance with the Endangered Species Act and other applicable regulatory requirements.
11. Oncor shall update the reporting of this project on its 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.
12. All other motions, requests for entry of specific findings of fact or conclusions of law, and any other requests for general or specific relief, if not expressly granted, are denied.

SIGNED AT AUSTIN, TEXAS on the 11<sup>th</sup> day of March 2010.

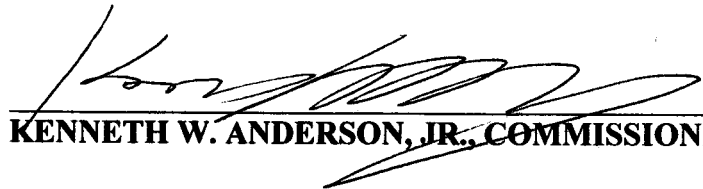
**PUBLIC UTILITY COMMISSION OF TEXAS**



**BARRY T. SMITHERMAN, CHAIRMAN**



**DONNA L. NELSON, COMMISSIONER**



**KENNETH W. ANDERSON, JR., COMMISSIONER**