

**PUC DOCKET NO. 37463  
SOAH DOCKET NO. 473-10-0709**

**APPLICATION OF ONCOR ELECTRIC  
DELIVERY COMPANY LLC TO AMEND  
A CERTIFICATE OF CONVENIENCE  
AND NECESSITY FOR THE NEWTON –  
KILLEEN CREZ 345-KV  
TRANSMISSION LINE IN BELL,  
BURNET, AND LAMPASAS 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, LLC to amend its certificate of convenience and necessity (CCN) to include a new Competitive Renewable Energy Zone (CREZ) priority project: the Newton to Killeen double-circuit, 345-kV line. The Newton to Killeen line extends from Oncor's new Newton switching station in Lampasas County to the existing Killeen switching station in Bell County.

On March 1, 2010, the State Office of Administrative Hearings' (SOAH) administrative law judges (ALJs) issued a proposal for decision in which the judges recommended granting Oncor's application. The ALJs recommended that the Commission adopt Oncor's alternative Newton to Killeen route 207 because it best meets the considerations set forth in the preliminary order. The Commission agrees with the ALJs' recommendations and adopts the proposal for decision issued by the ALJs in this proceeding, including findings of fact and conclusions of law, with some modifications.

The Commission modifies findings of fact 1 and 16 in order to correctly reflect the record. Additionally, in order to more explicitly address the recommendations and comments contained in the letter submitted by the Texas Parks and Wildlife Department (TPWD) on December 16, 2009, the Commission makes several changes. The Commission modifies the following findings of fact: 117, 118, and 127; deletes the following findings of fact: 115 and 125; and adopts the following new findings of fact: 115, 115A, 115B, 124A, and 125. Furthermore, the Commission modifies findings of fact 23, 81, 113, 114, and conclusion of law 9 to replace

references to Docket No. 35665 with references to Docket No. 37928. Finally, the Commission adds finding of fact 30A to reflect its decision that Oncor should use monopole structures along part of the route.

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. 30160.
2. On October 7, 2009, Oncor filed an Application to Amend its CCN for the Newton - Killeen 345-kV (kilovolt) CREZ Transmission Line Project ("project") in Bell, Burnet, and Lampasas Counties ("application"). The project consists of a new 345-kV double-circuit transmission line, extending from Oncor's new Newton switching station in Lampasas County to Oncor's existing Killeen switching station in Bell County.
3. On October 7, 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 Killeen, Harker Heights, Lampasas, Kempner, and Copperas Cove; (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 Bell, Burnet, and Lampasas Counties; (3) provided notice of the application to each neighboring utility providing the same utility service within five miles of the requested facilities, including Bartlett Electric Coop, Inc., City of Lampasas Public Utilities, Hamilton County Electric Cooperative, Lower Colorado River Authority, and Pedernales Electric Cooperative; 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.

4. On October 12, 2009, the Public Utility Commission (PUC or Commission) referred the Application to the State Office of Administrative Hearings (SOAH).
5. Oncor published notice of its Application in the *Killeen Daily Herald* and *Copperas Cove Leader Press* on October 13, 2009, the *Burnet Bulletin* on October 14, 2009, and the *Harker Heights Evening Star* on October 16, 2009, all of which are newspapers of general circulation within the counties where the CCN is being requested.
6. On October 16, 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).
7. On October 21, 2009, Commission Staff recommended that Oncor's application be found sufficient.
8. Oncor filed its affidavit attesting to the provision of notice to cities, counties, neighboring utilities, and landowners on October 28, 2009.
9. Oncor published additional notice in the *Lampasas Dispatch Record*, a third newspaper of general circulation in Lampasas County, on October 30, 2009.
10. On October 30, 2009, Staff recommended that Oncor's notice be found sufficient.
11. Oncor supplemented its application on November 3, 2009.
12. On November 4, 2009, the City of Garland filed a motion to intervene. Both Oncor and Staff filed motions objecting to the City of Garland's motion to intervene.
13. In Order No. 2, issued on November 6, 2009, the Administrative Law Judges (ALJs) found Oncor's notice and application sufficient.
14. Order No. 3, issued on November 24, 2009, memorialized the November 18 prehearing conference where the ALJs granted a number of motions to intervene and aligned the parties. The order also established a procedural schedule, approved service-by-email, and denied the City of Garland's motion to intervene.

15. On December 1, 2009, the Commission issued a supplemental preliminary order that required certain additional issues to be addressed regarding recommendations and comments made by TPWD.
16. In Order No. 4, issued on December 8, 2009, the ALJs approved a protective order, established hearing procedures, granted the motion to intervene of the Railroad Commission of Texas, and clarified the list of parties, as reflected on PFD Attachment A.
17. On December 9, 2009, the Railroad Commission of Texas withdrew its request to intervene.
18. On December 16, 2009, TPWD filed its letter containing comments and recommendations regarding the proposed project.
19. In Order No. 5, issued on December 18, 2009, the ALJs struck a number of intervenors on the grounds that they failed to file statements of position, failed to file direct testimony, or withdrew from the proceeding.
20. The hearing on the merits convened on January 18, 2010 and concluded on January 20, 2010. The record closed on February 8, 2010, with the filing of reply briefs.

**Project Description**

21. The Project consists of a new double-circuit 345-kV transmission line extending from Oncor's new Newton switching station in Lampasas County, located west of the town of Kempner, Texas, northwest of the intersection of U.S. Highway 190 and Farm-to-Market Road 2313, to Oncor's existing Killeen switching station, located on Featherline Road, north of Chaparral Road, in Killeen, Bell County, Texas. Using Route 207, as recommended by the ALJs, the project is approximately 28.4 miles in length and will be constructed on double-circuit lattice steel towers with both circuits in place. Both circuits will be installed using 1590 kcmil ACSR conductor. The project will be constructed on a 160 foot right-of-way (ROW).

22. The Project is a Competitive Renewable Energy Zone (CREZ) priority project.
23. The Project will accomplish the intended results for the CREZ priority project designated as the “the Newton to Killeen double-circuit 345-kV line” and ordered by the Commission in *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), and *Priority Projects Severed from Docket No. 37902 (Remand of Docket No. 35665 (Commission Staff’s Petition for Selection of Entities Responsible for Transmission Improvements Necessary to Deliver Renewable Energy from Competitive Renewable-Energy Zones))* Docket No. 37928, (Feb. 25, 2010).

### Routes

#### ***Routing of the Project***

24. Oncor retained URS Corporation, Inc. (URS), to prepare an environmental assessment and alternative route analysis (environmental assessment) for the project.
25. Oncor filed one preferred route (route 308) and 39 alternative routes.
26. Oncor considered and submitted a sufficient number of geographically diverse routes for the project.
27. Staff, as well as the intervenors aligned with Save the Lampasas River (STLR), supported Route 281.
28. Intervenors represented by the MMM Intervenors group supported Route 207, or in the alternative supported Route 308 or any route which does not use Link MMM.
29. Route 207 is the most desirable route because it minimizes the negative impact to the Lampasas River valley that would be caused by Oncor’s preferred Route 308 and best meets the considerations set forth in the Commission’s preliminary order in this docket.
30. There are no alternative routes or facility configurations that would have a less negative impact on landowners.

- 30A. To reduce negative impacts to the surrounding areas, route 207 will be constructed using monopole structures from the junction of links PP2 and UU, northward along link PP2 for one mile and northeast along link UU until that link intersects with Highway 195.
31. No other utilities will be affected by or involved in the construction of the Project.
32. One other CREZ transmission line, to be constructed by LCRA Transmission Services Corporation (LCRA TSC), will connect to Oncor's Newton Switching Station. Link FFF was not considered for use in the Project in order to allow LCRA TSC a corridor to enter into the Newton Switching Station from the southwestern corner of the station.

*Community Values*

33. Oncor and URS held two public open house meetings. The first meeting was held on June 4, 2009 at the Harker Heights Event Center. A total of 104 individuals signed in at this meeting. The second meeting was held on June 5, 2009 at VFW Post 8577, and 118 individuals signed in at this meeting.
34. Information received from the public open-house meetings and from local, state and federal agencies was considered and incorporated into both URS' routing analysis and the eventual selection by Oncor of preferred and alternative routes.
35. The substantial weight of evidence in the record demonstrates that the communities in the Lampasas River valley, including Oakalla, Maxdale and Ding Dong, have a deep and sustained appreciation of the natural and human resources offered by the river and the surrounding areas.
36. Route 207 minimizes impact on the use of the Lampasas River area as a recreational and natural resource for scenic and pleasure drives, hunting, fishing, kayaking, ranching, grazing and related activities by landowners, local residents and members of the public.
37. Route 207 preserves the use of the Lampasas River area as a human resource with a number of facilities for group gatherings, celebrations, weddings, funeral dinners, retreats, and religious, educational and business purposes.

38. Route 207 does not impair the use of Parrie Haynes Ranch (PHR) for corporate retreats, conferences, equestrian activity and youth activities, or the use of Bowmer Ranch for a respite care facility for chronically and critically ill children.
39. Route 207 does not affect the helipad at the Oakalla Volunteer Fire Department, which provides public safety, first responder, and related functions for a large portion of the Lampasas River valley and surrounding areas.
40. The Commissioners of Burnet County, Texas passed a resolution recognizing County Road (CR) 223 as a "scenic road within Burnet County," noting that the road is known for its scenic drives, wildlife habitat, historical use by early settlers, and continued use in the present day. Route 207 does not affect CR 223.
41. The proposed second runway at Fort Hood's Robert Gray Army Airfield, approved by the Federal Aviation Administration (FAA) in January 2007, has not been built and no funding has been allocated for its construction.
42. The evidence indicates that neither route 207 nor any other proposed route requires an easement on Fort Hood property or would cross onto Fort Hood. There is no credible evidence that route 207 would need to be relocated or buried if the second runway is built on Fort Hood.
43. Route 207 crosses 93,277 feet of agricultural pastureland.
44. Route 207 parallels existing transmission lines for 44 percent of its length and minimizes damage to previously untouched land.

***Recreation and Park Areas***

45. The Lampasas River and surrounding areas did not constitute parks or recreational areas as those terms were used by URS. However, the significant weight of evidence in the record indicates numerous and extensive uses of the area for scenic and pleasure drives, hunting, fishing, kayaking, ranching, grazing, equestrian activities, and community and group gatherings of various sorts.

46. Route 207 minimizes the impact to the use of the Lampasas River valley as an important recreation and park area.
47. Route 207 crosses parkland identified by URS, but does so primarily across the northern boundary of Parrie Haynes Ranch, along less-used portions and parallel to an existing Oncor transmission line constructed in 2005.

***Historical Values***

48. Route 207 crosses nine recorded cultural resources sites.
49. Three recorded cultural resource sites are reported to be within 1,000 feet of route 207.
50. Route 207 parallels existing transmission lines for 44 percent of its length. Route 207 uses or parallels existing compatible corridors (including apparent property boundaries) for approximately 88 percent of its length (131,643 feet of the 149,800 feet of total length of the route).
51. The impact of route 207 on historical and archeological resources has already been specifically analyzed and potentially mitigated for much of its length.
52. Staff recommends that, in the event Oncor or its contractors encounter any artifacts or other cultural resources during project construction, work should cease immediately in the vicinity of the resource and the discovery should be reported to the Texas Historical Commission.

***Aesthetic Values***

53. Approximately eight miles of route 207 lie within the foreground visual zone of parks and recreational areas and approximately 3.33 miles within the foreground visual zone of a state or U.S. highway.
54. Route 207 primarily crosses the foreground visual zones of parks and recreational areas with respect to the northern boundary of Parrie Haynes Ranch, where route 207 also parallels an existing transmission line constructed in 2005.

55. Route 207 has minimal aesthetic impact on the scenic views afforded by the Lampasas River valley.
56. Where route 207 is closest to the Lampasas River, it is still further away than an existing 138-kV transmission line that already affects aesthetic considerations.

***Environmental Integrity***

57. Oncor retained URS to prepare an environmental assessment for this project.
58. URS contacted the United States Fish and Wildlife Service (USFWS) and the Texas Parks and Wildlife Department (TPWD) to obtain information regarding the possibility of encountering any endangered or threatened species in the area affected by the project.
59. No significant impacts to land use, ecological, geological, hydrological, or wetland resources are anticipated as a result of the construction on any of the alternative routes; however, because of the environmental concerns around the Lampasas River, the route should avoid paralleling the river if possible, except where there is an existing transmission line, such as route 207.
60. The environmental assessment prepared by URS analyzed the possible impacts of the project on numerous different environmental factors.
61. While there is potential for soil erosion during the initial clearing of the right-of-way until vegetation cover reestablishes, the construction and operation of transmission lines normally create very few long-term adverse impacts on soils.
62. The possibility of soil erosion during initial clearing can be mitigated through following a Storm Water Pollution Prevention Plan (SWPPP) and revegetation of the area immediately following construction.
63. Oncor plans to develop and implement a SWPPP to reduce possible erosion.
64. Construction of route 207 will not have significant impact to prime farmland.

65. The construction of route 207 should have little adverse impact on the surface water or ground water resources of the area.
66. Any stream that would be crossed by route 207 would be spanned by the transmission line, and the supporting structures will not be placed in any streambed.
67. Any short-term effects associated with the construction of route 207 or any of the routes will be minor as a result of the relatively small area to be disturbed at any particular time, the short duration of the construction activities, preservation of stream-side vegetation where practical, Oncor's efforts to manage runoff from construction areas, and implementation of the SWPPP.
68. Construction of route 207 has the potential to have minor impacts on plant and animal species in the area.
69. While the majority of route 207 will be constructed on land that has already been cleared for existing corridors or land used primarily as cropland or pastureland, all of the alternative routes would require a minimal amount of clearing in existing upland and riparian/bottomland woodland areas.
70. Construction of route 207 could have minor impact on local wildlife. The clearing of brush and rangeland habitat in the right-of-way along with the increased noise and activity levels can impact some wildlife, particularly during construction.
71. There are no federally listed or state listed plants known to occur in Lampasas, Burnet, or Bell Counties; therefore, route 207 does not pose any significant risk of impact to endangered plant species.
72. Route 207, like all other proposed routes in the study area, has the potential to impact the federally-endangered golden-cheeked warbler and black-capped vireo (habitat for both has been found in the area).
73. Route 207 minimizes most of the environmental concerns associated with placing the transmission line near the Lampasas River.

74. Because route 207 parallels an existing Oncor 138-kV transmission line, many of the environmental concerns have already been addressed during the construction of the existing transmission line.
75. Although route 207 passes through 4,738 more feet of endangered species habitat than route 281, this is less significant because the increase is along links PP2, UU, and WWW, the location of the existing 138-kV transmission line.
76. Construction of the route along link MMM could cause more disruption to endangered species habitat because it does not parallel an existing transmission line or other right-of-way corridor; therefore, a new 160-foot transmission corridor would need to be constructed very close to the habitat of the golden-cheeked warbler and the black-capped vireo.
77. Route 207 avoids coming within .5 miles of the Lampasas River for most of its length. A very small portion of route 207 comes within a 1,000 feet of the river at links PP2 and UU.
78. Because route 207 is some distance from the Lampasas River, it will not disrupt the habitat or foraging of the bald eagles or whooping cranes.
79. Route 207 is not within 1.3 miles of the two sited bald eagle nests.
80. With the selection of route 207, concerns such as the impact on riparian species (Guadalupe bass and mussels), crossing of the Lampasas River and Rocky Creek, paralleling streams within 100 feet, avoiding springs, crossing open water, and crossing wildlife management programs are eliminated or greatly minimized.

**Goal for Renewable Energy**

81. To fulfill the renewable energy goals established by the Legislature in Section 39.904(a) of the Public Utility Regulatory Act (PURA), TEX. UTIL. CODE ANN. §§ 11.001-66.017, the Commission adopted, in *Commission Staff's Petition for Designation of Competitive Renewable-Energy Zones*, Docket No. 33672 (Oct. 7, 2008), a transmission plan to

deliver renewable energy to market and, in Docket No. 37928, designated certain transmission service providers to build the required transmission facilities.

82. In Docket No. 33672, the Commission determined that the transmission facilities identified in its final order, including the Newton – Killeen transmission line, were necessary to deliver to customers renewable energy generated in the CREZ.

**Compatible Corridors**

83. Route 207 uses or parallels existing compatible corridors (including apparent property boundaries) for approximately 88 percent of its length (131,643 feet of the 149,800 feet of total length of the route).
84. Route 207 parallels more existing transmission line than routes 281 and 308.
85. Because route 207 parallels existing transmission line for a significant portion of the route, it avoids more habitable structures than routes 281 and 308.

**Prudent Avoidance**

86. Oncor considered and avoided population centers and other locations where people gather and live when routing all of its proposed routes for the project.
87. Route 207 has 55 habitable structures located within 512 feet of its centerline, less than route 281 (64 habitable structures) and route 308 (96 habitable structures).
88. Route 207 complies with the Commission's prudent avoidance policy.

**Engineering Constraints**

89. Flood plain, elevation changes, water wells, and river/creek crossings are constraints that Oncor often faces in constructing transmission lines; however, Oncor has substantial experience in finding workable solutions for engineering constraints.
90. Oncor has sufficient flexibility to modify the route to address issues such as elevation changes, flood plain, and water wells.

91. Although route 207 may present minor flood plain issues that would require a reinforced foundation near the river, Oncor has significant experience in building transmission lines in the flood plain where this would not become a problem.
92. At the portion of route 207 near the Lampasas River (at links PP2 and UU), there is an existing Oncor 138-kV transmission line; therefore, Oncor has already dealt with the flood plain issue in this area.
93. Route 207 presents no major engineering constraints for Oncor.

**Alternative Options to the Project**

94. Route 207 has minimal impact to landowners in the Lampasas River valley.
95. Route 207 has the least negative impact to landowners of the routes considered in this docket.
96. Staff recommends that Oncor cooperate with directly affected landowners to implement minor deviations in the approved route to minimize the impact of the project, provided that such minor deviations only directly affect landowners who received notice of the transmission line in accordance with P.U.C. PROC. R. 22.52(a)(3), and directly affect only those landowners that have agreed to the minor deviation.
97. No intervenor entered testimony indicating that they have offered to offset any additional costs associated with any requested accommodations due to landowner preferences.

**Financial Commitments**

98. Pursuant to P.U.C. SUBST. R. 25.174(d)(10), no showing of financial commitment is required in this docket.

**Proposed Modifications to the Scope of Work Contained in the CTO Study**

99. The CREZ Transmission Optimization Study (CTO Study) proposed terminating one circuit at the Killeen switching station while one circuit would continue to the existing Oncor Salado switching station.

100. Oncor proposes to have both circuits of the project terminate at the Killeen switching station.
101. The CTO Study did not identify a precise location for new switching stations.
102. Based on the general locations identified in the CTO study, Oncor has acquired the real property for the location of the new Newton switching station.
103. The CTO study estimated distance using only straight-line lengths.
104. Due to land use and other constraints, route 207 measures approximately 28.4 miles. Oncor's preferred route 308 measures approximately 31 miles.
105. Termination of the second circuit of the project at the existing Killeen station will allow addition of a second autotransformer at Killeen, thus providing needed voltage support to the Killeen area and increasing reliability to the load in that area.
106. Oncor submitted information regarding the modifications to the Electric Reliability Council of Texas (ERCOT) and ERCOT has recommended that Oncor's modifications to the CTO study are both cost-effective and consistent with the intent of the CTO study.

**Proposed Modifications to the Cost Estimated in the CTO Study**

107. The CTO study estimated the Newton to Killeen transmission line would cost \$7,280,000.
108. It is not clear how ERCOT made this cost estimate, but some of the cost of the current project was likely included in the Brown to Newton/Salado double-circuit 345-kV transmission line project.
109. Calculation of a CTO study estimate based on a CTO study per mile cost of \$1.68 million times the 31 mile length of the project ( $1,680,000 \times 31$ ) yields a CTO study estimate of \$52,080,000.
110. The estimated transmission line cost for the Newton-Killeen routes ranges from \$44,808,000 to \$62,613,000.

111. The estimated cost for the necessary work at the Killeen Station is \$3,110,000.
112. Route 207 costs approximately \$51,002,000.

**Need for the Proposed Transmission Line**

113. The Newton-Killeen Project was specifically listed as CREZ priority project in the Commission's final orders in Docket Nos. 36801 and 37928.
114. As a CREZ transmission project identified in Docket Nos. 36801 and 37928, 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.

**TPWD's Written Comments and Recommendations**

115. On December 16, 2009, TPWD filed a letter with comments and recommendations in this docket. This order only addresses those recommendations and comments which are supported by record evidence.
- 115A. No modifications to the project should be made in response to the comments included in the TPWD comment letter because TPWD's recommendations are either already part of the normal post-certification construction process or TPWD's recommendations are not necessary, not operationally practical, or do not take into consideration all elements of PURA § 37.056 and P.U.C. SUBST. R. 25.101.
- 115B. The mitigation measures recommended by Commission Staff in the present proceeding and typically included in the Commission's final order for CCN proceedings are included in this order and are represented in ordering paragraphs 3, 5 and 6.
116. Oncor must comply with all environmental laws and regulations governing endangered species.
117. Once a route has been approved 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.
118. With route 207, many of TPWD concerns are addressed, especially the recommendation that the transmission line not come within a half mile of the Lampasas River. Route 207 complies with this recommendation except for a very small portion of the route where the existing 138-kV transmission line is located. Additionally, selection of route 207 minimizes any impacts on endangered whooping cranes.
  119. Mitigation measures relating to raptor protection, herbicide use, flora and fauna disturbance, and erosion control are part of Oncor's standard practice.
  120. 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.
  121. Performing a biological assessment of the entire study area before a route is selected will cause extensive delays and significant cost increases. Oncor will perform a biological assessment once a route is selected.
  122. 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.
  123. Oncor currently complies with all aspects of the Migratory Bird Treaty Act.
  124. Oncor should use best management practices to minimize the potential impact to migratory birds near the Lampasas River.
  - 124A. No modifications or amendments need to be made to Oncor's Environmental Assessment in light of TPWD's recommendations.
  125. An absolute restriction on vegetation clearing activities during the general bird nesting season, which is March through September, is neither reasonable nor practical.

126. Oncor's current method of clearing right-of-way has been used for years and is necessary to ensure the safety and reliability of the line.
127. 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.

## **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.
6. This docket was processed in accordance with the requirements of PURA and the Administrative Procedure Act, TEX. GOV'T CODE ANN. Chapter 2001.
7. Oncor is entitled to approval of the Application, as described in the findings of fact, using route 207, taking into consideration the factors set out in PURA § 37.056 and P.U.C. SUBST. R. 25.101.
8. Route 207 complies 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 37928, 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. Route 207 satisfies a goal for renewable energy established in Section 39.904(a) of PURA.
11. The project is consistent with and in furtherance of the goals and mandates of Section 39.904 of PURA.
12. 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:

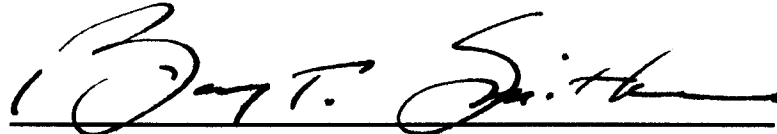
1. Oncor's application to build the Newton-Killeen 345 kV transmission line is approved. The project will follow the links described as route 207.
2. Oncor shall use monopole structures along route 207 from the junction of links PP2 and UU, northward along link PP2 for one mile and northeast along link UU until that link intersects with Highway 195.
3. 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.
4. 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.

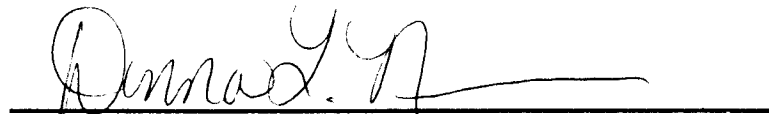
5. Oncor shall follow the procedures outlined in the following publications for protecting raptors: *Suggested Practices for Avian Protection on Power Lines, The State of the Art in 2006*, Avian Power Line Interaction Committee (APLIC) (2006) and the *Avian Protection Plan Guidelines* published by APLIC in April 2005.
6. 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.
7. 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.
8. 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. R. 22.52(a)(3) and shall directly affect only those landowners that have agreed to the minor deviation.
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 5<sup>th</sup> day of April 2010

**PUBLIC UTILITY COMMISSION OF TEXAS**



**BARRY T. SMITHERMAN, CHAIRMAN**



**DONNA L. NELSON, COMMISSIONER**



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