

PUC DOCKET NO. 37464  
SOAH DOCKET NO. 473-10-0710

APPLICATION OF ONCOR ELECTRIC §  
DELIVERY COMPANY, LLC TO §  
AMEND ITS CERTIFICATE OF §  
CONVENIENCE AND NECESSITY FOR §  
THE BROWN-NEWTON 345-KV CREZ §  
TRANSMISSION LINE IN BROWN, §  
MILLS, LAMPASAS, MCCULLOCH, §  
AND SAN SABA 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 the Brown-Newton 345-kV transmission line. The Brown-Newton line begins at Oncor's new Brown switching station southwest of Brownwood, Texas and runs southeast to Oncor's new Newton switching station located west of Kempner, Texas. The line will run through Brown, Mills, and Lampasas Counties.

On March 5, 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 stated that they recommended that the Commission adopt route 140 because it is the route that is most consistent with the Commission's routing criteria.<sup>1</sup> The Commission adopts in part and modifies in part the proposal for decision issued by the ALJ in this proceeding, including findings of fact and conclusions of law.

**I. Route**

The Commission rejects the ALJs' recommendation that route 140 should be constructed and finds that route 137, with a modification on link CC to more closely follow property lines, should be constructed. Route 137 is identical to route 140, except instead of using link QQQ it

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<sup>1</sup> Proposal for Decision at 2.

uses links J, G, and KKK1.<sup>2</sup> The Commission finds that though route 137 is estimated to cost approximately \$6,000,000 more than route 140 and will impact an additional 22 habitable structures, route 137 also provides several benefits. Route 137 avoids the neighborhood of Oak Vista, located along QQQ. Also, by substituting links J, G, and KKK1 for link QQQ, the transmission line would cross the Lampasas River at a previously disturbed site, whereas route 140 would cross at an undisturbed site. Finally, route 137 also follows the most right-of-way and has the longest portion of all the routes that parallels an existing 138-kV line.

To reflect the Commission's selection of route 137, the Commission deletes finding of fact 94 and adds new finding of fact 94; modifies findings of fact 31, 32, 38, 39, 42, 48, 49, 50, 52, 58, 60, 77, 81, 82, 83, 87, 88, 91, 93, 94, 99, 103, 114, 121, and 128; and deletes findings of fact 33, 55, 61, 78, 90, 106, and 108. The Commission also modifies conclusions of law 7, 8, and 12 to be consistent with the selection of route 137.

## II. Use of Monopoles

The Commission supports the ALJs' recommendation that monopoles be used in the City of Goldthwaite and further finds that monopoles should also be used near the City of Goldthwaite. Using the map included in Oncor's application referred to as Figure 3-1b, the Commission finds that monopoles should be used starting at the point where links II, S1, and S2 intersect, following along link S2 to link BBB, continuing on to link ZZ and link YY, and terminating at the property line of tracts 1501 and 1503 at the point where route 137 intersects the property line between tracts 1501 and 1503. The approximate additional cost of construction of route 137 with the City of Goldthwaite's desired area of monopole construction would be approximately \$3.9 million to \$4.5 million.<sup>3</sup> The Commission modifies finding of fact 139 and conclusion of law 8 to be consistent with its determination of this issue.

The Commission also finds it appropriate to use monopoles in and near the City of Lampasas and a neighboring subdivision. Monopoles should be used in this area, despite the

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<sup>2</sup> *Id.* at 13.

<sup>3</sup> Oncor Electric Delivery Company's Reply to Exceptions to the PFD at 3.

somewhat increased cost, because of the reduction in the amount of right-of-way required, the reduced visual impact, and the lessened aesthetic impact associated with transmission lines constructed with single-pole structures relative to lattice-tower structures. Using the map included in Oncor's application referred to as Figure 3-1c, monopoles should be used starting at the intersection of County Road 3421 continuing to County Road 3050, which would incorporate portions of links J, G, and KKK1, and would be approximately 9.29 miles in length. The Commission adds new finding of fact 142, new conclusion of law 15, and an ordering paragraph to reflect its determination of this issue.

### III. Issues Raised by the Railroad Commission of Texas

The Commission acknowledges the duty of the Railroad Commission of Texas (RRC) to require that inactive oil and gas wells be properly plugged to prevent pollution of usable quality surface and subsurface water.<sup>4</sup> In Docket Nos. 37407 and 37408, the Commission adopted an ordering paragraph to assist the RRC in discharging its duty to plug abandoned wells, while avoiding the risk of unreasonable delay in the construction of the CREZ transmission lines.<sup>5</sup>

In their March 23, 2010 memo, the ALJs stated that they were concerned that the language of the ordering paragraph supported by Commission Staff would create ambiguity as to whether it will be Oncor or the RRC that is required to take the appropriate action regarding the wells. The ALJs proposed their own version of the ordering paragraph to address the concerns.<sup>6</sup>

The Commission finds that the language proposed by the ALJs sufficiently addresses the concerns raised by the RRC. The language is reflected in new ordering paragraph 12.

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<sup>4</sup> Railroad Commission's Statewide Rule 14 (16 Texas Administrative Code § 3.14).

<sup>5</sup> *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 345kV Transmission Line in Scurry, Mitchell, Fisher, Nolan and Taylor Counties, Texas*, Docket No. 37407, Order at 16 (March 11, 2010) and *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*, Docket No. 37408, Order at 23 (March 11, 2010).

<sup>6</sup> Memo from ALJs (March 23, 2010).

#### **IV. Texas Parks and Wildlife's Written Comments and Recommendations**

As noted by the ALJs,<sup>7</sup> recent amendments to the Texas Parks and Wildlife Code<sup>8</sup> 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 December 9, 2009. Consequently, on December 1, 2009, the Commission adopted a supplemental preliminary order including issues to be addressed regarding the TPWD's comments. The Commission rejects the ALJs' finding that Oncor is required to have a biological monitor on hand during clearing and construction activities to protect the Texas horned lizard. In addition, the Commission modifies the proposal for decision to further develop the summary findings proposed by the ALJs regarding the TPWD's recommendations.

Consistent with the above discussion regarding the TPWD recommendations, the Commission revises findings of fact 128, 129, and 132; deletes findings of fact 127, 130, and 131 and adds new findings of fact 127, 130, and 131; and adds new findings of fact 131A, 131B, 131C, 131D, 131E, 131F, 131G, 131H, 131I, 131J, and 131K.

#### **V. Other modifications**

The Commission modifies findings of fact 79, 125, and 126 to replace references to Docket No. 35665 with references to Docket No. 37928. Consistent with the recommendations of the ALJs in their March 23, 2010 memo, the Commission deletes finding of fact 118 and adds new finding of fact 118, and deletes finding of fact 123 regarding CREZ Transmission Optimization Study (CTO study) estimates.

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

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<sup>7</sup> Proposal for Decision at 102.

<sup>8</sup> TEX. PARKS & WILD. CODE ANN. (Vernon 2002 & Supp. 2009).

## VI. 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 October 7, 2009, Oncor filed an application to amend its CCN for the Brown-Newton 345-kilovolt (kV) Competitive Renewable Energy Zone (CREZ) transmission line project (project) in Brown, Mills, Lampasas, McCulloch and San Saba Counties (Application).
3. In the Application, Oncor requested approval to construct a new 345-kV double-circuit transmission line extending from Oncor's new Brown switching station near Brownwood, Texas, to Oncor's new Newton switching station near Kempner, Texas. The new 345-kV double-circuit line is approximately 91.6 miles long and will be constructed on double-circuit lattice steel towers with both circuits in place.
4. 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 Goldthwaite, Lampasas, Kemper, Copperas Cove, Lometa, Bangs, Brownwood, Early, Brady, San Saba, and Mullin; (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 Brown, McCulloch, Lampasas, Mills, and San Saba Counties; (3) provided notice of the Application to each neighboring utility providing the same utility service within five miles of the requested facilities, including City of Goldthwaite – Goldthwaite Utilities, City of San Saba Electric Department, Hamilton County Electric Cooperative, Lower Colorado River Authority, Central Texas Electric Cooperative, Comanche County Electric Cooperative, McCulloch Electric Cooperative, and Coleman County 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.

5. On October 12, 2009, the Public Utility Commission of Texas (PUC or Commission) referred the Application to the State Office of Administrative Hearings (SOAH).
6. Oncor published notice of its Application in the *Abilene Reporter-News*, *Brownwood Bulletin*, and *Lampasas Dispatch Record* on October 13, 2009; the *Goldthwaite Eagle* and *Brady Standard-Herald* on October 14, 2009; the *San Saba News & Star* on October 15; and the *Copperas Cove Leader Press* on October 16, 2009. All of the newspapers listed above are newspapers of general circulation within the counties where the CCN is being requested.
7. 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).
8. On October 21, 2009, Commission Staff recommended that Oncor's application be found sufficient.
9. Oncor filed its Affidavit Attesting to the Provision of Notice to cities, counties, neighboring utilities, and landowners on October 28, 2009.
10. Oncor supplemented its application on October 30, 2009. Oncor included additional information regarding park and recreational areas, submitted a supplemental routing map, and supplemented its written route descriptions.
11. On October 30, 2009, Staff recommended that Oncor's notice be found sufficient.
12. In Order No. 4, issued on November 4, 2009, the Administrative Law Judges (ALJs) found Oncor's provision of notice and application sufficient.
13. Order No. 5, issued on November 18, 2009, established service by email.

14. Order No. 6, issued on November 20, 2009, memorialized the second prehearing conference, established the procedural schedule, and established procedures related to evidence and exhibits.
15. Order No. 7, also issued on November 20, 2009, ruled on a number of motions to intervene, aligned certain parties, updated the service list, and required responses from certain parties.
16. 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.
17. On December 1, 2009, the Railroad Commission of Texas (RRC) filed a late motion to intervene.
18. Order No. 8, issued on December 3, 2009, granted the motion to reconsider the previous denial of SmithCo Ranch's motion to intervene, updated the service list, and struck certain intervenors. Order No. 8 also provisionally granted the RRC's motion to intervene, but required the agency to, by December 11, 2009, submit prefiled testimony or a statement of position in which the RRC identified its justiciable interest in the proceeding.
19. On December 9, 2009, the RRC filed a statement of position which identified the agency's justiciable interest and, therefore, the agency was allowed to remain a party in this proceeding.
20. On December 9, 2009, TPWD filed its letter containing comments and recommendations regarding the proposed project.

21. Order No. 9, issued on December 21, 2009, 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; updated the service list; aligned a number of parties; and addressed various prehearing and hearing matters.
22. The hearing on the merits convened on January 11, 2010 and concluded on January 15, 2010. The record closed on February 4, 2010, with the filing of reply briefs.

**Project Description**

23. The project consists of a new double-circuit 345-kV transmission line, which will extend from Oncor's new Brown switching station, located south and east of County Road (CR) 222 in western Brown County, approximately 16 miles southwest of Brownwood, Texas, to Oncor's new Newton switching station, located in Lampasas County, west of the town of Kempner, Texas, northwest of the intersection of U.S. Highway 190 and Farm-to-Market Road 2313. Reactive compensation will be included at the new Brown switching station.
24. The new 345-kV double-circuit line is approximately 91.6 miles in length and will be constructed on double-circuit lattice steel towers with both circuits in place. Both circuits will be installed using twin-bundled 1926.9 kcmil ACSS/TW conductors.
25. The project is a CREZ priority project.
26. Because the project was identified in the CTO study as a CREZ priority project, no alternatives to the project have been considered.

**Routes**

***Routing of the Proposed Transmission Line***

27. Oncor retained URS Corporation, Inc. (URS), to prepare an environmental assessment and alternative routing analysis (environmental assessment).

28. Oncor considered and submitted a sufficient number of geographically diverse routes for the project.
29. URS provided 259 different routing alternatives for Oncor's consideration.
30. Oncor filed one preferred route (route 255) and 45 alternate routes out of the set of 259 routes prepared by URS.
31. The project will be constructed on route 137 as described in the application, with the deviation on Link CC as described in ordering paragraph 7.
32. Route 137 is the most desirable route because the use of the portion of the route that deviates from route 140 along links J, G, and KKK1 was not contested in this proceeding; it does not cross the Colorado River and has a lower impact on ecological resources as a result; it avoids the neighborhood of Oak Vista, located along QQQ; it crosses the Lampasas River at a previously disturbed site; and it follows the most right-of-way and has the longest portion of all the routes that parallels an existing 138-kV line.
33. DELETED.
34. No other utilities will be affected or involved in the construction of the project.

***Community Values***

35. Oncor and URS held three public open house meetings. The first meeting was held on June 9, 2009, at the Lampasas Middle School cafeteria. A total of 205 individuals signed in at this meeting. The second meeting was held on June 10, 2009, at the Mills County Civic Center, and 163 individuals signed in at this meeting. The third meeting was held on June 11, 2009, at the Adams Street Community Center, and 155 individuals signed in at this meeting.

36. Information received from the public open-house meetings and from local, state and federal agencies was considered and incorporated into both URS's routing analysis and the eventual selection by Oncor of preferred and alternative routes.
37. Based on information received by URS from the public involvement program, the locations of portions of 43 existing route links were modified, six new route links were added, and 16 existing route links were removed.
38. Responses to questionnaires are one of Oncor's principal ways to determine and account for community values. The most common responses to Oncor's ranking questions were: minimize the length across residential areas; maximize the distance along existing transmission line corridors; and maximize the distance from residences, including single family and multi-family dwellings. Route 137 matches these values because it: parallels existing transmission line rights of way for approximately 55 miles, some 29 miles more than route 255; it affects a low number of habitable structures, 72 compared to at least 84 for route 255; and it does not cross the communities of Winchell and Lometa.
39. Route 137 does not have any length within the foreground visual zone of park and recreation areas.
40. An expressed community value was to avoid crossing the Colorado River. San Saba County Commissioners passed a resolution urging that the line not cross the Colorado River and avoid the county of San Saba entirely.
41. The San Saba Historical Commission expressed opposition to route 255 and expressed concern over the impact of the line on two historical suspension bridges in San Saba County and prehistoric Native American sites along the Colorado River.
42. Route 137 does not cross the Colorado River, while route 255 crosses it twice. Route 137 will have a less negative impact on ecological resources and aesthetic values.

43. San Saba County is a rural, largely undeveloped and sparsely populated county that is not located on any major route of travel.
44. Winchell is a community of 35 located in Brown County on the banks of the Colorado River. Thirty of Winchell's 35 residents intervened in this docket. Winchell is undeveloped, rural and composed of numerous small tract owners along or in close proximity to the Colorado River due to early subdivision of the land into town lots for the town of Winchell.
45. Links FFF1, FFF2, and PPP on route 255 would impact Winchell.
46. There are no significant impacts to any airports, airstrips, or heliports anticipated from construction of the project.
47. Oncor can cooperate with directly affected landowners to implement minor deviations in the approved route to minimize the impact of the project.

***Recreational and Park Areas***

48. Route 137 will not have meaningful impacts on the use or enjoyment of park and recreational facilities on any of the alternative routes.
49. Neither route 255 nor route 137 passes through any parks or recreational areas owned by a governmental body or an organized group, club, or church.
50. Route 137 is not located within 1,000 feet of any parks or recreational areas, while route 255 is located within 1,000 feet of one park or recreational area.

***Historical Values***

51. The project will have no significant adverse impact on historical-age or archaeological resources.

52. Although eight recorded cultural resource sites are crossed by route 137 and eleven more are reported to be within 1,000 feet of its centerline, the route traverses areas of high prehistoric and historic archeological site potential for 63,971 feet, which is a comparatively low amount.
53. Eight recorded cultural resource sites are crossed by route 255 and six more are reported to be within 1,000 feet of its centerline. The route traverses areas of high prehistoric and historic archeological site potential for 70,245 feet.
54. Staff's recommendation that, in the event Oncor or its contractors encounter any artifacts or other cultural resources during project construction, Oncor shall cease work immediately in the vicinity of the resource, report the discovery to the Texas Historical Commission (THC), and take action as directed by the THC, is reasonable.
55. DELETED.

*Aesthetic Values*

56. Although all the alternative routes pass through areas with relatively high aesthetic value, Oncor considered and minimized the aesthetic impacts of the proposed transmission line to the greatest extent reasonably possible when it selected the alternative routes.
57. Oncor and URS identified and examined topographical variation (hills, valleys, etc.), prominence of water in the landscape (rivers, lakes, etc.), vegetation variety (woodlands, meadows), diversity of scenic elements, degree of human development or alteration, and overall uniqueness of the scenic environment compared with the larger region.
58. Of the entire length of route 137, only 26,011 feet (roughly 5 percent) lies within the foreground visual zone of State and U.S. highways, and 3,459 feet lies within the foreground visual zone of park or recreational areas.

59. As to route 255, 47,355 feet (roughly 10 percent) lies within the foreground visual zone of State and U.S. highways, and none lies within the foreground visual zone of park or recreational areas.
60. Route 137 parallels existing transmission lines for 293,107 of its 502,564 feet, over half of its entire length, thereby minimizing its aesthetic impacts.
61. DELETED.

*Environmental Integrity*

62. No significant impacts to existing land use, socioeconomic, geological, hydrological, or wetland resources are anticipated as a result of the construction of the project on any of the alternative routes.
63. Construction of the proposed transmission line will not have a significant effect on the physiographic or geologic features or resources of the area.
64. Construction of the proposed transmission line will have only minimal and short-term impacts on soils in the area, and the possibility of soil erosion during initial clearing will be mitigated by Oncor's adoption of a Storm Water Pollution Prevention Plan (SWPPP) and revegetating the area quickly.
65. Construction of the project is not anticipated to have significant impact to prime farmland.
66. There is no anticipated significant impact to surface water or groundwater resources or potential wetlands from the project.
67. The project has the potential to have minor impacts on plant and animal species in the area.

68. The project does not pose any significant risk of impact to endangered plant or animal species.
69. Oncor and URS appropriately performed an evaluation of the impacts of the project on endangered and threatened species.
70. There are no federally listed or state listed plants known to occur in Brown, McCulloch, Mills, San Saba and Lampasas Counties.
71. There are some possible impacts to habitat for the federally-endangered golden-cheeked warbler and black-capped vireo as a result of the construction of the project, regardless of the alternate route chosen.
72. The remaining endangered or protected animal species that are known or likely to occur in the area are either migratory and present only for brief periods or highly mobile and are therefore unlikely to be affected by the project.
73. Staff's recommendation that Oncor 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 the APLIC in April, 2005, is reasonable.
74. Staff's recommendation that Oncor: minimize the amount of flora and fauna disturbed during construction of the transmission line, except to the extent necessary to establish appropriate right of way clearance for the transmission line; revegetate using native species and consider landowner preferences when doing so; and avoid, to the maximum extent practicable, adverse environmental impacts to sensitive plant and animal species and their habitats as identified by TPWD and the United States Fish and Wildlife Service (USFWS) is reasonable.

75. Staff's recommendation that Oncor 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, is reasonable.
76. Staff's recommendation that Oncor exercise extreme care to avoid affecting non-targeted vegetation or animal life when using chemical herbicides to control vegetation within the right of way is reasonable.
77. Use of route 137 would avoid many of the environmental drawbacks found along route 255, such as multiple crossings of the Colorado River (within a segment that has been designated as an Ecologically Significant Stream Segment), crossing the San Saba River, crossing the only portion of the study area state-designated as a bald eagle nesting area, running parallel to watercourses for a greater distance, and running parallel to existing infrastructure such as existing transmission lines for shorter distances thereby fragmenting more habitat.
78. DELETED.

***Goal for Renewable Energy***

79. 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 *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 Delivery Renewable Energy from Competitive Renewable Energy Zones))*, Docket No. 37928 (Feb. 25, 2010) designated certain transmission service providers to build the required transmission facilities.

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

*Compatible Corridors*

81. Route 137 parallels existing corridors including apparent property boundaries for 84.5 percent of its length or approximately 80 miles.
82. Route 137 parallels more compatible existing transmission line rights of way than route 255.
83. Route 137 parallels existing transmission lines for the longest distance of the alternative routes – 293,107 feet. Route 137 parallels the Red Creek-Comanche 345-kV line for approximately 22 miles.
84. The simultaneous loss of two transmission lines in a common or parallel right of way is a low probability extreme event, classified by ERCOT and the North American Electric Reliability Corporation (NERC) as a Category D contingency. Transmission systems are not planned and operated to withstand Category D contingencies. Category D contingencies are evaluated both for their risks and consequences. Depending on the result of the evaluation, mitigation measures to address the contingency may be necessary. Only when an extreme event could cause a potentially widespread outage on the bulk power system and the likelihood of the extreme event is above normal, will mitigation of the low probability extreme event be examined.
85. The likelihood of an event causing a simultaneous outage of the project line and the Red Creek-Comanche line is very low.
86. A simultaneous outage of the project line and the Red Creek-Comanche line is unlikely to cause system reliability problems. The impact of such an outage is expected to be minimal.

87. The reliability contingencies resulting from route 137's paralleling of the existing Red Creek to Comanche 345-kV line do not outweigh the relative benefits of route 137.

88. Route 137 is reliable.

***Prudent Avoidance***

89. Oncor considered and reasonably avoided population centers and other locations where people gather and live when routing all of its alternative routes for the project.

90. DELETED.

91. Route 137 has only 72 habitable structures located within 500 feet of its centerline.

92. Route 255 has at least 84 (and possibly as many as 93) habitable structures located within 500 feet of its centerline.

93. Use of route 137 would avoid the problems, from the standpoint of prudent avoidance, that are found along route 255, such as the substantial impacts that would be imposed upon the Oliver, Adams, and Carrow homes.

***Engineering Constraints***

94. The ALJs concluded that there are no significant engineering constraints that would prevent Oncor from building any of the filed routes in this proceeding.

95. There are some locations where elevation changes, road crossings, and river crossings will require consideration throughout the engineering design and construction phases of the project.

96. Oncor has sufficient flexibility to modify the route to address issues such as elevation changes, road crossings, and river crossings.

97. The former Camp Bowie was used for active military training from 1940 to 1946. Since that time, areas within the former Camp Bowie have been used for residential purposes, agriculture, commercial purposes, and heavy industry.
98. In 2002, Oncor built a 345-kV transmission line that traversed areas of the former Camp Bowie without discovering unexploded ordnance or incurring delays or additional expense associated with unexploded ordnance.
99. On route 137, links A, HH, GG, B, and CC traverse the former Camp Bowie.
100. Oncor has a plan in place to address the detection and clearing of ordnance that may exist in the vicinity of the former Camp Bowie.
101. *The Final EE/CA Report for the Engineering and Cost Analysis Former Camp Bowie Brownwood, Texas* addresses the potential existence of unexploded ordnance on links A, HH, GG, B and CC.
102. There will be little to no delay or additional expense as a result of the detection and clearing of ordnance in the former Camp Bowie.
103. Route 137 presents no major engineering constraints for Oncor.

**Alternative Options to the Project**

104. Because the project was specifically identified in the CTO study as a CREZ priority project, no alternatives to the project have been considered.
105. Staff's recommendation 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) is reasonable.

106. DELETED.

107. No intervenor offered to offset additional costs associated with any requested accommodations due to landowner preferences.

108. DELETED.

**Financial Commitments**

109. 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**

110. Oncor proposes using bundled 1926.9 kcmil ACSS/TW conductors in both circuits instead of the CREZ Transmission Optimization Study (CTO study) proposal to use 1433.6 ACSS/TW for one circuit and 2-1590 ACSR for the second circuit.

111. The 1926.9 conductor and the 1433.6 conductor are each capable of operating at 5000 amps and thus both meet the requirements of the CTO study.

112. The 1926.9 conductor is a standardized conductor for Oncor's system and using it in place of the 1433.6 conductor proposed by the CTO study creates numerous implementation advantages and operational and functional efficiencies that are not available with the 1433.6 conductor.

113. The incremental cost of installing a second circuit of 1926.9 conductor, as opposed to the 2-1590 conductor suggested by the CTO study, is outweighed by the advantages that can be realized by the additional capacity and lower impedance provided by the 1926.9 conductor.

114. The CTO study estimated the distance from the Brown to Newton switching stations at 50 miles. The actual distance for the project along route 137 is approximately 95.2 miles.
115. The CTO study did not identify a precise location for new Brown and Newton switching stations, but ERCOT has since confirmed that the location of both the Brown and Newton stations are consistent with the CTO study.
116. Oncor's modifications to the CTO study achieve technical efficiencies, are cost-effective and consistent with the CREZ Transmission Plan.
117. Oncor submitted information regarding the modifications to ERCOT. ERCOT concluded that Oncor's modifications to the CTO study were both cost-effective and consistent with the intent of the CTO study.

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

118. The CTO study provided an estimate for a combined Brown-Newton-Salado project 88 miles in length with an estimated cost of \$132,800,000; Oncor filed Brown-Newton and Newton-Salado as separate projects. Staff multiplied the per-mile cost estimate of 1.78 million by the estimated length of the preferred route of 91.88 miles for a projected estimated transmission line cost of \$163,546,400 when using the CTO's estimates on an "apples to apples" basis.
119. The estimated costs of the alternate routes range from \$126,993,000 to \$153,843,000.
120. Total estimated cost for all substation work on the project is \$28,280,000.
121. The project contemplates construction of a double-circuit transmission line, 95.2 miles in length, from the new Brown switching station to the new Newton switching station at a cost estimate of \$132,989,000 for route 137.

122. The scope of work contained in the CTO study cost estimate varies from the scope of work in the project, making a cost comparison difficult.
123. DELETED.
124. When a similar scope of work is compared for the transmission line portion of the project, Oncor's cost estimates compare favorably to the cost estimates contained in the CTO study.

**Need for the Proposed Transmission Line**

125. The project was specifically listed as a CREZ priority project in the Commission's final orders in Docket Nos. 37928 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).
126. As a CREZ transmission project identified in Docket No. 37928 and Docket No. 36801, the project is exempt under PURA §§ 39.203(e) and 39.904(h) 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**

127. On December 4, 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.
128. With route 137, many of the concerns expressed in the TPWD Letter are addressed, especially the recommendation that the transmission line avoid crossing the Colorado River.
129. 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.

130. 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 paragraph Nos. 2, 4-6.
131. Oncor must comply with all environmental laws and regulations governing endangered species.
  - 131A. It is impractical prior to the approval of a route, for Oncor to make a determination of impact on the federally listed endangered whooping crane.
  - 131B. 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—Oncor will obtain those permits and comply with all permit conditions.
  - 131C. Oncor currently uses 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.
  - 131D. Oncor's current best management practices are sufficient and thus no additional permitted biological monitor is necessary during clearing and construction activities for the Texas horned lizard.
  - 131E. Mitigation measures relating to raptor protection, herbicide use, flora and fauna disturbance, and erosion control are part of Oncor's standard practice.

- 131F. 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.
- 131G. 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.
- 131H. Oncor currently complies with all aspects of the Migratory Bird Treaty Act, and the U.S. Bald and Golden Eagle Protection Act.
- 131I. Oncor will use best management practices to minimize the potential impact to migratory birds and threatened or endangered species. Oncor will identify stopover sites on or immediately adjacent to the right-of-way for the whooping crane, black-capped vireo (BCV) and golden-cheeked warbler (GCW) habitat, and nesting bald eagle locations and utilize best management practices to avoid, minimize, or mitigate potential impacts.
- 131J. An absolute restriction on vegetation clearing activities during the breeding season for BCV and GCW is neither reasonable nor operationally practical.
- 131K. Oncor's current method of clearing the right-of-way, which has been used for many years, is necessary to ensure the safety and reliability of the line.
132. 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.

**Issues Raised by the Railroad Commission of Texas**

133. When it selected the proposed routes, Oncor considered data regarding the locations of

oil and gas wells, including data obtained from the RRC, and chose proposed routes that avoided oil and gas wells to the maximum extent practicable.

134. Oncor will, upon final approval of the route, conduct pedestrian surveys of the actual right of way before commencing construction to determine what, if any, oil and gas wells are within the right of way.
135. Oncor routes around active oil and gas wells when routing a transmission line.
136. There is no evidence in the record to indicate that inactive oil and gas wells constitute a potential routing constraint for a transmission line.
137. There is no evidence in the record to indicate that the inclusion of an inactive oil or gas well within the right of way of the transmission line would be incompatible with the statutory mission of the RRC.

**Monopole Structures**

138. Staff's recommendation that monopoles be used in situations where land use is constrained or through residential areas is reasonable.
139. It is reasonable for Oncor to use monopole structures in the city limits of Goldthwaite and near the city limits of the City of Goldthwaite, despite the somewhat greater cost, because of the reduced visual impact and the lessened aesthetic impact associated with transmission lines constructed with pole structures relative to lattice-tower structures. Using the map included in Oncor's application referred to as Figure 3-lb, monopoles should be used starting at the point where links II S1, and S2 intersect following along link S2 to link BBB, continuing on to link ZZ and link YY, and terminating at the property line of Tract Numbers 1501 and 1503 at the point where route 137 intersects the property line between Tracts 1501 and 1503. The approximate additional cost of construction of route 137 with the City of Goldthwaite's desired area of monopole construction is estimated to be between \$3.9 million and \$4.5 million.

140. It is reasonable for Oncor to use monopole structures when the cost of right of way acquisition is extremely high or the right of way is extremely constrained, which is usually in residential areas or cities.
141. Monopoles cost approximately \$1.5 million per mile versus \$837,000 for steel lattice towers. A monopole requires less right of way than a steel lattice tower – 100 feet compared to 160 feet.
142. It is reasonable for Oncor to use monopole structures north of the city limits of Lampasas and in a neighboring subdivision northeast of Lampasas, despite the somewhat greater cost, because of the reduced visual impact and the lessened aesthetic impact associated with transmission lines constructed with pole structures relative to lattice-tower structures. Using the map included in Oncor's application referred to as Figure 3-1c, monopoles should be used starting at the intersection of County Road 3421 continuing to County Road 3050, which would incorporate portions of links J, G and, KKK1, and would be approximately 9.29 miles in length.

#### **VII. 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 137, taking into consideration the factors set out in PURA § 37.056 and P.U.C. SUBST. R. 25.101.
8. Route 137, with the use of monopoles in the city limits of Goldthwaite and near the city limits of the City of Goldthwaite and as otherwise ordered by the Commission, 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 will accomplish the intended results for the CREZ priority project designated in the CREZ Transmission Optimization Study (CTO Study) and ordered by the Commission in Docket Nos. 37928 and 36801.
10. The project, as a CREZ transmission project identified in Docket Nos. 37928 and 33672 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.
11. The application is sufficient and notice was adequate.
12. Route 137 satisfies a goal for renewable energy established in PURA § 39.904(a).

13. The project is consistent with and in furtherance of the goals and mandates of PURA § 39.904.
14. 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.
15. Route 137, with the use of monopoles in and near the City of Lampasas and in a neighboring subdivision northeast of Lampasas and as otherwise ordered by the Commission, complies with all aspects of PURA § 37.056 and P.U.C. SUBST. R. 25.101, including the Commission's policy of prudent avoidance.

#### **VIII. 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 Brown-Newton 345-kV transmission line is approved. The project will follow the links described as route 137, with the route deviation on link CC described in ordering paragraph 8.
2. 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.
3. 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 or landowners' representatives.

4. 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.
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 shall ensure that such herbicide use complies 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. Oncor shall deviate from link CC at the point where link CC enters the Childress-Huff Property (Tract 401). At this point, the modified route 137 will proceed in a northeasterly direction generally parallel to, but south of, the northwestern boundary of the Childress-Huff Property until reaching an angle-point at the most northwestern point of the Crawford Property (Tract 402). From this point, the modified route 137 will run in an easterly direction generally parallel to, but directly south of, the northern boundary of the Crawford Property until reaching an angle-point approximately 300-500 feet west of County Road 550. From this angle-point, the modified route 137 will proceed in a southeasterly

direction, crossing over County Road 550 and onto the Daugherty Property (Tract 404) until reaching an angle-point east of County Road 550 on Tract 404, at all times maintaining a distance of at least 500 feet from the habitable structure located in the northwestern corner of Tract 404 and the habitable structure directly south of the modified link on the west side of County Road 550. From this angle-point, the modified route 137 will proceed in a southerly then easterly then southerly direction, generally paralleling County Road 550 until crossing County Road 550 onto the Mankin Ranch Property (Tract 403), at approximately the point where County Road 550 turns to the southeast, reaching an angle-point just south of County Road 550. From this angle-point, the modified route 137 will generally parallel the western side of County Road 550 in a southeasterly direction, and then a southerly direction, until reaching an angle-point where it intersects Oncor's filed link CC near the point where County Road 550 turns east. From this angle-point, modified route 137 will follow link CC and subsequent links along the approved route 137 until terminating at the Newton switching station. Monopoles shall be used for the entire route deviation on link CC.

8. 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.
9. Oncor shall identify stop-over sites on or immediately adjacent to the right-of-way for the whooping crane, black-capped vireo and golden-cheeked warbler habitat and nesting bald eagle locations and use best management practices to avoid or minimize potential impact on that federally and state listed species.
10. Oncor shall use monopole structures in the city limits of Goldthwaite and near the city limits of the City of Goldthwaite, specifically starting at the point where links II, S1, and S2 intersect, following along link S2 to link BBB, continuing on to link ZZ and link YY, and terminating at the property line of Tract Numbers 1501 and 1503 at the point where

route 137 intersects the property line between Tracts 1501 and 1503 using the map included in Oncor's application referred to as Figure 3-lb. Oncor shall also endeavor to use the monopole structures in situations where the right-of-way is extremely constrained, the right-of-way could disproportionately affect a particular landowner, or the cost of right-of-way acquisition is extremely high and through residential areas.

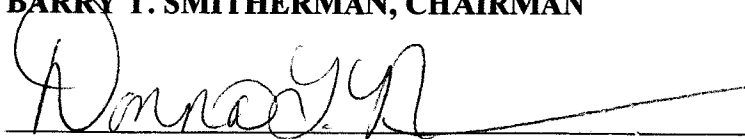
11. Oncor shall use monopole structures beginning north of the City of Lampasas, in the City of Lampasas, and continuing northeast of Lampasas, specifically starting at the intersection of County Road 3421 and continuing to County Road 3050, which are located along portions of links J, G, and KKK1, using the map included in Oncor's application referred to as Figure 3-1c. Oncor shall also endeavor to use the monopole structures in situations where the right-of-way is extremely constrained, the right-of-way could disproportionately affect a particular landowner, or the cost of right-of-way acquisition is extremely high and through residential areas.
12. 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 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 allow the RRC to take appropriate action in regards to such wells as the RRC determines necessary. Any issues that cannot be resolved by Oncor and the Railroad Commission shall immediately be brought to the attention of the Chairman of the Public Utility Commission and the Chairman of the Railroad Commission.
13. 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 on the 5<sup>th</sup> day of April 2010.

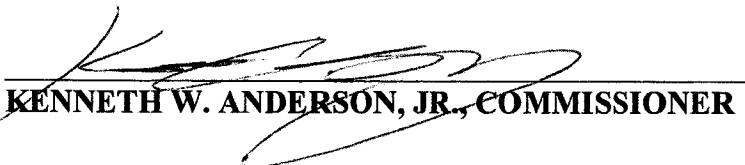
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KENNETH W. ANDERSON, JR., COMMISSIONER