

PUC DOCKET NO. 38324
SOAH DOCKET NO. 473-10-4789

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**APPLICATION OF ONCOR ELECTRIC §
DELIVERY COMPANY LLC TO §
AMEND A CERTIFICATE OF §
CONVENIENCE AND NECESSITY FOR §
THE WILLOW CREEK-HICKS 345-KV §
CREZ TRANSMISSION LINE IN §
DENTON, PARKER, TARRANT AND §
WISE COUNTIES §**

**PUBLIC UTILITY COMMISSION
OF TEXAS**

ORDER

This Order addresses the application of Oncor Electric Delivery Company, LLC (Oncor) to amend Certificate of Convenience and Necessity (CCN) No. 30158 for the Willow Creek-to-Hicks 345-kV CREZ Transmission Line in Denton, Parker, Tarrant, and Wise Counties.

Oncor, Public Utility Commission of Texas (Commission) Staff, Intervenors: Barbara Alt; Chapel Hill Venture, LLLP; City of Aurora; Barry K. Emerson, Robin E. Emerson; Boa Sorte LP; Group of Allied Landowners (GOAL); David Nance, Dan Nance, Hall-Nance Ranches, Ltd.; YA Magnolia Landholdings, LLC; TTT Farms; Beverlee Eddy, Stephen Eddy; Barnett Gathering, LP; XTO Energy, Inc.; Thomas Henry, Marilyn Henry; 1122 Alpha Sendera Partners, Ltd.; Frank Babb; Robert Hubbard, Margaret Hubbard; Robert Johnson; Michelle Kelley; Dwayne Kline; Bill McElhaney; Wise Transmission Group, LLC; Alvin R. Niblett; Carrizo Oil & Gas, Inc.; Joe L. Wright; Jeffrey Powers, Linsey Powers; Eagle Mountain-Saginaw ISD; Harold Remmele, Renea Remmele; Robert Rossi; Todd Group; Walsh & Watts, Inc.; F. Howard Walsh, Jr. Operating Co., Inc.; Walsh Ranches Limited Partnership; Bonds Ranch; Ellis Sloan Turner; Rone Turner; City of Fort Worth; Rolling V Ranch Water Control and Improvement District No. 1; Thomas Wagner; Rhad and Kathryn Veazey; Mr. and Mrs. Johnny Vinson; Mr. Randy Scroggins, and Mr. Bud Vinson; Angelo Mendez; Kathleen Hoffman and Sandra Kessler; Shelby M. Withrow & Family; Nathan Simmons; Randol Simmons; Lauoghn S. Underwood and Ricky Underwood; Withrow-Wiechman Development Co.; Lee and Marta Wiechman; Maritha Gan; and Barbara Womack (collectively, Parties) entered into a

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settlement agreement that resolves all issues in this proceeding. This docket was processed in accordance with applicable statutes and Commission rules. Consistent with the settlement agreement, Oncor's application is approved.

In order to reflect that Links ZZ, BBB, and EEE were modified by the settlement agreement, finding on fact 44 has been modified. Further, findings of fact 111 through 117 were added to reflect Commission modifications to the settlement.

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

I. Findings of Fact

Procedural History

1. Oncor is an investor-owned electric utility providing service under CCN No. 30158.
2. On June 16, 2010, Oncor filed an application to amend its certificate of convenience and necessity for the Willow Creek-to-Hicks 345-kV CREZ transmission line (proposed transmission-line project or proposed project) in Denton, Parker, Tarrant, and Wise Counties. The proposed project consists of a new double-circuit 345-kV transmission line that extends from the existing Oncor Willow Creek Switching Station, located in southwestern Wise County, to the new Oncor Hicks Switching Station to be located in central Tarrant County, north of the city of Saginaw. The new 345-kV double-circuit line is approximately 40.2 miles in length.
3. On June 16, 2010, Oncor filed the direct testimony of Kenneth A. Donohoo, Robert Holt, Lisa Barko Meaux, and Brenda Perkins.
4. On June 16, 2010, Oncor (1) mailed written notice of the application, including a map, to each municipality within 5 miles of the requested facilities; (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; (3) provided notice of the application to each neighboring utility providing the same utility service within five miles of the requested facilities; 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 certificate amendment is granted.

5. This proceeding was referred to the State Office of Administrative Hearings (SOAH) on June 17, 2010.
6. On June 22, 2010, Order No. 1 was issued, requiring, among other things, information from Oncor regarding notice and a recommendation from Commission Staff regarding the sufficiency of the application.
7. On June 24, 2010 Oncor published notice of its application in newspapers having general circulation in the counties where the requested certificate of convenience and necessity is being requested, including the *Azle News*, *Bridgeport Index*, *Denton Record-Chronicle*, *Fort Worth Star-Telegram*, *Springtown Epigraph*, *Weatherford Democrat*, and *Wise County Messenger*.
8. On June 25, 2010, Commission Staff recommended that the application be found sufficient. However, Commission Staff found a few minor non-material errors and suggested that Oncor supplement the application to address these errors.
9. On June 28, 2010, Oncor filed an affidavit attesting to the provision of a copy of the environmental assessment and alternative route analysis to the Texas Parks and Wildlife Department (TPWD).
10. On June 30, 2010, The Bonds Ranch; David Nance, Dan Nance, and Hall-Nance Ranches; and Chapel Hill Venture, LLLP all filed motions to find the application materially deficient.
11. On July 7, 2010, Oncor filed an affidavit attesting to the provision of notice to cities, counties, neighboring utilities, and landowners.
12. On July 7, 2010, Oncor filed the First Supplement to the Application, which corrected the minor non-material errors found by Commission Staff.
13. On July 9, 2010, Commission Staff recommended that Oncor's notice be found sufficient.
14. On July 14, 2010, Order No. 2 issued, which rescheduled the prehearing conference for July 27, 2010, found Oncor's application materially sufficient, and denied the route adequacy challenges of the Bonds Ranch; David Nance, Dan Nance, and Hall-Nance Ranches; and Chapel Hill Venture, LLLP.

15. On July 15, 2010, David Nance, Dan Nance, and Hall-Nance Ranches, Ltd. filed an appeal of Order No. 2.
16. On July 19, 2010, Order No. 3 was issued, which adopted the Standard Protective Order.
17. On July 22, 2010, the Commission filed a letter stating that no commissioners voted to add the Appeal of Order No. 2 to the open meeting agenda.
18. On July 30, 2010, Order No. 4 was issued, which memorialized the prehearing conference and established filing, service, and other procedures for this docket.
19. On August 13, 2010, Order No. 5 was issued, which overruled all of the Walsh's objections to Oncor's prefiled direct testimony.
20. On August 19, 2010, TPWD filed a letter in this proceeding with various comments and recommendations regarding the proposed project (TPWD Comment Letter).
21. On August 24, 2010, Order No. 6 was issued, which granted a number of motions to intervene.
22. On September 10, 2010, Order No. 7 was issued which dismissed a number of intervenors for failure to file either written testimony or statements of position and granted a number of motions to intervene.
23. On September 14, 2010, the ALJ issued Order No. 8, which set the hearing location at the Doubletree Hotel Austin.
24. On September 16, 2010, Order No. 9 was issued, which set aside a number of party dismissals mistakenly issued in Order No. 7.
25. On September 17, 2010, Commission Staff filed the direct testimony of Michael J. Lee, P.E.
26. On September 22, 2010, Order No. 10 was issued, which allowed the City of Aurora to remain as a party.
27. On September 27, 2010, Oncor filed the rebuttal testimony of Earl Kirkpatrick, Deborah A. Boyle, Lisa Barko Meaux, Robert F. Holt, and Brenda J. Perkins.

28. On October 1, 2010, Order No. 11 was issued which set aside a number of party dismissals, overruled all objections to intervenor direct-case evidence, and invited parties to stipulate that certain route segments would be inappropriate choices for routing the transmission line.
29. During the first day of the hearing on the merits, which commenced on October 4, 2010, Oncor reached an agreement with all parties participating in the hearing that resolved all the routing issues in this docket. As part of this agreement (settlement agreement) the settling parties agreed to support approval of alternative route 368 (settlement route), as depicted in the map attached to the settlement agreement.
30. The following parties registered their appearance at the hearing on the merits: Oncor; Commission Staff; Intervenors Chapel Hill Venture, LLLP; City of Aurora; Barry K. Emerson, Robin E. Emerson; Boa Sorte LP; GOAL; David Nance, Dan Nance, Hall-Nance Ranches, Ltd.; YA Magnolia Landholdings, LLC; TTT Farms; Barnett Gathering, LP; XTO Energy, Inc.; Thomas Henry, Marilyn Henry; 1122 Alpha Sendera Partners, Ltd.; Frank Babb; Bill McElhaney; Wise Transmission Group, LLC; Carrizo Oil & Gas, Inc.; Joe L. Wright; Jeffrey Powers, Linsey Powers; Eagle Mountain-Saginaw ISD; Robert Rossi; Todd Group; Walsh & Watts, Inc.; F. Howard Walsh, Jr. Operating Co., Inc.; Walsh Ranches Limited Partnership; Bonds Ranch; City of Fort Worth; Rolling V Ranch Water Control and Improvement District No. 1; Thomas Wagner; Mr. and Mrs. Johnny Vinson; Mr. Randy Scroggins, and Mr. Bud Vinson; Angelo Mendez; Kathleen Hoffman and Sandra Kessler; Shelby M. Withrow & Family; Nathan Simmons; Randol Simmons; Lauoghn S. Underwood and Ricky Underwood; Withrow-Wiechman Development Co.; Lee and Marta Wiechman; and Barbara Womack.
31. While the settlement route is not a route filed in the application, it was studied and filed as part of the environmental assessment and alternative route analysis.
32. Every link of the settlement route was noticed in compliance with PURA § 37.054 and P.U.C. PROC. R. 22.52(a).

Application/Project Description

33. The proposed project consists of a new double-circuit 345-kV transmission line extending from the existing Oncor Willow Creek Switching Station, located in

southwestern Wise County, to the new Oncor Hicks Switching Station to be located in central Tarrant County, north of the City of Saginaw. The new 345-kV double-circuit line is approximately 40.2 miles long.

34. Oncor filed one preferred route (route 222) and 94 alternative routes.
35. The proposed transmission-line project is a CREZ subsequent project.
36. Pursuant to Order No. 2, Oncor's application is sufficient and contains an adequate number of reasonably differentiated alternative routes to conduct a proper evaluation.

Routing of the Proposed Transmission-Line Project

37. To assist Oncor in its route selection process, Oncor retained POWER Engineers, Inc. (Power Engineers), to prepare an environmental assessment and alternative route analysis.
38. The proposed project will accomplish the intended results for the CREZ subsequent project designated in the CREZ Transmission Optimization Study ("CTO") and ordered by the Commission in Docket Nos. 37902¹ and 36802.²
39. In Docket No. 33672, the Commission determined that the transmission facilities identified in its final order were necessary to deliver renewable energy that was generated in the CREZ to customers.³ The Willow Creek-to-Hicks 345-kV transmission-line project was specifically identified in this Order as a necessary facility.⁴ In Docket No. 37902, the Commission ordered Oncor to build the project.⁵
40. The proposed transmission-line project will be constructed on alternative route 368. While route 368 was not filed in Oncor's application, it was one of the routes studied and filed in Oncor's environmental assessment and alternative route analysis. Furthermore,

¹ *Commission Staff's Petition for Selection of Entities Responsible for Transmission Improvements Necessary to Deliver Renewable Energy From Competitive Renewable-Energy Zones*, Docket No. 37902, Order on Rehearing at 55, Ordering Paragraph No. 1 (Mar. 30, 2010).

² *Proceeding to Sequence Certificate of Convenience and Necessity Applications for the Subsequent Projects for the Competitive Renewable Energy Zones*, Docket No. 36802, Order Setting Revised Schedule at 2 (Jun. 8, 2010).

³ *Commission Staff's Petition for Designation of Competitive Renewable Energy Zones*, Docket No. 33672, Order on Rehearing at 49, Ordering Paragraph No. 2 (Oct. 7, 2008).

⁴ *Id.* at 41, Finding of Fact No. 118.

⁵ Docket No. 37902, Order on Rehearing, Ordering Paragraph No. 1.

route 368 is the route agreed to and settled upon by the parties that signed the settlement agreement.

41. Except as detailed below or in conformance with the ordering paragraphs in this order, the proposed project will be constructed on standard lattice steel "V" double-circuit towers.
42. In accordance with the settlement agreement, Oncor will construct the proposed project on monopoles for the portion of the settlement route that begins on the east side of FM 718 on Link PPPP and ends at the Hicks Switching Station, for the portion of Link R that crosses tracts 309 and 310.
43. Oncor will under build on the same structures as the proposed transmission-line project the existing Brazos 69-kV Newark-Rhome line on Link PPPP starting on the western boundary of Tract No. 147 and continuing approximately due east on Link PPPP and Link ZZ until Link ZZ turns to the southeast just west of Farm to Market Road 3433. Oncor also has the option to seek to extend such under build approximately 3,300 feet to the west beginning where the Brazos 69-kV Newark-Rhome line adjoins Link PPPP.
44. Oncor will under build on the same structures as the proposed transmission-line project the existing Oncor 138-kV Sunset-Rhome transmission line on a portion of Link ZZ, and Links BBB and EEE (as those links have been modified by the settlement agreement or by agreement of the landowners) until approximately the southern border of Tract 154.
45. The settlement route complies with all aspects of PURA § 37.056 and P.U.C. SUBST. R. 25.101.
46. The settlement route is the best alternative when all routing factors are considered.

Community Values

47. Oncor held two public open house meetings in accordance with P.U.C. PROC. R. 22.52. The first meeting was held on January 19, 2010 at the Prairie View Elementary School located in Rhome, Texas. The second meeting was held on January 20th at the Springtown Area Senior Center in Springtown, Texas.
48. A total of 308 people signed in at one of the public participation meetings.

49. In addition to the public open house meetings hosted by Oncor, a third meeting regarding the proposed transmission-line project was hosted by Tarrant County Commissioners, Precincts 3 and 4, on March 30, 2010. The meeting was conducted as an additional, typical open house meeting with the purpose of providing information to the public and property owners of the project need, the preliminary alternative routes selected, and to solicit comments from the public.
50. Based on information received by Power Engineers from the public involvement program, the locations of portions of 41 existing route links were modified, 23 new route links were added, and 13 route links were removed.
51. Information received from the public open-house meetings and from local, state, and federal agencies was considered and incorporated into the selection of preferred and alternative routes by Oncor.
52. The settlement route does not significantly impact community values, recreational and park areas, historical and aesthetic values, or the environmental integrity of the area traversed by the settlement route.
53. Commission Staff recommends that Oncor cooperate with directly affected landowners to implement minor deviations in the approved route to minimize the impact of the proposed transmission-line project.

Recreational and Park Areas

54. The proposed transmission-line project will not significantly impact the use or enjoyment of park and recreational facilities.
55. The settlement route does not cross any parks or recreational areas.
56. No park or recreational area is within 1,000 feet of the centerline of the settlement route.

Historical Values

57. No significant impacts to archaeological or historical resources are anticipated as a result of the construction of the proposed transmission-line project.
58. There are no recorded cultural resource sites crossed by the settlement route.
59. One Texas historical marker is located within 1,000 feet of the settlement route.

60. Approximately 55,525 feet of the settlement route passes across areas of high archaeological or historical site potential.
61. Commission Staff recommends that, in the event Oncor or its contractors encounter any archeological artifacts or other cultural resources during project construction, work shall cease immediately in the vicinity of the resource and the discovery shall be reported to the Texas Historical Commission. The utility will take action as directed by the Texas Historical Commission.

Aesthetic Values

62. Aesthetic impacts of the proposed project have been considered and minimized to the extent possible.
63. None of the settlement route lies within the foreground visual zone of a park or recreational area.
64. Of the approximate 40.2 miles crossed by the settlement route, approximately 2.9 miles of the length lies in the foreground visual zone of U.S. and State Highways.

Environmental Integrity

65. The environmental assessment and alternative route analysis prepared by Power Engineers analyzed the possible impacts of the proposed project on numerous different environmental factors.
66. Construction of the proposed project on the settlement route will have no significant effects on the physiographic or geologic features of the area.
67. Construction of the proposed project on the settlement route should have little adverse impact on the surface or ground water resources of the area.
68. No known occurrences of any federal or state listed threatened or endangered plant or animal species or designated critical habitat areas were indicated during review of the study area.
69. Once a route for the proposed project is approved by the Commission, Oncor will coordinate with the U.S. Fish and Wildlife Service (USFWS) if threatened or endangered species habitats are identified during field surveys.

70. The settlement route is unlikely to affect most federally-endangered animal species, and any effect the settlement route will have on these species will be mitigated by Oncor's standard practices.
71. Oncor and Power Engineers appropriately performed an evaluation of the impacts of the proposed transmission-line project on endangered and threatened species.
72. To protect raptors and migratory birds, Commission Staff recommends 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.
73. Commission Staff recommends 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 (ROW) clearance for the transmission line. In addition, Commission Staff recommends that Oncor revegetate using native species and consider landowner preferences in doing so. Furthermore, to the maximum extent practicable, Commission Staff recommends that Oncor avoid adverse environmental impacts to sensitive plant and animal species and their habitats as identified by TPWD and USFWS.
74. Commission Staff recommends that Oncor implement erosion control measures as appropriate and return each affected landowner's property to its original contours unless otherwise agreed to by the landowners.
75. Commission Staff recommends that Oncor exercise extreme care to avoid affecting non-targeted vegetation or animal life when using chemical herbicides to control vegetation within the ROW.
76. Commission Staff recommended that Oncor work with TPWD and install bird flight diverters on the conductors of the project on Link PPPP as recommended by TPWD to mitigate the potential negative impacts of the project on migratory birds, including waterbirds and waterfowl.

Goals for Renewable Energy

77. The proposed transmission-line project is consistent with and in furtherance of the goals and mandates of PURA § 39.904.

Engineering Constraints

78. The settlement route does not present any engineering constraints that cannot be resolved with additional consideration during the design and construction phase of the proposed transmission-line project.

Compatible Corridors

79. The settlement route utilizes or parallels existing compatible ROW and apparent property boundaries for approximately 45 percent of the length of the line.

Prudent Avoidance

80. The proposed transmission-line project complies with the policy of prudent avoidance.
81. Over its approximate 40.2 mile length, the settlement route has 61 habitable structures within 500 feet of its centerline.

Financial Commitments

82. 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 approve Oncor's application for the proposed transmission-line project.

Proposed Modifications to the Scope of Work Contained in the CTO

83. Oncor has proposed modifications to the transmission improvements described in the CTO for this project. Each of these changes has been recommended by ERCOT.
84. The CTO proposed constructing the line using bundled 1433.6-kcmil ACSS/TW (1433 conductor). Because of numerous operational efficiencies, Oncor proposes using bundled 1926.9-kcmil ACSS/TW (1926.9 conductor).
85. Oncor submitted information regarding the modification to ERCOT, and ERCOT concluded that Oncor's modification to the CTO was both cost-effective and consistent with the intent of the CTO.

86. The CTO listed the Willow Creek-to-Hicks project as being 31 miles long, based only on a straight line distance. The estimated distance for the settlement route is approximately 40.2 miles.
87. Oncor's proposed changes are cost-effective, consistent with the CTO, and will have numerous implementation advantages.

Estimated Costs

88. 88. The total estimated cost for the proposed transmission-line project on the settlement route is \$102,000,000.
89. The total cost for construction of the transmission line (including the cost of under building and monopoles where required by this Order and agreed to in the settlement agreement) is approximately \$83,120,000.
90. There are approximately \$5.4 million in costs associated with the station facilities at the existing Willow Creek Switching Station that are included in the proposed project. Additionally, there are approximately \$13.5 million in costs associated with the establishment of the new Hicks Switching Station.
91. The CTO estimate for the proposed Willow Creek-to-Hicks transmission line was \$58.28 million. However, this cost estimate only anticipated construction of a 31 mile transmission line project. The estimated length of the settlement route is 40.2 miles.
92. The primary drivers of the divergence in the two cost estimates are (1) additional length and angle structures that are necessary to avoid routing constraints in the study area and comply with the Commission's routing criteria and (2) higher than average ROW costs.

Need for the Proposed Transmission Line

93. The proposed transmission-line project was specifically identified as a necessary facility in Docket No. 33672.
94. In Docket No. 37902, Oncor was ordered to build the proposed project.
95. As a CREZ transmission project identified in Docket Nos. 33672 and 37902, the proposed transmission-line 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 PURA § 37.056(c)(1)-(3) and (4)(E).

TPWD's Written Comments and Recommendations

96. TPWD filed a Comment Letter on August 19, 2010.
97. Oncor must comply with all environmental laws and regulations governing endangered species.
98. Oncor will comply with all applicable regulatory requirements in constructing the proposed transmission-line project, including any applicable requirements under Section 404 of the Clean Water Act.
99. In preparing the environmental assessment and alternative route analysis, Power Associates reviewed TPWD's previous correspondence in this docket along with TPWD's general comments made in Docket No. 35665. These recommendations were taken into account in preparing the environmental assessment.
100. Because of Oncor's and Power Associates' inability to access private properties to conduct on-the-ground surveys during development of the environmental assessment and alternative route analysis, Power Associates relied on habitat descriptions from various sources, including the Texas National Diversity Database and other sources provided by TPWD, along with observations from field reconnaissance to make the determination for some species regarding the likelihood of habitat presence in the study area.
101. After a transmission line route has been selected and approved by the Commission, qualified individuals will conduct a field assessment of the entire length of the chosen route to identify water resources, potential migratory bird issues, and threatened or endangered species habitat that may be impacted as a result of the proposed transmission-line project.
102. Oncor 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.

103. Oncor will identify potential stopover locations of the Whooping Crane and utilize best management practices to avoid, minimize, or mitigate potential impacts to this federally-listed species.
104. Oncor will utilize best-management practices to mitigate the potential impact to all bird species, including the use of bird flight diverters where appropriate.
105. Oncor's current best management practices are sufficient and thus no additional permitted biological monitor is necessary during clearing and construction activities to monitor for state-listed plant and animal species.
106. Oncor complies with all aspects of the Migratory Bird Treaty Act.
107. An absolute restriction on vegetation clearing activities from March to August is neither reasonable nor operationally practical.
108. Mitigation measures are determined after a route is approved by the Commission and on-the-ground surveys are completed for the route. Should construction impact federally-listed species or their habitat or impact water under the supervision of the U.S. Army Corps of Engineers (USACE), Oncor will coordinate with the USFWS or USACE respectively to coordinate permitting and any required mitigation.
109. Oncor revegetates the ROW either with native grasses or in accordance with landowner's preference. If the landowner prefers revegetating the ROW with native grasses, then Oncor will do so.
110. 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.

Commission Modifications

111. In addition to the monopoles discussed in finding of fact 42, the Commission finds it appropriate to use monopoles on Link PPPP from the east side of FM 718 to County Road 4767.
112. In addition to the monopoles discussed in finding of fact 42, the Commission finds it appropriate to use monopole on Link S, tracts 323, 324, 325, and 326.

113. The Commission finds it appropriate to span and monopole the property that provides Mrs. Tammy Sinkler with ingress and egress access to County Road 3672.
114. The Commission finds it appropriate that Oncor endeavor to move the line east on tracts 158, 168, and 169 on Link EEE in order to lessen the impact to the Newark Ranch development.
115. The Commission find that tract 810 on Link PPPP, owned by Mark Starnes, is currently crossed by two existing 138-kV Brazos Electric Cooperative lines, and that the settled route agreed to by the signing parties and the two existing Brazos Electric Cooperative lines on tract 810 would unduly burden Mr. Starnes' property.
116. The Commission became aware at the December 8, 2010 open meeting that Brazos Electric Cooperative plans to reconstruct and upgrade its transmission line, possibly affecting the existing Brazos lines on Mr. Starnes' property.
117. Due to the unique circumstances presented, the Commission finds it appropriate for Oncor to work with Mr. Starnes and Brazos Electric Cooperative in order to minimize the impact of the settled route to Mr. Starnes' property, including the use of under building and/or paralleling property lines or existing transmission lines.

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, and 37.056.
3. SOAH has jurisdiction over this proceeding pursuant to PURA § 14.053 and TEX. GOV'T CODE ANN. § 2003.049 (Vernon 2010).
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 Administrative Procedure Act, TEX. GOV'T CODE ANN. Chapter 2001 (Vernon 2010).

6. Oncor is entitled to approval of the application, as described in the findings of fact, utilizing the settlement route, taking into consideration the factors set out in § 37.056 of PURA and P.U.C. SUBST. R. 25.101.
7. The settlement route complies with all aspects of PURA § 37.056 and P.U.C. SUBST. R. 25.101, including the Commission's policy of prudent avoidance.
8. The proposed transmission-line project, as a CREZ transmission project identified in Docket Nos. 33672 and 37902, 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.
9. 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.
10. The requirements for informal disposition pursuant to P.U.C. PROC. R. 22.35 have been met in this proceeding.

III. Ordering Paragraphs

In accordance with these 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 double-circuit 345-kV transmission-line extending from the existing Oncor Willow Creek Switching Station to the new Oncor Hicks Switching Station is approved. The proposed transmission-line project will follow alternate route 368 as described in the environmental assessment and alternative route analysis and agreed upon by the parties to the settlement agreement.

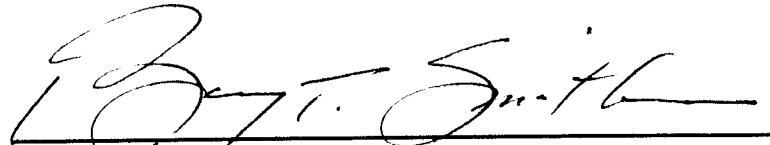
2. In the event Oncor or its contractors encounter any archaeological artifacts or other cultural resources during construction of the transmission-line, Oncor shall cease work immediately in the vicinity of the resource and report the discovery to the Texas Historical Commission and take action as directed by the Texas Historical Commission.
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 USFWS.
6. Oncor shall use best management practices to minimize the potential impact to migratory birds and threatened or endangered species.
7. Oncor shall work with TPWD and install bird flight diverters on the conductors of the project on Link PPPP as recommended by TPWD to mitigate the potential negative impacts of the project on migratory birds, including waterbirds and waterfowl.
8. 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.
9. Oncor shall cooperate with directly affected landowners to implement minor deviations in the settlement route to minimize the impact of the transmission line. Any minor deviations in the settlement route shall only directly affect landowners who were sent 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.

10. Oncor shall be permitted to monopole if it is more cost effective. In addition, Oncor shall 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 the right-of-way acquisition is extremely high.
11. In addition to the use of monopoles required under the settlement agreement, Oncor shall extend the use of monopoles on Link PPPP west to County Road 4767.
12. Oncor shall also use monopoles on tracts 323, 324, 325, and 326 on Link S.
13. Oncor shall span and monopole the property that provides Mrs. Tammy Sinkler with ingress and egress access to County Road 3672.
14. Oncor shall use best efforts to move the line east on tracts 158, 168, and 169 on Link EEE in order to lessen the impact to the Newark Ranch development.
15. On the property of Mark Starnes, tract 810 on Link PPPP, Oncor shall work with Mr. Starnes and Brazos Electric Cooperative in order to minimize the impact to Mr. Starnes' property through the use of under building and/or paralleling property lines or existing transmission lines, and may deviate from the settled route accordingly.
16. 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.
17. Oncor shall be permitted to deviate from the approved route in any instance in which the deviation would be more than a minor deviation, but only if the following two conditions are met. First, Oncor shall receive consent from all landowners who would be affected by the deviation regardless of whether the affected landowner received notice of or participated in this proceeding. Second, the deviation shall result in a reasonably direct path towards the terminus of the line. Unless these two conditions are met, this paragraph does not authorize Oncor to deviate from the approved route except as allowed by the other ordering paragraphs in this Order.

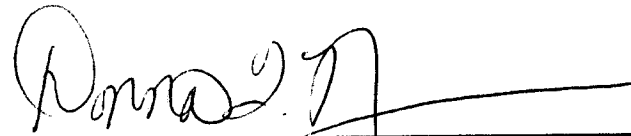
18. Oncor shall provide a copy of this order to the Railroad Commission of Texas (RRC), along with topographical map(s) of the selected route in electronic form and a schedule for completion of the project, no later than ten days from the date this order becomes final. Oncor shall supplement the map(s) 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 ROW of the transmission line 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 RRC shall immediately be brought to the attention of the Chairman of the Public Utility Commission and the Chairman of the RRC.
19. Entry of this Order consistent with the settlement agreement does not indicate the Commission's endorsement or approval of any principle or methodology that may underlie the settlement agreement. Entry of this Order consistent with the settlement agreement shall not be regarded as binding holding or precedent as to the appropriateness of any principle that may underlie the settlement agreement.
20. 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 herein, are hereby denied.

SIGNED AT AUSTIN, TEXAS the 13th day of December 2010

PUBLIC UTILITY COMMISSION OF TEXAS



BARRY T. SMITHERMAN, CHAIRMAN



DONNA L. NELSON, COMMISSIONER



KENNETH W. ANDERSON, JR., COMMISSIONER