

**PUC DOCKET NO. 37530
SOAH DOCKET NO. 473-10-1088**

**APPLICATION OF ONCOR ELECTRIC
DELIVERY LLC TO AMEND ITS
CERTIFICATE OF CONVENIENCE AND
NECESSITY FOR THE PROPOSED
BLUFF CREEK TO BROWN 345-kV
CREZ TRANSMISSION LINE IN
TAYLOR, RUNNELS, COLEMAN, AND
BROWN COUNTIES, TEXAS**

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**PUBLIC UTILITY COMMISSION
OF TEXAS**

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ORDER

This Order addresses the application of Oncor Electric Delivery Company, LLC to amend its certificate of convenience and necessity (CCN) to include the Bluff Creek to Brown 345-kV transmission line. The Bluff Creek to Brown line begins at AEP Texas North Company's Bluff Creek switching station in Taylor County and runs southeast to Oncor's new Brown switching station located southwest of Brownwood. The line will run through Taylor, Runnels, Coleman, and Brown Counties.

On March 24, 2010, the State Office of Administrative Hearings' administrative law judge (ALJ) issued a proposal for decision in which the judge recommended granting Oncor's application. The ALJ found that route 2 best meets the considerations set forth in the Commission's preliminary order in this docket. 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. The Commission adopts the ALJ's recommendation that route 2 be constructed and modifies the proposal for decision regarding other issues.

I. Use of Monopoles

Oncor is permitted to use monopoles if it is more cost effective to do so. In addition, the Commission requires Oncor to use 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.

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II. 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.¹ The RRC supports the language that was used in Docket No. 37464² and requests that the Commission adopt the same ordering language in this case.³ Therefore, the Commission adopts in ordering paragraph 13 the language used in Docket No. 37464 regarding oil and gas wells.

III. Texas Parks and Wildlife's Written Comments and Recommendations

As noted by the ALJ, recent amendments to the Texas Parks and Wildlife Code⁴ 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 January 4, 2010. The Commission rejects the ALJ's 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 findings proposed by the ALJ regarding the TPWD's recommendations.

Consistent with the above discussion regarding the TPWD recommendations, the Commission revises findings of fact 79, 84, 88, and 89; deletes findings of fact 80, 83, and 87; and adds new findings of fact 87A, 89A, 89B, and 89C.

IV. Other modifications

Oncor shall be permitted to deviate from route 2 along links U, E2, and GG in any instance in which the deviation would be more than a minor deviation, but only if Oncor receives consent from all of the landowners who would be affected regardless of whether the affected landowners received notice of or participated in this proceeding. Absent consent from all

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

² *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*, Docket No. 37464, Order (Apr. 5, 2010).

³ The Railroad Commission of Texas' Reply to Exceptions to Proposal for Decision at 2.

⁴ TEX. PARKS & WILD. CODE ANN. (Vernon 2002 & Supp. 2009).

affected landowners, Oncor is not authorized to deviate from the approved route. However, this does not prohibit Oncor from making deviations otherwise authorized by this Order. The Commission adds an ordering paragraph to reflect its determination of this issue.

The Commission deletes finding of fact 39 and adds new finding of fact 39A to reflect the total number of habitable structures listed for route 2. The Commission also modifies findings of fact 21, 98, 107, and 108 and conclusions of law 7 and 12 to replace references to the findings in Docket No. 35665⁵ with the findings in Docket No. 37928⁶ regarding designation of transmission providers to build CREZ transmission facilities and designation of CREZ priority projects.

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

V. Findings of Fact

Procedural History

1. Oncor Electric Delivery Company LLC is an investor-owned electric utility providing service under Certificate of Convenience and Necessity (CCN) No. 30158.
2. On October 28, 2009, Oncor filed its application with the Public Utility Commission of Texas (Commission) to amend its CCN for the Bluff Creek to Brown 345-kilovolt (kV) Competitive Renewable Energy Zone (CREZ) transmission line in Taylor, Runnels, Coleman, and Brown Counties.
3. The proposed Bluff Creek to Brown 345-kV CREZ transmission line in Taylor, Runnels, Coleman, and Brown Counties consists of a new double-circuit 345-kV transmission line

⁵ *Commission Staff's Petition for Selection of Entities Responsible for Transmission Improvements Necessary to Deliver Renewable Energy from Competitive Renewable Energy Zones*, Docket No. 35665, Order on Rehearing (May 15, 2009).

⁶ *Priority Projects Severed from Docket No. 37902 (Remand of Docket No. 35665 (Commission Staff's Petition for Selection of Entities Responsible for Transmission Improvements Necessary to Deliver Renewable Energy from Competitive Renewable Energy Zones))*, Docket No. 37928, Order on Remand (Feb. 25, 2010).

extending from an existing AEP Texas North Company Bluff Creek switching station to the new Oncor Brown switching station. The new 345-kV double-circuit line is approximately 81 miles in length and will be constructed on Oncor's standard lattice steel "V" towers capable of supporting two 345-kV circuits.

4. On October 28, 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 Tuscola, Lawn, Novice, Winters, Coleman, Bangs, and Santa Anna; (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 Taylor, Runnels, Coleman, and Brown Counties; (3) provided notice of the application to each neighboring utility providing the same utility service within five miles of the requested facilities, including AEP, Taylor Electric Cooperative, Inc., Coleman County Electric Cooperative, Inc., McCulloch Municipal Power & Light Electric Cooperative, Inc., and Coleman Municipal Power & Light Department; 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. On November 2, 2009, a revised copy of the notice was mailed to all directly affected landowners.
6. On November 2, 2009, the Commission referred this matter to the State Office of Administrative Hearings (SOAH). The Commission's order of referral also included a list of issues to be addressed and a deadline for decision.
7. Oncor published notice of its application in the *Abilene Reporter-News*, *Winters Enterprise*, *Coleman Chronicle & Democrat Voice*, and *Brownwood Bulletin* on November 4, 2009, all of which are newspapers of general circulation within the counties where the CCN is being requested.

8. On November 6, 2009, 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.
9. On November 18, 2009, Oncor filed its affidavit attesting to the provision of notice to cities, counties, neighboring utilities, and landowners.
10. On November 18, 2009, Oncor filed its first supplement to its application. The supplement clarified statements dealing with historical and archeological sites and revised route descriptions and notice maps.
11. On December 1, 2009, the Commission issued a supplemental preliminary order requiring the Commission to provide a written response to each recommendation or comment made by TPWD.
12. Order No. 4, issued on December 18, 2009, admitted the following intervenors (parties): Small Five Oil & Gas; Jack Maroney Limited Partnership; Michael L. Rogers; 3-B Ranch, Inc.; Big Tio, Inc.; Ross L. Jones; Dwain Cannon; Tom B. Schaffner; Jack Horne; Thomas Meek; B Ranch LLC; Michael and Sharon McDonald; Cody Chambers; Walter Von Clendenen; Aaron Clendenen; Travis Clevenger; Robert E. Gardner; Bruce Goodheart; John Graham; Jeff Greenlee; Carolyn Gully; Josie Hicks; Jack Horne; Alissa Hohmann; James Hunter; Jovita Jaeger; Ellis Two Ltd.; Bartis Knight; Al Kohutek; Lamb Diamond L Ranch; B. Ward and Patricia Lane; Merridee McClatchy; Wanda J. Dreinhofer; John P McClatchy; William Massey, Bruce Reed, Adrian Campbell, Paul Bilberry; Monte McMahan; Peggy Smith, Cynthia Kay Merryman, Tonya Lee and Michael Smith; Jerry F. and Patsy J. Miller; David Truett Miller, P.E.; Benjlee Mosley; Samuel Clinton Nix; Samuel B. Nix; Emma L. Nix; Lisa Nix; Barbara Kingsbery Jones, Sue Kingsbery Porter; Carol Kingsbery Otto; Susan Peeples; BBCF Properties, LLC; Marvin and Jean Barber; Keith Lee Hamilton; Larry Smith; Wayne Snider; Betty Alvey; Ann Swanson; Merridee McClatchy; Joseph Taylor; Charles R. Taylor, Jr.; Lawrence Taylor; Karen Thorpe; Diann and Wayne Wallace; Ellen Walters; Sandra Wanzor; James

Larry Webb; and Alan Welch. That same order required all parties to file either written testimony or a statement of position by January 5, 2010, and indicated that a failure to do so would result in dismissal as a party in this case.

13. On January 4, 2010, the TPWD filed its letter containing comments and recommendations regarding the project.
14. Order No. 6, issued on January 21, 2010, dismissed the following intervenors for failing to file written testimony or a statement of position as required in Order No. 4: B Ranch, LLC; Michael and Sharon McDonald; Cody Chambers; Walter Von Clendenen; Aaron Clendenen; Travis Clevenger; Bruce Goodheart; Jeff Greenlee; Carolyn Gully; Josie Hicks; Alissa Hohmann; James Hunter; Jovita Jaeger; Bartis Knight; Al Kohutek; Monte McMahon; Jerry F. and Patsy J. Miller; Benjlee Mosley; Larry Smith; Wayne Snider; Diann and Wayne Wallace; Ellen Walters; Sandra Wanzor; and Alan Welch. Order No. 8, issued February 9, 2010, reinstated intervenors Alissa Hohmann and Ellen Walters.
15. On January 26, 2010, Oncor filed a second supplement to its application, which corrected information provided in the original environmental assessment.
16. The hearing on the merits convened on February 1 and concluded on February 5, 2010.
17. The record closed on March 1, 2010.

Project Description

18. The project consists of a new double-circuit 345-kV transmission line extending from the existing AEP Bluff Creek switching station to Oncor's new Brown switching station. Using route 2, the new 345-kV double-circuit line is approximately 87.2 miles in length and will be constructed on Oncor's standard lattice steel "V" towers capable of supporting two 345-kV circuits. The project will be constructed on a 160-foot right-of-way.

19. The project is a CREZ priority project.
20. Sufficiency of the application and notice was not contested.
21. The project will accomplish the intended results for the CREZ priority project designated as “Bluff Creek – Brown” in the CREZ Transmission Optimization Study (CTO) and ordered by the Commission 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), 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).

Routing of the Project

22. Oncor retained PBS&J to prepare an environmental assessment.
23. Oncor filed one preferred route (route 82) and 60 alternative routes.
24. Route 2 consists of links A1, BB, A, U, GG, WW, E2, G2, and Z.
25. Route 2 is the most desirable route because it better minimizes the negative impact to the communities in Moro, Trickham, and landowners in Coleman County than does Oncor’s preferred route 82 and best meets the considerations set forth in the Commission’s preliminary order in this docket.
26. Other than termination of the project at AEP’s existing Bluff Creek station, no other utilities will be affected by the construction of this project.

Community Values

27. Oncor held three public open-house meetings. The first meeting was held on July 14, 2009 at the Jim Ned High School Cafetorium, the second meeting was held on July 15, 2009 at the Bill Franklin Center, and the third meeting was held on July 16, 2009 at the Bangs High School Cafeteria.
28. A total of 395 people signed in as attending one of the three public open-house meetings.
29. Based on information received by PBS&J from the public involvement program, portions of 16 existing route links were modified and 2 existing route links were removed.
30. PBS&J personnel spent six days conducting reconnaissance of the study area, trying to identify constraints, habitable structures, cemeteries, churches, schools, and road names, which were not always listed on maps.
31. 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.
32. Landowners responding to questionnaires agreed that it was important to maximize the distance along existing transmission line, roadway, and railroad corridors and along property lines. No questionnaire respondents indicated that it was an important routing criterion to follow existing pipeline right-of-way.
33. A large part of Coleman County's economy is derived from recreation activities, in particular hunting and fishing.
34. Route 2 avoids the communities of Trickham and Moro.
35. It is reasonable to require that Oncor cooperate with directly affected landowners to implement minor deviations in the approved route to minimize the impact of the project.

36. There are no significant impacts to any communication facilities, airports, airstrips, heliports, or cropland irrigated by traveling irrigation systems anticipated from construction of the project.
37. Oncor considered and avoided population centers and other locations where people gather and live when routing all of its proposed routes for the project.
38. A habitable structure is defined as one that is normally inhabited by humans or intended to be inhabited by humans on a daily or regular basis.
39. DELETED.
- 39A. Oncor's application, attachment 1, Table 7-3 of the environmental assessment, listed 25 habitable structures within 500 feet of the centerline of route 2.
40. Route 2 complies with the Commission's policy of prudent avoidance.

Recreational and Park Areas

41. The project will not significantly impact the use or enjoyment of park and recreational facilities.
42. There are no parks or recreational areas owned by a governmental body or an organized group, club, or church crossed by any route.
43. There are no parks or recreational areas owned by a governmental body or an organized group, club, or church within 1,000 feet of the centerline of routes 1, 2, 82, or 97.
44. Routes 1, 2, and 97 have no negative impact on the foreground visual zone of a park or recreational area, whereas route 82 has 8.1 miles of length within ½ of a mile of a park or recreational area.

Historical Values

45. No significant impacts to archaeological or historical resources are anticipated as a result of the construction of the project on any of the alternative routes.
46. Four recorded archeological sites are crossed by the proposed centerline of route 2.
47. Eight historical sites exist within 1,000 feet of the centerline of route 2.
48. All the proposed routes are located in an area that has strong potential for personnel to uncover or find archeological sites.
49. Approximately 40.8 miles of route 2 traverses land considered to be of high prehistoric and historic archaeological site potential. Route 2 traverses slightly less of this high potential land than do routes 82 and 97.
50. In the event Oncor or its contractors encounter any artifacts or other cultural resources during project construction, it is reasonable for all work to cease immediately in the vicinity of the resource and for Oncor to report the discovery to the Texas Historical Commission (THC).

Aesthetic Values

51. Aesthetic impacts of the project have been considered and minimized to the extent possible.
52. Routes 1, 2, 82, and 97 do not cross a park or recreational area.
53. Route 2 does not have any length of its route within the foreground visual zone of parks and recreational areas and approximately 11.3 miles lies within the foreground visual zone of a State or U.S. Highway.

54. Route 82 has 8.11 miles of its length within the foreground visual zone of parks and recreational areas and approximately 9.6 miles within the foreground visual zone of a State or U.S. Highway.
55. Route 2 is preferable to routes 82 and 97 because there is less aesthetic impact on landowners already affected by an existing, privately-owned NextEra Energy transmission line.
56. Route 2 minimizes visual disturbance by using other right-of-way that already has some degree of visual disturbance as opposed to untouched land.
57. Construction on single-pole structures would cost approximately 1.8 times more than construction of the same line on lattice towers.

Environmental Integrity

58. The environmental assessment prepared by PBS&J analyzed the possible impacts of the project on numerous different environmental factors.
59. Construction of the project will not have significant effect on the physiographic or geologic features of the area.
60. No significant impact to soils is anticipated from construction of the project.
61. Impacts on prime farmland will be insignificant because of the small footprint of the tower structures.
62. Construction of the project should have little adverse impact on the surface or ground water resources of the area.
63. Construction of the project will require clear cutting a 160-foot right-of-way, affecting trees, shrubs, and the wildlife and cattle supported by such vegetation.

64. Mixed hardwood shrubland includes primarily trees, including live oaks, mesquites, juniper, woody vegetation, and low lying ground cover.
65. The project will be built in a study area that depends on existing trees to provide deep shade for cattle, turkey roosts, and game habitat.
66. Landowners in the project's study area strongly value existing mixed hardwood shrubland.
67. Route 2 crosses only 29.91 miles (34.3 percent) of mixed hardwood shrubland. Route 82 crosses 40.87 miles (50.5 percent) and route 97 crosses 35.87 miles (41.5 percent).
68. Unless Oncor uses best management practices, such as spanning across creeks, to reduce impacts on streambed during construction, damage to the mussel population might be experienced throughout the entire study area, not just along the southern routes.
69. Damage to the mussel population may be significant along link P on route 82 because link P sits at the top of the ridge, along the headwaters of Elm Creek.
70. Route 2 does not cross any known habitat or known locations of threatened or endangered plant or animal species.
71. The project is unlikely to affect most federally-endangered animal species, and any effect the project will have on these species will be mitigated by Oncor's standard practices.
72. Oncor and PBS&J appropriately performed an evaluation of the impacts of the project on endangered and threatened species.
73. To protect raptors and migratory birds, it is reasonable for Oncor to 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, 2006 and the Avian Protection Plan Guidelines published by the APLIC in April, 2005.

74. It is reasonable for Oncor to 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.
75. It is reasonable for Oncor to implement erosion control measures as appropriate and return each affected landowner's property to its original contours unless otherwise agreed to by the landowners.
76. It is reasonable for Oncor to exercise extreme care to avoid affecting non-targeted vegetation or animal life when using chemical herbicides to control vegetation within the right-of-way.

TPWD's Written Comments and Recommendations

77. TPWD filed a project review document on January 4, 2010.
78. Oncor must comply with all environmental laws and regulation governing endangered species.
79. 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.
80. DELETED.
81. Mitigation measures relating to raptor protection, herbicide use, flora and fauna disturbance, and erosion control are part of Oncor's standard practice.

82. Oncor currently uses permitted biological monitors to ensure compliance with the Endangered Species Act and other applicable regulatory requirements. Additionally, Oncor conducts assessments to determine if federally listed threatened and endangered species habitat is present.
83. DELETED.
84. 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.
85. Performing a biological assessment of the entire study area before a route is selected will cause extensive delays and significant cost increases. Oncor will perform a biological assessment once a route is selected.
86. Oncor currently complies with all aspects of the Migratory Bird Treaty Act.
87. DELETED.
- 87A. An absolute restriction on vegetation clearing activities during the general bird nesting season is neither reasonable nor operationally practical.
88. Oncor's current method of clearing right-of-way, which has been used for years, is necessary to ensure the safety and reliability of the line.
89. 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.

- 89A. 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.
- 89B. Oncor will use best management practices to minimize the potential impact to migratory birds and threatened or endangered species.
- 89C. Oncor will identify locations of the black-capped vireo and golden-cheeked warbler and utilize best management practices to avoid, minimize, or mitigate potential impact to those federally-listed endangered species.

Engineering Constraints

90. None of Oncor's proposed routes present any engineering constraints that cannot be resolved with additional consideration during the project's design and construction phase.

Compatible Corridors

91. Landowners in the study area do not support the use of underground gas pipeline right-of-way as compatible right-of-way to the proposed transmission line.
92. Because gas pipeline corridors are less visible, following such a corridor offers less or zero mitigation from both environmental and aesthetic perspectives than does following existing roadways or other cleared corridors for railroad tracks or transmission lines.
93. Route 2 follows more right-of-way that the community considers to be compatible right-of-way when routing transmission lines than do routes 1, 82, and 97. Specifically, route 2 parallels existing transmission lines for 10.2 miles or 11.7 percent of its length; parallels existing roads/highways for 32 miles or 36.7 percent of its length; parallels railroads for 1.81 miles or 2.1 percent of its length; and parallels apparent property boundaries for approximately 46.6 miles or 53.5 percent of the length of the line.

Estimated Costs

94. Oncor's total estimated costs for the proposed project are significantly less than the estimated costs in the CTO and do not raise any concerns regarding approval of the application for the project.
95. The overall estimated cost for the project along route 2 is \$110,930,000.
96. The CTO estimated the Bluff Creek to Brown project to cost \$141,000,000.
97. Oncor's estimated cost for the project, using route 2, is \$30,070,000 lower than the CTO's estimate.

Goal for Renewable Energy

98. To fulfill the renewable energy goals established by the Legislature in Section 39.904(a) of the Public Utility Regulatory Act (PURA), TEX. UTIL. CODE ANN. §§ 11.001-66.017, the Commission adopted, in *Commission Staff's Petition for Designation of Competitive Renewable-Energy Zones*, Docket No. 33672 (Oct. 7, 2008), a transmission plan to deliver renewable energy to market and, in Docket No. 37928, designated certain transmission service providers to build the required transmission facilities.
99. In Docket No. 33672, the Commission determined that the transmission facilities identified in its final order, including the Bluff Creek to Brown transmission line, were necessary to deliver to customers renewable energy generated in the CREZ.

Financial Commitments

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

Proposed Modifications to the Scope of Work Contained in the CTO

101. The CTO proposed terminating both circuits of the project at the AEP-owned Bluff Creek switching station. However, both Oncor and AEP are proposing to modify the proposed

project by having one circuit terminate at the Bluff Creek switching station and having the second circuit of the project fly-by Bluff Creek en route to the Brown switching station.

102. The CTO proposed constructing the line using bundled 1433.6 kcmil ACSS/TW (1433 conductor). Oncor proposes using bundled 1926.9 kcmil ACSS/TW (1926.9 conductor).
103. The CTO listed the Bluff Creek to Brown project as being 75-miles long. However, the route 2 for the project is approximately 87.2-miles long.
104. While not included in the CTO, additional terminal equipment will need to be installed at the AEP Bluff Creek switching station.
105. Oncor submitted information regarding each modification to ERCOT, and ERCOT concluded that Oncor's modifications to the CTO were both cost-effective and consistent with the intent of the CTO.
106. Oncor's proposed changes are cost-effective, consistent with the CTO, and will have numerous implementation advantages.

Need for the Proposed Transmission Line

107. The project was specifically listed as a CREZ priority project in the Commission's final orders in Docket Nos. 33672, 37928, and 36801.
108. As a CREZ transmission project identified in Docket Nos. 33672, 37928, and 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 PURA § 37.056(c)(1)-(3) and (4)(E).

VI. 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. SOAH has jurisdiction over this proceeding pursuant to PURA § 14.053 and TEX. GOV'T CODE ANN. § 2003.049.
4. Oncor provided sufficient notice of its application in compliance with PURA § 37.054 and P.U.C. PROC. R. 22.52(a).
5. Oncor's application is sufficient.
6. This docket was processed in accordance with the requirements of PURA and Administrative Procedure Act, TEX. GOV'T CODE ANN. Chapter 2001.
7. The project will accomplish the intended results for the CREZ priority project designated and ordered by the Commission in Docket Nos. 37928 and 36801.
8. Oncor is entitled to approval of its application, as described in the findings of fact, using route 2, taking into consideration the factors set out in PURA § 37.056 and P.U.C. SUBST. R. 25.101.
9. Route 2 complies with all aspects of PURA § 37.056 and P.U.C. SUBST. R. 25.101, including the Commission's policy of prudent avoidance.
10. Route 2 satisfies a goal for renewable energy established in PURA § 39.904(a).

11. The project is consistent with and in furtherance of the goals and mandates of PURA § 39.904.
12. The project, as a CREZ transmission project identified in Docket Nos. 33672 and 37928, is exempt under PURA §§ 39.203(e) and 39.904(h) and P.U.C. SUBST. R. 25.174(d)(2) from the requirement of proving that the construction ordered is necessary for the service, accommodation, convenience, or safety of the public and need not address the adequacy of existing service, the need for additional service, the effect of granting the certificate on the recipient of the certificate and any electric utility serving the proximate area, and the probable improvement of service or lowering of cost to consumers in the area if the certificate is granted.
13. 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.

VII. 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 AEP's existing Bluff Creek switching station to Oncor's new Brown switching station, is approved. The project will follow route 2 as described in the application.
2. In the event Oncor or its contractors encounter any archaeological artifacts or other cultural resources during construction of the transmission line, Oncor shall cease work immediately in the vicinity of the resource and report the discovery to the THC and take action as directed by the THC.

3. Oncor shall follow the procedures outlined in the following publication for protecting raptors: *Suggested Practices for Avian Protection on Power Lines, The State of the Art in 2006*, Avian Power Line Interaction Committee, 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 right-of-way.
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 right-of-way 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 identify locations of the black-capped vireo and golden-cheeked warbler and utilize best management practices to avoid, minimize, or mitigate potential impact to those federally-listed endangered species.
8. Oncor shall implement erosion control measures as appropriate and return each affected landowner's property to its original contours and grades unless otherwise agreed to by the landowner or the landowner's representative.
9. Oncor shall cooperate with directly affected landowners to implement minor deviations in the approved route to minimize the impact of the transmission line. Any minor deviations in the approved route shall only directly affect landowners who received notice of the transmission line in accordance with P.U.C. PROC. Rule 22.52(a)(3) and shall directly affect only those landowners that have agreed to the minor deviation.

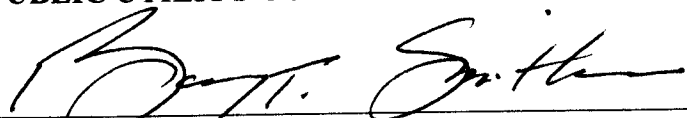
10. Oncor shall be permitted to deviate from route 2 along Links U, E2, and GG in any instance in which the deviation would be more than a minor deviation, but only if Oncor receives consent from all of the landowners who would be affected regardless of whether the affected landowners received notice of or participated in this proceeding. Absent consent from all affected landowners, this ordering paragraph does not authorize Oncor to deviate from the approved route; nor does this ordering paragraph prohibit Oncor from making deviations authorized by other ordering paragraphs in this order.
11. 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.
12. 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.
13. 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.

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

SIGNED AT AUSTIN, TEXAS on the 26th day of April 2010.


PUBLIC UTILITY COMMISSION OF TEXAS



BARRY T. SMITHERMAN, CHAIRMAN



DONNA L. NELSON, COMMISSIONER



KENNETH W. ANDERSON, JR., COMMISSIONER