

**PUC DOCKET NO. 38140
SOAH DOCKET NO. 473-10-4109**

**APPLICATION OF ONCOR ELECTRIC §
DELIVERY COMPANY LLC TO §
AMEND A CERTIFICATE OF §
CONVENIENCE AND NECESSITY FOR §
THE RILEY-KRUM WEST 345-KV §
CREZ TRANSMISSION LINE §
(FORMERLY OKLAUNION TO WEST §
KRUM) IN ARCHER, CLAY, COOKE, §
DENTON, JACK, MONTAGUE, §
WICHITA, WILBARGER, AND WISE §
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 for convenience and necessity (CCN) for the new Riley–Krum West 345-kV CREZ transmission line formerly known as Oklaunion to Krum West. On August 4, 2010 all parties except two—the Forbis Family and the Wise County Commissioners—entered into a non-unanimous stipulation (NUS) recommending approval of what is termed the settlement route, comprised of Links A-B1-B52-C1-C3-D3-E3-F2-F3a-F3b-K2-L4-L3-N1-N2-N3-S3-V-X. On September 23, 2010, the State Office of Administrative Hearings' (SOAH) administrative law judge (ALJ) issued a proposal for decision in which the judge recommended granting Oncor's application. The ALJ recommended that the Commission adopt the settlement route as set forth in the NUS because it meets the governing legal standards of the *City of El Paso v. Public Utility Commission of Texas*¹ for approval of a non-unanimous settlement in a contested proceeding and best meets the considerations set forth in the preliminary order.

The Commission agrees with the ALJ's recommendations with respect to routing and 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.

¹ 883 S.W.2d 179, 183 (Tex. 1994).

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I. Discussion

The Commission notes that in the proposal for decision (PFD), the ALJ's analysis of the settlement route's conformance to the Commission's policy of prudent avoidance included contrasting the number of habitable structures on link N3 with the number of interventions that were filed on that link.² The Commission would reiterate that its policy of prudent avoidance is measured by the number of habitable structures in proximity to the transmission line, not upon how many owners of habitable structures in close proximity file interventions.

In addition, the ALJ describes the Riley–Krum West proposed transmission line as being primarily built on double-circuit lattice steel towers.³ While the Commission concurs generally in this characterization, the Commission finds that the use of monopoles in special circumstances unique to the settlement route is reasonable. Along portions of links N1, N2 and N3 of the settlement route an existing Oncor 138-kV line parallels the new Riley–Krum West line.⁴ The Commission finds that the use of monopoles in the area along link N2 that coincides with the Silver Lakes Development for approximately two miles is reasonable and should be undertaken by Oncor.

The Commission also notes that co-locating two transmission lines can mitigate the impact of those lines across small property tracts. The Commission finds that the co-location of the existing Oncor 138-kV line with the proposed Riley–Krum West, double-circuit 345-kV line, in conjunction with the use of monopole towers, serves to mitigate uniquely adverse impacts to landowners on link N2, immediately south of the Montague-Wise County line, where the stipulated route briefly deviates from the right-of-way for Oncor's existing 138-kV line. The Commission finds that co-location in this limited area is reasonable and should be undertaken by Oncor. Furthermore, the Commission finds that Oncor should be allowed to co-locate these two lines within the Silver Lakes Development if such co-location is more cost effective. Consistent with the foregoing discussion, the Commission adopts new findings of fact 33A, 33B, 33C, 33D, and 33E and new ordering paragraph 10.

² Proposal for Decision at 25 (September 23, 2010).

³ *Id.* at 1.

⁴ Tr. at 36, Oncor Exhibit No. 1, Oncor's environmental and land use constraints maps, 3-1H, Vol. 4 of 5 (August 2-4, 2010).

II. Other Modifications

The Commission modifies findings of fact numbers 44, 55, 68, 69, 70, and 71 in order to substitute the term “it is appropriate” or “it is proper,” which are more consistent with findings of fact, in lieu of the term “shall.”

The PFD’s proposed ordering provision 8 incorrectly limits the affect of any minor deviations in the settlement route to landowners who “received” notice of the transmission line in accordance with P.U.C. PROC. R. 22.52(a)(3), which misstates the Commission rule in use of the term “received” and should be replaced by the phrase “were sent.” Consistent with the foregoing discussion, the Commission modifies proposed ordering provision 8.

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

III. 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 Certificates of Convenience and Necessity (CCN) Nos. 30158 and 30160.
2. On May 3, 2010, Oncor filed an application to amend its certificate of convenience and necessity for the Riley–Krum West 345-kV CREZ transmission line (proposed transmission line project or proposed project) in Archer, Clay, Cooke, Denton, Jack, Montague, Wichita, Wilbarger, and Wise Counties (application). P.U.C. Docket No. 38140 was assigned to the proceeding.
3. In the application, Oncor requested approval to construct a new double-circuit 345-kV transmission line that extends from the new Electric Transmission Texas (ETT) switching station, located east of the existing Oklaunion generating station and southeast of the city of Vernon in Wilbarger County, Texas, to the new Oncor Krum West switching station located northwest of the city of Krum in Denton County, Texas. The new 345-kV double circuit line is approximately 161 miles long and will primarily be constructed on double-circuit lattice steel towers with both circuits in place.

4. On May 3, 2010, Oncor: (1) mailed written notice of the Application, including a map, to each municipality within five miles of the requested facilities, including the City of Alvord, Archer City, Bellevue, Bowie, Burkburnett, Byers, Cashion, Chico, Dean, Decatur, Electra, Holliday, Iowa Park, Jolly, Lakeside City, Petrolia, Pleasant Valley, Saint Jo, Sanger, Scotland, Wichita Falls, and Windthorst; (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 Archer, Clay, Cooke, Denton, Jack, Montague, Wichita, Wilbarger, and Wise 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 Texas North Company, Electric Transmission Texas, Brazos Electric Cooperative, Western Farmers Electric Cooperative, Southwest Rural Electric Association, Inc., J-A-C Electric Cooperative, Inc., Electra Municipal Utilities, Fort Belknap Electric Cooperative, Wise Electric Cooperative, Inc., City of Bowie, Electric Dept., Cooke County Electric Cooperative, City of Sanger, COSERV Electric, and Texas-New Mexico Power Company; 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 May 5, 2010, the application was referred to the State Office of Administrative Hearings (SOAH).
6. On May 6, 2010, Oncor published notice of its application in newspapers having general circulation in the counties where the requested CCN is being requested, including *Archer County News*, *Clay County Leader*, *Gainesville Daily Register*, *Denton Record-Chronicle*, *Bowie News*, *Wichita Times-Record-News*, *Vernon Daily Record*, and the *Wise County Messenger*. On May 7, 2010, Oncor published notice of its application in *The Jack County Herald*.
7. On May 10, 2010, Order No. 1 was issued, requiring, among other things, information from Oncor regarding notice and a recommendation from the Public Utility Commission of Texas (Commission) Staff (Staff) regarding the sufficiency of the application.

8. On May 12, 2010, Oncor filed its affidavit attesting to the provision of a copy of the environmental assessment and routing study (environmental assessment) to the Texas Parks and Wildlife Department (TPWD).
9. On May 17, 2010, Staff recommended that the application be found sufficient and the Henry Family filed its motion to find Oncor's application materially deficient.
10. On June 2, 2010, Order No. 3 issued, which denied the Henry Family's motion to find Oncor's application materially deficient.
11. The Henry Family appealed the ALJ's ruling to the Commission on June 11, 2010.
12. On June 23, 2010, Oncor filed its first supplement to its application. The supplement responded to Staff's request regarding engineering and constructability issues associated with routing multiple high voltage transmission lines in parallel corridors. The supplement also updated information regarding the number of airstrips in the study area.
13. On June 30, 2010, TPWD filed a letter in this proceeding with various comments and recommendations regarding the proposed project (TPWD Comment Letter).
14. At the Commission's July 1, 2010, open meeting, the Commissioners ruled that a route adequacy hearing should be held in this docket.
15. The route adequacy hearing was held on July 12, 2010.
16. On July 20, 2010, the ALJ issued Order No. 9, which found that Oncor's application contained an adequate number of reasonably differentiated alternative routes to conduct a proper evaluation.
17. In Order No. 10, issued on July 23, 2010, the ALJ struck a number of intervenors on the grounds that they failed to file statements of position or direct testimony, set the venue for the hearing on the merits, and ruled on a number of objections to direct testimony.
18. At the July 30, 2010, open meeting, the Commission affirmed the ALJ's decision in Order No. 9.
19. On July 30, 2010, Oncor filed its Second Supplement to its Application, which (1) updated information regarding the number of airstrips in the study area and (2) corrected

- the application to reflect the fact that portions of some of the routes filed in the Application crossed a small area of the LBJ Grasslands.
20. In Order No. 11, which issued on August 2, 2010, the ALJ ruled on a number of objections to testimony and reinstated some intervenors dismissed in Order No. 10.
 21. The hearing on the merits convened on August 2, 2010, and concluded on August 4, 2010. The record closed on August 25, 2010, with the filing of reply briefs.

Non-Unanimous Stipulation

22. During the hearing on the merits, Oncor; Staff; Intervenors Sheppard Air Force Base (Sheppard AFB); Cities of Wichita Falls and Burkburnett, and Wichita County; George A. Allen on behalf of Circle A Ranch II, Limited Partnership; Clear Creek Preservation Coalition; Cross Timbers Conservancy; Richard W. Forsythe, Sara Barbara Forsythe and the Forsythe Company; Fossil Pointe Preservation Coalition; Gray Wynn Klein Ranch, L.P.; Hapgood Ranch; B.A. Tim Hall; Marvin Tyson; Carl Hearne, Eileen Hearne, and Hearne-Wise Partners, LLP; Henry Family; Kimbell Investments, Ltd., Ruth A. Kimbell Trusts; Mildred Bohner Estate; James D. Lindemann and Lindemann Properties, Ltd.; Luke Halsell Ranch; Laura Del Papa Murray; North Texas Hill Country Preservation Coalition; O2 Intervenors; Blake and Carol Sandford and Sandford Family LP; Orton Family Intervenors; George Parkey; Robert T. Gowan, Trustee of the Gowan's Children's Trust, Grace W. Gowan, Trustee of the Grace W. Gowan Lifetime Trust, William Crozier Gowan, Jr., and John C. Biggers as Trustee of the Rosalynn L. Biggers Trust; Taylor Properties; W.T. Waggoner Estate; Bettie Willingham; and Ron Cain, Trustee of the Cain Trust; (collectively, the settling parties) reached an agreement (NUS) that resolved all the routing issues in this docket. Those approximately 22 different parties represent well over 200 participating landowners. Twelve intervenors who filed statements of position were not present at the hearing on the merits but subsequently evidenced their consent to the NUS. Only two parties in this proceeding (the Forbis Family and the Wise County Commissioners) opposed the approval of the NUS. As part of the NUS, the settling parties agreed to support the Commission's approval of a specific route (settlement route).

23. While the settlement route is not a route filed in the application, it is entirely made up of links that Oncor filed in its application and that were properly noticed.
24. In a separate agreement, Oncor and Sheppard AFB agreed that, if the Commission approved a final order constructing the proposed project on certain links, Oncor would limit the height of all of the structures on those links in the area north of Sheppard AFB. In addition, Oncor agreed to file an application to amend its CCN to relocate specific portions of the Oklaunion-Fisher Road 345-kV transmission line. Oncor also entered into separate agreements with a few intervenors on the settlement route regarding agreed modifications, including structure type.
25. During the hearing on the merits, the ALJ admitted all the prefiled testimony of the parties along with Oncor's application (including the first and second supplements), the intervenor maps, the notice affidavits, the route adequacy hearing transcripts and exhibits as well as a number of exhibits offered by intervening parties and Staff. In addition, during the hearing on the merits, the ALJ admitted the supplemental settlement testimony of Jill L. Alvarez and Charles T. Jasper on behalf of Oncor, the supplemental direct testimony of Major Richard C. Altobello on behalf of Sheppard AFB, Oncor's agreement with Sheppard AFB, and the NUS.
26. The two parties opposed to the settlement route (the Forbis Family and the Wise County Commissioners) declined (or waived) cross-examination of any of the witnesses during the hearing on the merits and declined to have a separate hearing on the NUS or the settlement route.

Project Description

27. The proposed transmission line project consists of a new double-circuit 345-kV transmission line that extends from the new ETT Riley switching station, located east of the existing Oklaunion generating station and southeast of the city of Vernon in Wilbarger County, Texas, to the new Oncor Krum West switching station located northwest of the city of Krum in Denton County, Texas. The new 345-kV double circuit

line is approximately 161 miles long and will primarily be constructed on double-circuit lattice steel towers with both circuits in place.

28. Oncor filed one preferred route (route 114) and 89 alternative routes.
29. The proposed transmission line project is a CREZ subsequent project.
30. Pursuant to Order No. 3, the Commission's Order on the Appeal of Order No. 3, Order No. 9, and the Commission's ruling on the Appeal of Order No. 9 during the open meeting on July 30, 2010, Oncor's application is sufficient and contains an adequate number of reasonably differentiated alternative routes to conduct a proper evaluation.

Routing of the Project

31. Oncor retained Halff Associates, Inc. (Halff) to identify and evaluate alternative routes and to prepare an environmental assessment.
32. The proposed transmission line project will accomplish the intended results for the CREZ subsequent project designated as the "Oklaunion to West Krum double-circuit 345-kV line" (now Riley-Krum West) in the CREZ transmission optimization study (CTO) and ordered by the Commission in *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. 37902 (Mar. 30, 2010) and *Proceeding to Sequence Certificate of Convenience and Necessity Applications for the Subsequent Projects for the Competitive Renewable Energy Zones*, Docket No. 36802 (Jun. 4, 2010).
33. The proposed transmission line project will be constructed on the settlement route that the settling parties of the NUS agreed to support as described in the NUS as "route 1025 as modified."
 - 33A. The use of monopoles in special circumstances unique to the settlement route is reasonable.
 - 33B. The use of monopoles in the area along link N2 within the Silver Lakes Development for approximately two miles is reasonable and should be undertaken by Oncor..

- 33C. The practice of collocating two or more transmission lines on common towers mitigates the impact of having two abutting right of ways across small property tracts.
- 33D. The co-location of the existing Oncor 138-kV transmission line on monopole towers with the proposed Riley–Krum West double-circuit 345-kV transmission line for the portion of the line on link N2 immediately south of the Montague-Wise County line where the route briefly deviates from Oncor’s existing 138-kV transmission line serves to mitigate adverse impacts to landowners in this area and is reasonable and should be undertaken by Oncor.
- 33E. The co-location of the existing Oncor 138-kV transmission line on monopole towers with the proposed Riley–Krum West double-circuit 345-kV transmission line for the portion of the line on link N2 within the Silver Lakes Development for approximately two miles would mitigate adverse impacts to landowners in this area and would be reasonable if it is more cost effective.
34. The settlement route is composed of the following Links: A-B1-B52-C1-C3-D3-E3-F2-F3a-F3b-K2-L4-L3-N1-N2-N3-S3-V-X.
35. The settlement route is the best alternative when all routing factors are considered.

Community Values

36. This case was highly contested from the outset. Initially, over 300 affected landowners intervened in this case. At the hearing on the merits, there were approximately 22 different parties, representing well over 200 participating landowners. Those intervening parties were spread out across the entire project area on many different links. The settling parties went to great lengths during the hearing on the merits to reach a nearly-unanimous agreement regarding the siting of the proposed transmission line project.
37. All the settling parties support the settlement route, which is a strong and unified expression of community values.
38. A significant number of the settling parties have made accommodations to make the settlement route possible, including, among others, many individual landowners such as Richard W. Forsythe, Sara Barbara Forsythe and the Forsythe Company, Carl Hearne,

Eileen Hearne, and Hearne-Wise Partners, LLP, Laura Del Papa Murray, Nancy Van Auken, Rebecca Sikes, Ann Hacker and Susan Orton, and Blake and Carol Sandford and Sandford Family LP who were willing to accept the proposed transmission line on their property in either the initially proposed location, or in an alternate location on the individual landowner's property, as documented in separate, individual agreements between Oncor and those landowners. In addition, Sheppard AFB, and the Cities of Wichita Falls and Burkburnett, and Wichita County have also made accommodations to make the settlement route possible.

39. Oncor held three public open-house meetings in accordance with P.U.C. PROC. R. 22.52. The first meeting was held on December 8, 2009, at the Wichita Falls Rider High School Cafeteria, the second meeting was held on December 9, 2009, at the Sanger High School Cafeteria, and the third meeting was held on December 10, 2009, at the Bowie High School Cafeteria.
40. A total of 575 people signed in as attending one of the three public open-house meetings.
41. Based on information Halff received from the public involvement program, portions of 61 existing route links were modified and three new route links were added.
42. 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.
43. 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.
44. It is appropriate 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.

Recreation and Park Areas

45. The proposed transmission line project will not significantly impact the use or enjoyment of park and recreational facilities.

46. No state parklands are crossed by any of the alternative route links.
47. Links N2 and N3 of the settlement route cross a federally-owned parcel in the LBJ National Grasslands. However, the area traversed is small (Link N2 crosses 319 feet and Link N3 crosses 156 feet) so it is not anticipated that this will significantly impact the use or enjoyment of this area. In addition, Oncor will work with neighboring noticed landowners to avoid this impact.
48. A portion of link N2 on the settlement route crosses Lake Amon G. Carter. However, given the distance crossed (1,141 feet) it is possible that the crossing may be spanned, thereby avoiding the installation of structures within the main body of the lake. Neither the installation of structures nor lines should disrupt or preempt recreational use associated with Lake Amon G. Carter.
49. *Historical Values*
50. No significant impacts to archaeological or historical resources are anticipated as a result of the construction of the proposed transmission line project.
51. Although there are sites in the study area that have been recorded in the National Register of Historic Places (NRHP), none have been recorded within 1,000 feet of any of the alternative routes.
52. Six historic cemeteries come within 1,000 of one of the alternative routes. Three of those cemeteries come within 1,000 feet of the settlement route.
53. At least six official Texas historical markers are located within 1,000 feet of the alternative route links. Three of those historical markers are located within 1,000 feet of the settlement route.
54. Several links also have at least one recorded archeological site(s) within 1,000 feet of the link centerline. Two of the links in the settlement route (N2 and N3) have recorded archeological sites within 1,000 feet of the centerline of the settlement route. However, none of these sites is currently listed on the NRHP or is designated as a State archeological landmark.

55. There are eight recorded cultural resource sites within 1,000 feet of the proposed settlement route, and approximately 163,494 feet of the settlement route passes across areas of high archaeological or historical site potential.
56. It is appropriate that if 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 should be reported to the Texas Historical Commission (THC). In that circumstance, it is appropriate that the utility take action as directed by the THC.

Aesthetic Values

57. Aesthetic impacts of the proposed transmission line project have been considered and minimized to the extent possible.
58. Of the approximate 161 miles crossed by the settlement route, approximately 26 miles of it lies within the foreground visual zone of U.S. and State highways, and approximately 9.7 miles of the length lies in the foreground visual zone of a park or recreational area.

Environmental Integrity

59. The environmental assessment prepared by Halff analyzed the possible impacts of the proposed transmission line project on numerous different environmental factors.
60. Construction of the proposed transmission line project on the settlement route will have no significant effects on the physiographic or geologic features of the area.
61. Construction of the proposed transmission line project on the settlement route should have little adverse impact on the surface or ground water resources of the area.
62. The settlement route does not cross any known habitat or known locations of threatened or endangered plant species.
63. Although federally listed threatened or endangered wildlife species may occur within the study area, it is unlikely that any federally listed fish or wildlife species would be affected by the settlement route.
64. There is no designated critical habitat for any federally-listed threatened or endangered species within the study area.

65. The endangered or threatened species, including the Whooping Crane, of potential occurrence in the study area are either migratory and present only for brief periods, or highly mobile.
66. Oncor will identify potential stopover locations of the Whooping Crane and use best management practices to avoid, minimize, or mitigate potential impact to this federally-listed endangered species.
67. 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.
68. Oncor and Halff appropriately performed an evaluation of the impacts of the proposed transmission line project on endangered and threatened species.
69. To protect raptors and migratory birds, it is appropriate 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.
70. 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 ROW clearance for the transmission line. In addition, it is appropriate that Oncor re-vegetate using native species and consider landowner preferences in doing so. Furthermore, to the maximum extent practicable, it is appropriate that Oncor avoid adverse environmental impacts to sensitive plant and animal species and their habitats as identified by TPWD and the U.S. Fish and Wildlife Service (USFWS).
71. It is proper that Oncor shall implement erosion control measures as appropriate and return each affected landowner's property to its original contours unless otherwise agreed to by the landowners.
72. It is appropriate that Oncor exercise extreme care to avoid affecting non-targeted vegetation or animal life when using chemical herbicides to control vegetation within the ROW.

Goal for Renewable Energy

73. The proposed transmission line project is consistent with and in furtherance of the goals and mandates of § 39.904 of Public Utility Regulatory Act, TEX. UTIL. CODE ANN. §1.001 *et seq.* (PURA).

Engineering Constraints

74. 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

75. The settlement route utilizes or parallels existing compatible ROW and apparent property boundaries for approximately 68 percent of the length of the line.

Prudent Avoidance

76. The proposed transmission line project complies with the policy of prudent avoidance.
77. Over its approximate 161 mile length, the settlement route has 102 habitable structures within 500 feet of its centerline.
78. The settlement route goes around Wichita Falls, the main population center in the area.

Financial Commitments

79. Pursuant to P.U.C. SUBST. R. 25.174(d)(10), the level of financial commitment by generators is sufficient under § 39.904(g)(3) of PURA to approve Oncor's application for the proposed transmission line project.

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

80. Oncor has proposed modifications to the transmission improvements described in the CTO study for this project. Each of these changes have been recommended by Electric Reliability Council of Texas (ERCOT).
81. The CTO proposed constructing the line to the AEP-owned Oklaunion generating station. Due to space limitation, this is not feasible. As a result, AEP has proposed a new western

- endpoint at the new Riley switching station located approximately one-mile east of the Oklaunion station.
82. 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).
 83. Oncor submitted information regarding each of these modifications to ERCOT, and ERCOT concluded that Oncor's modifications to the CTO were both cost-effective and consistent with the intent of the CTO.
 84. The CTO listed the Oklaunion—now Riley—Krum West project as being 106 miles long, based only on a straight line distance. The estimated distance for the settlement route is approximately 161 miles.
 85. Oncor's proposed changes are cost-effective, consistent with the CTO, and will have numerous implementation advantages.

Estimated Costs

86. The estimated cost for the proposed transmission line on the settlement route is approximately \$239,000,000.
87. Station facility improvements are estimated to cost an additional \$6 million.
88. The CTO estimated the proposed Oklaunion to Krum West transmission line would cost \$199,280,000.
89. ERCOT estimates that it costs \$1.88 million per mile to construct a double circuit line with conductor capable of supporting 5,000 amperes.
90. By multiplying the length of the settlement route (161 miles) by ERCOT's per mile estimate for constructing a double circuit line with conductor capable of supporting 5,000 amperes (\$1.88 million), it is likely that ERCOT's cost estimate for a project of this length would have been approximately \$303 million for the transmission line alone.
91. When similar project lengths are considered, Oncor's estimate of the settlement route compares favorably to ERCOT's generic CTO cost estimates.

Need for the Proposed Transmission Line

92. The proposed transmission line project was specifically identified as a necessary facility in Docket No. 33672.
93. In Docket No. 37902, Oncor was ordered to build the proposed project.
94. As a CREZ transmission project identified in Docket Nos. 33672 and 37902, the proposed transmission line project is exempt under §§ 39.203(e) and 39.904(h) of PURA and P.U.C. SUBST. R. 25.174(d)(2) from the requirement to consider the factors in §§ 37.056(c)(1)-(3) and 4(E) of PURA.

TPWD's Written Comments and Recommendations

95. TPWD filed a comment letter on June 30, 2010.
96. Oncor must comply with all environmental laws and regulations governing endangered species.
97. In preparing the environmental assessment, Halff reviewed TPWD's previous correspondence in this docket along with TPWD's general comments made in *Commission Staff's Petition for Selection of Entities Responsible for Transmission Improvements Necessary to Delivery Renewable Energy from Competitive Renewable Energy Zones*, Docket No. 35665 (May 15, 2009). These recommendations were taken into account in preparing the environmental assessment.
98. Because of Oncor's and Halff's inability to access private properties to conduct on-the-ground surveys during development of the environmental assessment, Halff relied on habitat descriptions from various sources, including the TXNDD data 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.
99. After a transmission line route has been selected and approved by the Commission, qualified individuals 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.

100. 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.
101. Oncor will identify potential stopover locations of the Whooping Crane and use best management practices to avoid, minimize, or mitigate potential impacts to this federally listed species.
102. 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.
103. Oncor complies with all aspects of the Migratory Bird Treaty Act.
104. Oncor will use best management practices to minimize the potential impact to migratory birds and threatened or endangered species.
105. An absolute restriction on vegetation clearing activities during the migratory bird nesting season is neither reasonable nor operationally practical.
106. The factors that the TPWD were concerned with when recommending that the Commission choose Route 97 as the approved route are narrower than those that the Commission is required to consider under § 37.056 of PURA and P.U.C. SUBST. R. 25.101.
107. 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.
108. 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.

IV. Conclusions of Law

1. Oncor is an electric utility as defined in §§ 11.004 and 31.002(6) of PURA.
2. The Commission has jurisdiction over this matter pursuant to §§ 14.001, 32.001, 37.051, 37.053, 37.054, and 37.056 of PURA.
3. SOAH has jurisdiction over this proceeding pursuant to § 14.053 of PURA and TEX. GOV'T CODE ANN. § 2003.049 (Vernon 2008).
4. Oncor provided proper notice of the Application in compliance with § 37.054 of PURA 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 2008).
6. The processing of this docket and consideration of the NUS complies with and satisfies the requirements of *City of El Paso v. Public Utility Commission of Texas*, 883 S.W.2d 179 (Tex. 1994) and P.U.C. PROC. R. 22.206.
7. Oncor is entitled to approval of the application, as described in the findings of fact, using the settlement route, taking into consideration the factors set out in § 37.056 of PURA and P.U.C. SUBST. R. 25.101.
8. The settlement route complies with all aspects of § 37.056 of PURA and P.U.C. SUBST. R. 25.101, including the Commission's policy of prudent avoidance.
9. The proposed transmission line project, as a CREZ transmission project identified in Docket Nos. 33672 and 37902, is exempt under §§ 39.203(e) and 39.904(h) of PURA 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.

- identified by the Texas Parks and Wildlife Department and the United States Fish and Wildlife Service.
6. Oncor shall use best management practices to minimize the potential impact to migratory birds and threatened or endangered species.
 7. 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.
 8. 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.
 9. Oncor may use monopoles if it is more cost effective or where previously agreed to between Oncor and one of the settling parties to the NUS. In addition, Oncor shall use monopoles on that portion of the route along link N2 within the Silver Lakes Development for a length of approximately two miles. Further, Oncor shall endeavor to use the monopoles in situations where the ROW is extremely constrained, the ROW could disproportionately affect a particular landowner, or the cost of the ROW acquisition is extremely high.
 10. Oncor shall co-locate the existing Oncor 138-kV transmission line on monopole towers with the Riley–Krum West double-circuit 345-kV circuit for that portion of the line on link N2 immediately south of the Montague-Wise County line where the route briefly deviates from the existing Oncor 138-kV line. In addition, Oncor may co-locate the existing Oncor 138-kV transmission line on monopole towers with the Riley–Krum West double-circuit 345-kV circuit for that portion of the line on link N2 within the Silver Lakes Development if it is more cost effective to do so.
 11. Oncor shall limit its structure height to 1,120 feet above mean sea level (MSL) from the node of C3 and D3 to the node of F2 and F3a. This includes the entirety of Links D3, E3, and F2.

10. Pursuant to P.U.C. SUBST. R. 25.174(d)(10), the level of financial commitment by generators is sufficient under § 39.904(g)(3) of PURA to grant Oncor's application for a CCN in this docket.

V. Ordering Paragraphs

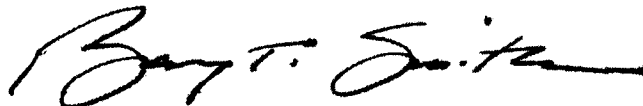
In accordance with these findings of fact and conclusions of law, the Commission issues the following orders:

1. Oncor Electric Delivery Company LLC's certificates of convenience and necessity nos. 30158 and 30160 are amended and Oncor's application to build a new double-circuit 345-kV transmission line extending from Electric Transmission Texas's Riley switching station to the new Oncor Krum West switching station is approved. The proposed transmission line project will follow the settlement route as described in the non-unanimous stipulation (NUS) as modified by this Order.
2. If 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 right-of-way (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


12. Oncor shall ensure that the transmission facilities sited within the proposed location of the Ringold Reservoir will be capable of handling inundation of water at a storage level of 844.2 feet above MSL.
13. 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.
14. 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 RRC shall immediately be brought to the attention of the Chairman of the Commission and the Chairman of the RRC. 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 the 29th day of October 2010

PUBLIC UTILITY COMMISSION OF TEXAS



BARRY T. SMITHERMAN, CHAIRMAN



KENNETH W. ANDERSON, JR., COMMISSIONER