

DOCKET NO. 47603

**APPLICATION OF ELECTRIC
TRANSMISSION TEXAS, LLC
TO AMEND ITS CERTIFICATES OF
CONVENIENCE AND NECESSITY
FOR THE BAKERSFIELD TO RED
BARN DOUBLE-CIRCUIT AND RED
BARN TO WAYMARK SINGLE-
CIRCUIT 345-KV TRANSMISSION
LINES IN PECOS COUNTY, TEXAS**

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**PUBLIC UTILITY COMMISSION
OF TEXAS**

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NOTICE OF APPROVAL

This Notice addresses Electric Transmission Texas, LLC's (ETT) application to amend its certificate of convenience and necessity (CCN) for the construction of a 345-kilovolt (kV) transmission line project within Pecos County. Commission Staff recommended approval of the application. The application is approved.

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

I. Findings of Fact

Procedural History

1. ETT is an investor-owned electric utility providing electric service under CCN No. 30193 and 30194.
2. On October 12, 2017, ETT filed an application to construct a 345-kV single-circuit and double-circuit transmission line project within Pecos County.
3. The application requests approval for ETT to construct approximately 1.96 miles of the proposed double-circuit 345-kV transmission line project that will extend from the existing Lower Colorado River Authority Transmission Services Corporation's Bakersfield Substation (LCRA TSC Bakersfield) to the RE Maplewood LLC Red Barn Substation (Red Barn), and 1.98 miles of the proposed single-circuit 345-kV transmission line from Red Barn to the Midway Solar LLC Waymark Substation (Waymark) both along the consensus route proposed by ETT.

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4. On October 17, 2017, Order No. 1 was issued requiring Commission Staff to comment on the sufficiency of the application and proposed notice, as well as requiring ETT to provide proof of notice and answers to certain issues related to potential options to the proposed project.
5. On November 1, 2017, ETT filed a response to questions in Order No. 1 and affidavits and documents affirming proof of notice and publication.
6. On November 9, 2017, Commission Staff filed a recommendation that the application and notice were sufficient.
7. On November 15, 2017, Order No. 2 was issued finding both the application and notice sufficient and establishing a procedural schedule.
8. On December 4, 2017, Texas Parks & Wildlife Department (TPWD) filed comments and recommendations concerning the project.
9. On December 11, 2017, Commission Staff filed a recommendation on final disposition of ETT's application, recommending approval of the application on the consensus route as proposed by ETT. Staff further recommended that ETT comply with the reporting requirements of 16 Texas Administrative Code (TAC) § 25.83 and follow the Measures to Mitigate Construction Impacts as specified by Commission Staff's recommendations.
10. On December 18, 2017, ETT and Commission Staff filed a request to admit evidence.
11. On December 21, 2017, Order No. 3 was issued admitting evidence into the record.

Notice

12. On October 12, 2017, ETT mailed written notice by first class mail of the filing of the application including a map to all electric utilities within five miles of the requested facilities that provide the same utility service.
13. On October 12, 2017, ETT mailed written notice by first class mail of the filing of the application including a map to the county judge and county commissioners for Pecos County, the sole county in which the project is located.
14. On October 12, 2017, ETT sent email notice of the filing of the application including a map to the U.S. Department of Defense Siting Clearinghouse.

15. On October 12, 2017, ETT sent notice of the application to the Office of Public Utility Counsel (OPUC) by first class mail.
16. On October 12, 2017, ETT sent a copy of the application including the environmental assessment and all attachments to the TPWD by priority mail.
17. On October 27, 2017, notice of the application was published in the *Texas Register*.
18. ETT caused notice of the application to be published on October 19, 2017, in the *Fort Stockton Pioneer*, the newspaper having general circulation in Pecos County.
19. On November 1, 2017, ETT filed affidavits affirming mailed and newspaper notice was issued.

Project Description and Cost

20. The proposed, new 345-kV transmission line in Pecos County will extend from the existing LCRA TSC Bakersfield 345-kV Substation to the Red Barn Substation and from the Red Barn Substation to the Waymark Substation located in Pecos County.
21. The proposed transmission line will be built on single-pole steel structures with the typical single-circuit structure being between 107-122 feet in height, and the typical double-circuit structure being between 130-195 feet in height. The right-of-way (ROW) for the project will be 150 feet in width.
22. ETT's project will be financed through short-term borrowings and owner equity.
23. The project's costs are estimated to be \$9,662,000 for the transmission line and \$5,832,000 for the transmission line termination facilities at the LCRA TSC Bakersfield, Red Barn, and Waymark Substations. The total estimated cost of the project, including the transmission line and substation termination facilities costs, is \$15,494,000. The estimated cost for the proposed transmission line is within an acceptable range of cost per mile for this type of project, and the termination facility cost is within an acceptable range for this size of transmission line.
24. The project is estimated to be energized on or about March 31, 2019.

Need for the Proposed Project and Alternatives

25. This proposed 345-kV transmission project is designed to connect two new transmission service customers, RE Maplewood LLC (Maplewood Solar) and Midway Solar LLC (Midway Solar), into LCRA TSC Bakersfield. Maplewood Solar has requested ETT to interconnect at the Red Barn Substation at 345-kV to provide interconnection service to the proposed 500-megawatt (MW) solar farm generation. Midway Solar has requested ETT to interconnect at the Waymark Substation at 345-kV to provide interconnection service to the proposed 182-MW solar farm generation.
26. Under 16 TAC § 25.198(b), a transmission service provider is required to provide service to a transmission customer when certain conditions are met, including execution of an interconnection agreement.
27. Maplewood Solar and Midway Solar both executed the ERCOT Standard Generation Interconnection Agreement with ETT for the interconnection of their solar generation facilities.
28. The project is considered a Tier 4 neutral project under the ERCOT Regional Planning Group Charter (RPG) and the associated tier classifications outlined in the ERCOT Protocols Section 3.11.4 and, thus, did not need to be reviewed by RPG or independently reviewed by ERCOT Staff.
29. There are no existing transmission facilities located at or near the Maplewood Solar or Midway Solar generation sites for connection that are capable of delivering the proposed combined 682 MW generation plant output to the ERCOT system under normal operating conditions.
30. Distribution alternatives and upgrades to the existing facilities would not be sufficient to interconnect the Maplewood Solar and the Midway Solar generation facilities.

Community Values

31. There are no habitable structures within 500 ft. of the centerline of the consensus route.
32. There are no commercial AM radio transmitters located within 10,000 feet of the center line of the consensus route. There are no FM radio transmitters, microwave towers, or any

other electronic installation devices located within 2,000 feet of the center line of the consensus route.

33. There are no FAA-registered airports located within 20,000 of the consensus route. There are no heliports located within 5,000 feet of the consensus route. There are no private landing strips located within 10,000 feet of the consensus route.
34. There is no pasture or cropland irrigated by center-pivot or rolling irrigation systems that is crossed by the consensus route.
35. The transmission line project will have no adverse impacts on community values.

Park and Recreational Areas

36. There are no parks or recreation areas within 1,000 feet of the centerline of the proposed consensus route. No section of the proposed consensus route is within the visual foreground of parks or recreation facilities.
37. The transmission line project will have no adverse impact to park and recreational areas.

Historical and Archeological Areas

38. There are no known historical or archeological sites crossed by the ROW of the consensus route.
39. There are three known historical or archeological sites within 1,000 feet of the ROW of the consensus route.
40. There are no properties listed on the National Register of Historic Places, State Antiquities Landmarks, Official Texas Historical Markers, or Historic Texas Cemeteries that are either crossed or within 1,000 feet of the centerline of the consensus route.
41. The transmission line project will have no adverse impact on historical or archeological areas.

Aesthetic Values

42. No section of the proposed consensus route is located within the foreground visual zone of any US or state highways, and 6,790 feet of the consensus route (32.4%) is within the foreground visual zone of FM or RM roads.

43. From an aesthetics perspective, the project will present a view that is similar to other linear rights-of-way throughout the area following completion of construction and restoration activities.

Environmental Impact and Routing of the Proposed Transmission Line Project

44. ETT retained Burns & McDonnell Engineering Company, Inc. (Burns & McDonnell) to prepare an Environmental Assessment and the consensus route analysis for the proposed transmission line project.
45. ETT and Burns & McDonnell evaluated the consensus route for the project. ETT submitted the consensus route in the application.
46. The consensus route filed in the application is 3.94 miles in length.
47. The consensus route is comprised of noticed links that were not changed or modified from the links as filed in the application.
48. The consensus route is the route that ETT believes best addresses the requirements of PURA¹ and Commission rules.
49. The consensus route is located in a rural area of west Texas that is dominated by mostly open shrub land, large solar farm developments, and oil and gas exploration infrastructure.
50. No significant adverse effects on land use are anticipated as a result of the project.
51. No known habitat of federally listed or endangered species is crossed by the consensus route.
52. The project is not expected to adversely impact any threatened or endangered plant or animal species.
53. ETT has conducted an adequate evaluation of potential environmental impacts of the transmission project in the impacted area.

¹ Public Utility Regulatory Act, Tex. Util. Code Ann. §§ 11.001-58.302 (West 2016 & Supp. 2017), §§ 59.001-66.016 (West 2007 & Supp. 2017) (PURA).

Coastal Management Program

54. The project is not located within the inland boundary of the Texas Coastal Management Program.

Prudent Avoidance

55. The consensus route has been routed in accordance with the Commission's policy of prudent avoidance and has no impact to any residential area.

Improvement of Service or Lowering of Cost

56. Construction of the project will allow the interconnection of the solar farm generation facilities and delivery of the 682 MWs through ETT's transmission facilities into the ERCOT grid.

Effect of the Line on Renewable Energy Goal

57. The project is designed to serve renewable energy facilities and will have a positive effect on the attainment of renewable energy goals.

Engineering Constraints

58. ETT did not identify any engineering constraints on the consensus route.
59. The consensus route is not routed parallel to any existing pipelines; however, should any be discovered, ETT shall conduct surveys to identify those pipelines that could be affected by the proposed transmission line and coordinate with pipeline owners in modeling and analyzing potential hazards because of alternating-current interference affecting pipelines being paralleled.

TPWD's Comments and Recommendations

60. This Notice addresses only TPWD recommendations and comments, for which there is record evidence.
61. ETT has agreed to comply with TPWD's recommendations to the maximum extent practicable.
62. ETT and Burns & McDonnell followed many of TPWD's recommendations relating to:
(a) routing adjacent to previously disturbed areas; (b) minimizing fragmentation of

bushland; (c) revegetating disturbed areas; and (d) avoiding impacts to water resources, avian protection, and avoiding potential impacts to endangered species in formulating potential routes.

63. TPWD stated in comments and recommendations that it was unable to recommend a specific route because the Environmental Assessment only presented the consensus route for evaluation.
64. Implementation of the measures set forth in the ordering paragraphs of this order to minimize the impact of line construction on wildlife including following certain procedures for protecting raptors, using extreme care in the application of chemical herbicides, minimizing disruption of flora and fauna, and revegetating with native species following completion of construction combined with ETT's mitigation practices set out in the application will sufficiently address the concerns expressed by TPWD in its recommendations and comments.

Limitation period

65. It is reasonable, appropriate, and in the public interest for the approval of this CCN amendment not to be valid indefinitely.
66. The approval granted by this Notice should be limited to a period of seven years.

Informal Disposition

67. At least 15 days have passed since the completion of all notice requirements.
68. No motion to intervene was filed and no parties have requested a hearing in this proceeding.
69. Commission Staff has determined that the application is complete and meets all applicable statutory criteria and filing requirements, including, but not limited to, the provision of proper notice of the application.

II. Conclusions of Law

1. ETT is an electric utility as defined in PURA §§11.004 and 31.002(6).
2. The Commission has jurisdiction over this matter under PURA §§ 14.001, 32.001, 37.051, 37.053, 37.054, 37.056, and 37.057.

3. Notice of the application was provided in compliance with PURA § 37.054, 16 TAC § 22.52(a)(1)-(3) and Tex. Gov't Code Ann. § 2001.051.²
4. This docket was processed in accordance with the requirements of PURA, the APA, and Commission rules.
5. ETT is entitled to approval of the application described above, having demonstrated that the proposed transmission project is necessary for the service, accommodation, convenience, or safety of the public within the meaning of PURA § 37.056(a), taking into consideration the factors set out in PURA § 37.056(b) and (c).
6. ETT's proposed project complies with the criteria of PURA §37.056 and 16 TAC § 25.101, as well as the Commission's policy of prudent avoidance.
7. This application does not constitute a major rate proceeding as defined in 16 TAC § 22.2.
8. The requirements for administrative approval in 16 TAC § 25.101(b)(3)(C) have been met in this proceeding.
9. The requirements for informal disposition in 16 TAC § 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 orders:

1. ETT's application is approved.
2. The approval granted by this Notice is limited to a period of seven years from the date this Notice is signed, unless before that time the transmission line is commercially energized.
3. ETT's CCN Nos. 30193 and 30194 are amended to include the construction, ownership, and operation of the proposed LCRA TSC Bakersfield to Red Barn to Waymark 345-kV transmission line project in Pecos County.
4. ETT shall comply with measures to mitigate construction impacts.

² Administrative Procedure Act, Tex. Gov't Code Ann. §§ 2001.001-.902 (West 2016 and Supp. 2017) (APA).

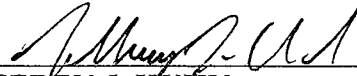
5. ETT is obligated to comply with all environmental laws and regulations independent of any language included by the Commission in this Notice.
6. ETT shall minimize the amount of flora and fauna disturbed during construction of the proposed transmission line, except to the extent necessary to establish appropriate right-of-way clearance for the transmission line. ETT shall revegetate using native species and shall consider landowner preferences in doing so. To the maximum extent practicable, ETT shall avoid adverse environmental impacts to sensitive plant and animal species and their habitats as identified by the Texas Parks and Wildlife Department and the United States Fish and Wildlife Service.
7. If appropriate, ETT will utilize permitted biological monitors to ensure compliance with the Endangered Species Act.
8. ETT's construction practices are sufficient and thus no additional permitted biological monitors are necessary during clearing and construction activities for state-listed species.
9. ETT shall undertake measures as necessary to comply with the Migratory Bird Treaty Act. ETT shall use best management practices to minimize the potential impact to migratory birds and threatened or sensitive species.
10. ETT shall implement erosion control measures as appropriate. Also, ETT shall return each affected landowner's property to the original contours and grades unless otherwise agreed to by the landowner or landowners' representatives. ETT shall not be required to restore original contours and grades where a different contour or grade is necessary to ensure the safety or stability of the project's structures or the safe operation and maintenance of the line.
11. ETT shall exercise extreme care to avoid affecting non-targeted vegetation or animal life when using chemical migrator to control vegetation within the right-of-way. Herbicide use shall comply with the rules and guidelines established in the Federal Insecticide, Fungicide and Rodenticide Act, and with Texas Department of Agriculture regulations.
12. ETT shall follow the procedures outlined in the following publications for protecting raptors: *Suggested Practices for Raptor 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. Also, Joint Applicants should consult *Reducing Avian Collisions with Power Lines: State of the Art in 2012*, published by APLIC in 2012.

13. In the event that ETT or the contractors encounter any archaeological artifacts or other cultural resources during project construction, ETT shall cease work immediately in the vicinity of the resource and report the discovery to the Texas Historical Commission (THC) and shall take action as directed by the THC.
14. ETT shall cooperate with directly affected landowners to implement minor deviations in the approved transmission project routing to minimize the impact of the transmission line. Any minor deviations to the approved route shall only directly affect landowners who were sent notice of the transmission line in accordance with 16 TAC § 22.52(a)(3) and shall directly affect only those landowners who have agreed to the minor deviation.
15. ETT 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, ETT 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 and not cause an unreasonable increase in cost or delay the project. Unless these two conditions are met, this paragraph does not authorize ETT to deviate from the approved route except as allowed by the other ordering paragraphs in this Notice.
16. ETT shall comply with the reporting requirements in 16 TAC § 25.83.
17. All other motions and any other requests for general or specific relief, if not expressly granted, are denied.

Signed at Austin, Texas the 27th day of December 2017.

PUBLIC UTILITY COMMISSION OF TEXAS



JEFFREY J. HUHN
ADMINISTRATIVE LAW JUDGE

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