

APPLICATION OF ELECTRIC  
TRANSMISSION TEXAS, LLC TO  
AMEND CERTIFICATES OF  
CONVENIENCE AND NECESSITY FOR  
THE STEWART ROAD 345-KV  
TRANSMISSION LINE IN HIDALGO  
COUNTY

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PUBLIC UTILITY COMMISSION  
OF TEXAS

**ORDER**

This Order addresses the application of Electric Transmission Texas, LLC (ETT) to amend its certificates of convenience and necessity (CCN) to construct, own, and operate the Stewart Road 345-kilovolt (kV) transmission line in Hidalgo County. There is a unanimous agreement resolving certain issues between the parties to this proceeding. The Commission amends ETT's CCN numbers 30193 and 30194 as provided by this Order.

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

**I. Findings of Fact**

**1. Applicant**

1. ETT is a limited liability corporation owned in equal 50% shares by a subsidiary of American Electric Power Company, Inc. and 50% by MidAmerican Energy Holdings Company, a subsidiary of Berkshire Hathaway Energy Company.
2. ETT owns and operates facilities to transmit electricity in the Electric Reliability Council of Texas (ERCOT) region.
3. ETT provides electric service under CCN numbers 30193 and 30194.

**2. Application**

4. On February 16, 2018, ETT filed an application to amend its CCNs for authority to construct, own, and operate the proposed transmission line located in Hidalgo County.
5. ETT retained POWER Engineers, Inc. to prepare an environmental assessment and routing analysis for the proposed transmission line that was included as part of the application.

6. In Order No. 2 issued on March 20, 2018, the Commission administrative law judge (ALJ) deemed the application sufficient.

**3. Description of Proposed Transmission Line**

7. The proposed transmission line is a double-circuit 345-kV transmission line connecting AEP Texas Inc.'s Stewart Road substation, as expanded, to an interconnection point along ETT's portion of the existing North Edinburg-to-Palmito 345-kV transmission line. ETT and Sharyland Utilities, L.P. each own half of the North Edinburg-to-Palmito 345-kV transmission line. AEP Texas owns and operates the North Edinburg substation, ETT owns and operates the western half of the transmission line, and Sharyland Utilities, L.P. owns and operates the Palmito substation and the eastern half of the transmission line.
8. AEP Texas agreed to the interconnection of the proposed transmission line to the AEP Texas Stewart Road substation.
9. The right-of-way width will typically be 150 feet. Construction of the proposed transmission line will consist of double-circuit steel monopoles using 954.0 aluminum-conductor steel-reinforced Cardinal conductors.
10. The application routes range from 4.9 miles to 9.3 miles in length.
11. In the application, ETT identified route B3 as the route that best addresses the routing requirements in the Public Utility Regulatory Act (PURA)<sup>1</sup> and the Commission's substantive rules and stated that all 15 of the application routes comply with the Commission's routing criteria and are acceptable from a design and constructability perspective.
12. ETT proposes to use a combination of debt and equity to fund the project.

**4. Public Input**

13. On June 5, 2017, ETT mailed notice of the public meeting to landowners who own property located within 500 feet of the centerlines of the preliminary routing links. A total of 85 notices were mailed to landowners and entities for the public meeting. ETT obtained

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<sup>1</sup> Public Utility Regulatory Act, Tex. Util. Code §§ 11.001–66.016.

the property owners' names and addresses from the tax rolls in the counties traversed by the preliminary routing links.

14. The procedural requirement to notify the Department of Defense Siting Clearinghouse of public meetings was not in effect at the time that these notices were mailed.
15. ETT, with the assistance of POWER Engineers, held a public meeting in the McAllen Convention Center in the city of McAllen, on June 20, 2017, to solicit public input about the proposed transmission line. A total of 10 individuals attended the public meeting on behalf of 16 persons or entities. People that attended the public meeting were provided with a questionnaire and were asked to rank factors in routing the proposed transmission line. A total of seven questionnaire responses were submitted at the meeting, and one additional questionnaire was received by mail after the meeting.

5. Notice of Application

16. The notice required for an application to amend a CCN for an electric transmission line and the manner to prove that notice is contained in 16 Texas Administrative Code (TAC) § 22.52(a).
17. On February 16, 2018, ETT mailed notice of the application, by first-class mail, to the owners of land as stated on the current county tax rolls in Hidalgo County who would be within 500 feet of the proposed centerline of any route. The notice sent to landowners included a map and a written description of the routing options, the Commission brochure entitled *Landowners and Transmission Line Cases at the PUC*, and forms for submitting comments or a request to intervene. In an affidavit filed on March 8, 2018, Mel L. Eckhoff, a regulatory consultant for American Electric Power Service Corporation, attested that ETT had provided notice of the application as described in this finding of fact and that ETT's representatives had had some formal and informal contact concerning the proceeding with landowners, other than the notice of application.
18. On February 16, 2018, ETT mailed notice of the application, including a map and written description of the routing options, by first-class mail to all electric utilities providing the same utility service within five miles of the proposed transmission facilities, to the county judge and county commissioners of Hidalgo County, and to the mayors of the cities within

five miles of the proposed transmission facilities. In an affidavit filed on March 8, 2018, Mel L. Eckhoff attested that ETT had provided notice of the application as described in this finding of fact.

19. On February 16, 2018, ETT sent notice of the application to the Office of Public Utility Counsel by first-class mail. The notice sent to the Office of Public Utility Counsel included a map and a written description of the routing options. In an affidavit filed on March 8, 2018, Mel L. Eckhoff attested that ETT had provided notice of the application as described in this finding of fact.
20. On February 16, 2018, ETT sent a copy of the application, including the environmental assessment and routing analysis and all other attachments, to the Texas Parks and Wildlife Department by first-class mail. In an affidavit filed on March 8, 2018, Mel L. Eckhoff attested that ETT had provided notice of the application as described in this finding of fact.
21. On February 16, 2018, ETT emailed notice of the application, including a map of the routing options, to the Department of Defense Siting Clearinghouse. In an affidavit filed on August 27, 2018, Mel L. Eckhoff attested that ETT had emailed notice of the application as described in this finding of fact.
22. On February 23, 2018, notice of the application was published in *The Monitor*, a McAllen newspaper having general circulation in Hidalgo County. In an affidavit filed on March 8, 2018, Mel L. Eckhoff attested that ETT had published notice of the application as described in this finding of fact.
23. In Order No. 2 issued on March 20, 2018, the Commission ALJ deemed ETT's notice of the application sufficient and established a procedural schedule.

**6. Intervenors**

24. In Order No. 3 issued on April 5, 2018, the Commission ALJ granted, without objection, the request to intervene filed by ML Rhodes, LTD.
25. In State Office of Administrative Hearings (SOAH) Order No. 1 issued on April 17, 2018, the SOAH ALJ granted, without objection, the request to intervene filed by MRT Management, LLC.

26. In SOAH Order No. 3 issued on August 17, 2018, the SOAH ALJ scheduled a telephonic show-cause hearing for August 30, 2018, to allow MRT Management, LLC to show cause for why it should not be dismissed as a party to this docket.
27. In SOAH Order No. 4 issued on September 12, 2018, the SOAH ALJ dismissed intervenor MRT Management, LLC for failure to file direct testimony or a statement of position.

**7. Alignment of Intervenors**

28. No voluntary alignment of parties was noticed, nor was any alignment requested or ordered.

**8. Route Adequacy**

29. ETT's application presented 15 routes utilizing a combination of 35 routing links for the Commission's consideration.
30. No party filed testimony or a position statement challenging whether the application provided an adequate number of reasonably differentiated routes to conduct a proper evaluation, and no party requested a hearing on route adequacy.
31. The application provided an adequate number of reasonably differentiated routes to conduct a proper evaluation.

**9. Pre-filed Testimony**

32. On June 11, 2018, ETT filed the direct testimonies of Anastacia Santos and Teresa B. Trotman in support of the application.
33. On June 25, 2018, intervenor ML Rhodes, LTD filed the direct testimony of Mike Rhodes.
34. On July 23, 2018, Commission Staff filed the direct testimony of John Poole.

**10. Referral to SOAH for Hearing**

35. On April 2, 2018, ML Rhodes, LTD filed a request for a hearing on the merits.
36. On April 5, 2018, the Commission issued an order of referral and preliminary order referring this application to SOAH for assignment of an ALJ to conduct a hearing and issue a proposal for decision, if necessary. The Commission also specified the issues to be addressed in this proceeding.

37. In SOAH Order No. 1 issued on April 17, 2018, the SOAH ALJ ruled that the Commission has jurisdiction over the application and that SOAH has jurisdiction over all matters related to the hearing on the application, provided notice of a prehearing conference, and informed parties that any party that failed to file written testimony or a statement of position would be dismissed from the proceeding and prohibited from participating further.
38. In SOAH Order No. 2 issued on May 21, 2018, the SOAH ALJ memorialized the prehearing conference, adopted a procedural schedule, and provided notice that the hearing on the merits would convene at the SOAH offices in Austin at 9:00 a.m. on September 17, 2018, to continue day-to-day until completed.
39. On September 11, 2018, ETT filed a request to abate the procedural schedule so that parties could finalize a settlement agreement.
40. On November 19, 2018, ETT filed a unanimous settlement agreement in which the parties agreed to the amendment of ETT's CCNs for the proposed transmission line using filed route B3 (the settlement route). ETT also filed a proposed order.
41. On November 19, 2018, ETT filed an unopposed motion to admit evidence and remand the docket to the Commission.
42. In SOAH Order No. 6 issued on November 20, 2018, the SOAH ALJs remanded the docket to the Commission and admitted the following evidence: ETT's application and all attachments filed on February 16, 2018; ETT's proof of notice filed on March 8, 2018; ETT's direct testimonies of Teresa B. Trotman and Anastacia Santos filed on June 11, 2018; the direct testimony of Mike Rhodes for intervenor ML Rhodes, LTD, filed on June 25, 2018; Commission Staff's direct testimony of John Poole filed on July 23, 2018; ETT's second proof of notice filed on August 27, 2018; and the settlement agreement and its attachment filed on November 19, 2018.

**11. Description of the Settlement Route**

43. In the settlement agreement, the parties agreed on settlement route B3.

44. The settlement route agreed upon by the parties for the proposed transmission line is route B3 and consists of the following routing links described in the application and the notice of the application: 2, 5A, 5B, 14, 16, and 26.
45. The settlement route comprises noticed links that were not changed or modified from the links in the application and that were identified together as filed route B3.
46. The settlement route is 4.9 miles in length.

**12. Adequacy of Existing Service and Need for Additional Service**

47. The proposed transmission line is needed to support the reliability of the regional transmission system.
48. Three 345-kV transmission lines from the north deliver electricity to the western Lower Rio Grande Valley.
49. At times, electricity is imported to the western Lower Rio Grande Valley from Mexico over a high-voltage direct-current tie.
50. Prior to 2016, three combined-cycle generation facilities generated electricity to serve the load in the western Lower Rio Grande Valley.
51. One of the three combined-cycle generation facilities, the Frontera generation facility, which is located south of McAllen in the southernmost part of Hidalgo County, began exporting its entire 524-megawatt (MW) generating capacity to Mexico in 2016.
52. The unavailability of the Frontera plant results in increased power flows north to south from the North Edinburg substation where the remaining generators are located and where two of the 345-kV transmission lines from the north terminate.
53. The 300-MW high-voltage direct-current tie with Mexico is known as the Railroad DC Tie and is also located south of McAllen in the southernmost part of Hidalgo County near Frontera. The operation of the Railroad DC Tie significantly increases the loading on the three 345-kV transmission lines from the north during outage conditions. If the Railroad DC Tie is exporting power to Mexico, these lines must carry additional load from the north to the south.

54. When the Railroad DC Tie is exporting 300 MW, the Frontera generating plant is unavailable, and the projected load in the area increases, the transmission system in Hidalgo County experiences overloads and undervoltages during outages of certain transmission facilities. These overloads and undervoltages result in violations of North American Electric Reliability Corporation and ERCOT reliability criteria and can result in the loss of considerable electrical load in the area.
  55. ERCOT conducted an independent review of the proposal submitted to the ERCOT Regional Planning Group by American Electric Power Service Corporation on behalf of ETT. In addition to the proposal submitted by American Electric Power Service Corporation on behalf of ETT, ERCOT also evaluated four other options, which included constructing other new transmission lines, adding additional autotransformers, and expanding existing substations to accommodate new transmission lines.
  56. ERCOT determined that option D, which includes this proposed transmission line, was the most effective solution with the least new right-of-way to meet the reliability needs of the area.
  57. Distribution alternatives are not a viable solution to address the transmission-related reliability issues.
  58. ETT is not a bundled utility and cannot control the amount or location of distributed generation, and by law, cannot provide distributed generation.
- 13. Effect of Granting the Application on ETT and Other Utilities and Probable Improvement of Service or Lowering of Cost**
59. ETT is the only electric utility involved in the construction of the project.
  60. Construction of the proposed transmission line will result in a more reliable transmission system for the reasons described in the findings of fact addressing the need for the proposed transmission line.
  61. The proposed transmission line begins at an existing AEP Texas substation and interconnects with an existing 345-kV transmission line owned in part by ETT and in part by Sharyland Utilities.

**14. Estimated Costs**

62. The estimated costs for the 15 application routes range from \$16,834,000 million to \$30,278,000 million. The estimated cost of settlement route B3 is \$16,834,000 million.
63. The settlement route is the least expensive of the 15 application routes. The cost of the settlement route is reasonable considering the range of the cost estimates for the routes.
64. The estimated cost of the expansion of the existing AEP Texas Stewart Road substation that is required to connect the proposed transmission line is \$27,945,000 million.
65. The total estimated cost for the proposed transmission line using settlement route B3, plus the substation's estimated costs, is \$44,779,000 million. This estimated cost is reasonable when compared to similar proposed transmission lines.

**15. Prudent Avoidance**

66. Prudent avoidance is defined in 16 TAC § 25.101(a)(6) as the "limiting of exposures to electric and magnetic fields that can be avoided with reasonable investments of money and effort."
67. There is one habitable structure within 500 feet of the centerline of the settlement route.
68. Routing of the proposed transmission line is in accordance with the Commission's policy of prudent avoidance.

**16. Community Values**

69. To develop community values for the proposed transmission facilities, ETT held a public-participation meeting on June 20, 2017.
70. Information was received from the public meeting and from local, state, and federal agencies and incorporated into POWER Engineers' routing analysis and ETT's eventual selection of the routes filed in the application.
71. People that attended the public meeting were asked to rank 15 different factors in routing the proposed transmission line. The factors ranked as most important by those that attended were minimizing the visibility of the line, minimizing the length of line through wetlands and floodplains, and minimizing impacts to archaeological and historic sites.
72. The settlement route will not adversely affect community values.

**17. Using or Paralleling Compatible Rights-of-Way and Paralleling of Property Boundaries**

73. The settlement route parallels existing transmission line rights-of-way or other compatible rights-of-way or apparent property lines for 4.2 miles of the 4.90-mile-long route, which is 86% of the route.
74. The settlement route uses or parallels existing compatible corridors and apparent property lines to a reasonable extent.

**18. Engineering Constraints**

75. No known engineering constraints have been identified in the application that would prevent construction of the proposed transmission line along the settlement route.

**19. Other Comparisons of Land Uses and Land Types**

**a. Radio Towers and Other Electronic Installations**

76. No AM radio transmitters were identified within 10,000 feet of the centerline of the settlement route.
77. No FM radio transmitters or other electronic installations were identified within 2,000 feet of the centerline of the settlement route.

**b. Airstrips and Airports**

78. There are no airports registered with the Federal Aviation Administration that have runways more than 3,200 feet in length within 20,000 feet of the centerline of the settlement route.
79. There are no airports registered with the Federal Aviation Administration that have runways less than 3,200 feet in length within 10,000 feet of the centerline of the settlement route.
80. There are no heliports located within 5,000 feet of the centerline of the settlement route.
81. There is one known private airstrip located within 10,000 feet of the centerline of the settlement route.
82. There are no significant impacts to any airports, airstrips, or heliports anticipated from construction of the proposed transmission line.

**c. Irrigation Systems**

83. The settlement route does not traverse any pasture or cropland irrigated by traveling irrigation systems.

**d. Other Route Attributes**

84. The length of the application routes crossing pastureland ranges from 0.3 mile to 1.2 miles, and the length crossing cropland ranges from 3.5 miles to 8.2 miles. The settlement route traverses 1.2 miles of pasture and 3.5 miles of cropland.

85. The length of the application routes crossing upland woodlands and brushlands ranges from 106 feet to 317 feet. The settlement route crosses 106 feet of upland woodlands and brushlands.

86. The length of the application routes crossing bottomland or riparian woodlands ranges from 317 feet to 1584 feet. The settlement route crosses 1320 feet of bottomland or riparian woodlands.

87. The number of oil and gas pipelines crossing the application routes ranges from five to eleven. The settlement route crosses six oil and gas pipelines.

**20. Recreational and Park Areas**

88. There are no parks or recreational areas crossed by the settlement route, and there are no parks or recreational areas located within 1,000 feet of the centerline of the settlement route.

89. The proposed transmission line will not significantly impact the use or enjoyment of parks or recreational areas.

**21. Historical Values**

90. The settlement route does not cross any recorded archeological sites and does not come within 1,000 feet of any known archeological sites.

91. The settlement route crosses 4.1 miles of areas of high potential for archeological sites.

92. The settlement route, and all application routes, cross the Louisiana-Rio Grande Canal Company Irrigation System, which is listed in the national register of historic places. The

settlement route is not located within 1,000 feet of any other property listed in the national register of historic places.

93. Potential impacts to the Louisiana-Rio Grande Canal Company Irrigation System have been mitigated through the careful selection of routing alternatives, and additional mitigation can be provided by pole placement, spanning resources, and construction measures during the construction process as necessary.

## **22. Aesthetic Values**

94. The settlement route is not located within the foreground visual zone of any parks or recreational areas.
95. The settlement route is not located within the foreground visual zone of any United States or state highway.
96. There are 1.2 miles of the settlement route located within the foreground visual zone of farm-to-market roads.
97. The settlement route will not significantly impact the aesthetic quality of the landscape.

## **23. Environmental Integrity**

98. The study area traversed by the settlement route is approximately 18 miles in length and approximately 5.5 miles in width, and is generally flat, primarily rural, and is predominantly cropland, rangeland, or pastureland. The study area lies within the Western Gulf Coastal Plain Level III and the Lower Rio Grande Alluvial Floodplain Level IV ecoregions as defined by the United States Environmental Protection Agency.
99. POWER Engineers obtained information from the United States Fish and Wildlife Service and the Texas Parks and Wildlife Department regarding the possibility of encountering any endangered or threatened species in the area affected by the proposed transmission line.
100. ETT and POWER Engineers evaluated the potential impacts of the proposed transmission line on endangered and threatened species.
101. POWER Engineers evaluated potential impacts to soil and water resources, the ecosystem (including endangered and threatened vegetation and fish and wildlife), and land use within the study area.

102. ETT does not anticipate significant impacts to wetland resources, ecological resources, endangered and threatened species, or land use as a result of construction of the proposed transmission line.
103. The settlement route does not cross known or occupied habitat of federally listed endangered or threatened species.
104. It is appropriate that ETT protect raptors and migratory birds by following the procedures outlined in the following publications: *Reducing Avian Collisions with Power Lines: The State of the Art in 2012*, Edison Electric Institute and Avian Power Line Interaction Committee, Washington, D.C. 2012; *Suggested Practices for Avian Protection on Power Lines: The State of the Art in 2006*, Edison Electric Institute, Avian Power Line Interaction Committee, and the California Energy Commission, Washington, D.C. and Sacramento, CA 2006; and *Avian Protection Plan Guidelines*, Avian Power Line Interaction Committee and United States Fish and Wildlife Service, April 2005.
105. It is appropriate that ETT minimize the amount of flora and fauna disturbed during construction of the proposed transmission line.
106. It is appropriate that ETT revegetate cleared and disturbed areas using native species and consider landowner preferences and wildlife needs in doing so.
107. It is appropriate that ETT avoid causing, to the maximum extent possible, 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.
108. It is appropriate that ETT implement erosion control measures and return each affected landowner's property to its original contours unless otherwise agreed to by the landowners. It is appropriate that ETT not be required to restore original contours and grades where different contours or grades are necessary to ensure the safety or stability of the proposed transmission line's structures or the safe operation and maintenance of the transmission line.

109. It is appropriate that ETT exercise extreme care to avoid affecting non-targeted vegetation or animal life when using chemical herbicides to control vegetation within rights-of-way. The use of chemical herbicides to control vegetation within rights-of-way must comply with the rules and guidelines established in the Federal Insecticide, Fungicide, and Rodenticide Act and with the Texas Department of Agriculture regulations.
110. It is appropriate that ETT use best management practices to minimize the potential impact to migratory birds and threatened or endangered species.

**24. Texas Parks and Wildlife Department's Comments and Recommendations**

111. The Texas Parks and Wildlife Department provided recommendations and comments on the proposed transmission line in a letter dated April 19, 2018, and filed in this docket on April 24, 2018. The letter primarily addressed the mitigation of potential impacts to wildlife and natural resources.
112. The Texas Parks and Wildlife Department identified route B3 as the route having the least potential to impact fish and wildlife resources.
113. Before beginning construction, it is appropriate that ETT undertake appropriate measures to identify whether a potential habitat for endangered or threatened species exists and respond as required.
114. The standard mitigation requirements included in the ordering paragraphs in this Order, coupled with ETT's current practices, are reasonable measures for a utility to undertake when constructing a transmission line and are sufficient to address the Texas Parks and Wildlife Department's comments and recommendations.
115. This Order addresses only those Texas Parks and Wildlife Department recommendations and comments for which there is record evidence.
116. No modifications to the proposed transmission line are required as the result of the recommendations and comments made by the Texas Parks and Wildlife Department.

**25. Permits**

117. ETT states that it will obtain floodplain development and road-crossing permits from the county in which the approved route is located depending on the location of the transmission-line structures.
118. ETT states that permits for crossing roads, highways, and other properties owned or maintained by the Texas Department of Transportation will be obtained as necessary.
119. ETT states that permits will be obtained from the Texas Historical Commission for the proposed transmission line right-of-way as necessary.
120. ETT states that, if a storm-water pollution-prevention plan is required by the Texas Commission on Environmental Quality, ETT will submit a notice of intent to the Texas Commission on Environmental Quality at least 48 hours before construction begins and will have a storm-water pollution-prevention plan on site when clearing and construction activities begin.
121. ETT states that easements required from the Texas General Land Office will be obtained as necessary for any right-of-way that crosses a state-owned riverbed or navigable stream.
122. ETT states that it will give notification to the Federal Aviation Administration, if required, depending on the alignment of the approved route, structure locations, and structure designs. ETT also states that it will comply with any requirements of the Federal Aviation Administration to alter the design of the structures or potential requirements to mark or illuminate the line.
123. ETT states that permits or other requirements due to possible impacts to endangered or threatened species will be obtained from the United States Fish and Wildlife Service as necessary.
124. ETT states that none of the routing links for the proposed transmission line cross property that is owned by the United States Army Corps of Engineers, and no easements on United States Army Corps of Engineers' property will be necessary.
125. ETT states that permits or licensing for construction in the floodway maintained by the International Boundary and Water Commission will be obtained as necessary.

**26. Coastal Management Program**

126. Commission rule 16 TAC § 25.102(a) states that the Commission may grant a certificate for the construction of generating or transmission facilities within the coastal boundary only when it finds that the proposed facilities are in accordance with the applicable goals and policies of the Coastal Management Program or that the proposed facilities will not have any direct and significant impacts on any of the applicable coastal natural resource areas.
127. No part of the proposed transmission line is located in the boundary of the Coastal Management Program as defined in 31 TAC § 501.3(b).

**27. Effect on the State's Renewable Energy Goal**

128. The Texas Legislature established a goal in PURA § 39.904(a) for 10,000 megawatts of renewable capacity to be installed in Texas by January 1, 2025. This goal has already been met.
129. The proposed transmission line cannot adversely affect the goal for renewable energy development established in PURA § 39.904(a).

**28. Limitation of Authority**

130. It is reasonable and appropriate for a CCN order not to be valid indefinitely because it is issued based on the facts known at the time of issuance.
131. Seven years is a reasonable and appropriate limit to place on the authority granted in this Order to construct the proposed transmission line.

**29. Informal Disposition**

132. More than 15 days have passed since the completion of the provision of notice.
133. The decision is not adverse to any party.
134. No hearing is necessary.

## II. Conclusions of Law

1. ETT is a public utility as defined in PURA § 11.004(1) and an electric utility as defined in PURA § 31.002(6).
2. ETT must obtain the approval of the Commission to construct the proposed transmission line and provide service to the public using that line.
3. The Commission has authority over this application under PURA §§ 14.001, 32.001, 37.051, 37.053, 37.054, and 37.056.
4. SOAH exercised jurisdiction over this proceeding in accordance with PURA § 14.053 and Texas Government Code § 2003.049.
5. The application is sufficient under 16 TAC § 22.75(d).
6. ETT provided notice of the application in compliance with PURA § 37.054 and 16 TAC § 22.52(a).
7. Additional notice of the settlement route is not required.
8. The hearing on the merits was set and notice of the hearing was given in compliance with PURA § 37.054 and Texas Government Code §§ 2001.051 and 2001.052.
9. This docket was processed in accordance with the requirements of PURA, the Administrative Procedure Act,<sup>2</sup> and Commission rules.
10. The proposed transmission line using the settlement route is necessary for the service, accommodation, convenience, or safety of the public within the meaning of PURA § 37.056(a).
11. The Texas Coastal Management Program does not apply to the proposed transmission line, and the requirements of 16 TAC § 25.102 do not apply to the application.
12. The requirements for informal disposition under 16 TAC § 22.35 have been met in this proceeding.

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<sup>2</sup> Administrative Procedure Act, Tex. Gov't Code §§ 2001.001–.902.

### III. Ordering Paragraphs

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

1. The Commission amends ETT's CCN numbers 30193 and 30194 to include the construction and operation of the proposed transmission line along the settlement route B3 using routing links 2, 5A, 5B, 14, 16, and 26.
2. ETT must conduct surveys, if not already completed, to identify pipelines that could be affected by the transmission line and cooperate with pipeline owners in modeling and analyzing potential hazards because of alternating-current interference affecting pipelines being paralleled.
3. ETT must obtain all permits, licenses, plans, and permission required by state and federal law that are necessary to construct the proposed transmission line. If ETT fails to obtain any such permit, license, plan, or permission, ETT must notify the Commission immediately.
4. If ETT encounters any archeological artifacts or other cultural resources during project construction, work must cease immediately in the vicinity of the artifact or resource and the discovery must be reported to the Texas Historical Commission. In that situation, ETT must take action as directed by the Texas Historical Commission.
5. ETT must follow the procedures to protect raptors and migratory birds as outlined in the following publications: *Reducing Avian Collisions with Power Lines: The State of the Art in 2012*, Edison Electric Institute and Avian Power Line Interaction Committee, Washington, D.C. 2012; *Suggested Practices for Avian Protection on Power Lines: The State of the Art in 2006*, Edison Electric Institute, Avian Power Line Interaction Committee, and the California Energy Commission, Washington, D.C. and Sacramento, CA 2006; and *Avian Protection Plan Guidelines*, Avian Power Line Interaction Committee and United States Fish and Wildlife Service, April 2005. ETT must take precautions to avoid disturbing occupied nests and take steps to minimize the impact of construction on migratory birds during the nesting season of the migratory bird species identified in the area of construction.

6. ETT must exercise extreme care to avoid affecting non-targeted vegetation or animal life when using chemical herbicides to control vegetation within rights-of-way. ETT must ensure that the use of chemical herbicides to control vegetation within rights-of-way complies with rules and guidelines established in the Federal Insecticide, Fungicide, and Rodenticide Act and with Texas Department of Agriculture regulations.
7. ETT must 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, ETT must revegetate using native species and must consider landowner preferences and wildlife needs in doing so. Furthermore, to the maximum extent practicable, ETT must 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.
8. Before beginning construction, ETT must undertake appropriate measures to identify whether a potential habitat for endangered or threatened species exists and must respond as required.
9. ETT must use best management practices to minimize the potential impact to migratory birds and threatened or endangered species.
10. ETT must implement erosion control measures as appropriate. Erosion control measures may include inspection of the right-of-way before and during construction to identify erosion areas and implement special precautions as determined reasonable to minimize the impact of vehicular traffic over the areas. ETT must return each affected landowner's property to its original contours and grades unless otherwise agreed to by the landowner or the landowner's representative. ETT is not required to restore the 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 must cooperate with directly affected landowners to implement minor deviations from the approved route to minimize the impact of the transmission line. Any minor deviation from the approved route must only directly affect landowners who were sent

notice of the transmission line in accordance with 16 TAC § 22.52(a)(3) and landowners that have agreed to the minor deviation.

12. ETT is not authorized to deviate from the approved route in any instance in which the deviation would be more than a minor deviation without further amending its CCNs.
13. If possible, and subject to the other provisions of this Order, ETT must prudently implement appropriate final design for this transmission line so as to avoid being subject to the FAA's notification requirements. If required by federal law, ETT must notify and work with the FAA to ensure compliance with applicable federal laws and regulations. ETT is not authorized to deviate materially from this Order to meet the FAA's recommendations or requirements. If a material change would be necessary to comply with the FAA's recommendations or requirements, then ETT must file an application to amend its CCN as necessary.
14. ETT must include the transmission line approved by this Order on its monthly construction progress reports before the start of construction to reflect the final estimated cost and schedule in accordance with 16 TAC § 25.83(b). In addition, ETT must provide final construction costs, with any necessary explanation for cost variance, after completion of construction when all costs have been identified.
15. Entry of this Order in accordance with the agreement does not indicate the Commission's endorsement or approval of any principle or methodology that may underlie the agreement and must not be regarded as precedential as to the appropriateness of any principle or methodology underlying the agreement.
16. The authority granted by this Order is limited to a period of seven years from the date this Order is signed unless, before that time, the transmission line is commercially energized.
17. The Commission denies all other motions and any other requests for general or specific relief, if not expressly granted.

Signed at Austin, Texas the 13<sup>th</sup> day of February 2019.

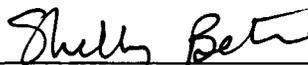
**PUBLIC UTILITY COMMISSION OF TEXAS**



DEANN T. WALKER, CHAIRMAN



ARTHUR C. D'ANDREA, COMMISSIONER



SHELLY BOTKIN, COMMISSIONER

