

DOCKET NO. 48341

APPLICATION OF ELECTRIC
TRANSMISSION TEXAS, LLC TO AMEND
ITS CERTIFICATES OF CONVENIENCE
AND NECESSITY FOR THE EDITH
CLARKE TO FOARD CITY DOUBLE-
CIRCUIT 345-kV TRANSMISSION LINE
IN FOARD COUNTY

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PUBLIC UTILITY COMMISSION
OF TEXAS

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PUBLIC UTILITY COMMISSION
CLERK

NOTICE OF APPROVAL

This Notice addresses the application of Electric Transmission Texas, LLC to amend its certificates of convenience and necessity (CCNs) for the construction of a 345-kilovolt (kV) transmission line in Foard County. The Commission amends ETT's CCN numbers 30193 and 30194 to construct and operate the Edith Clarke to Foard City 345-kV transmission line.

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

I. Findings of Fact

Applicant

1. ETT owns and operates transmission facilities within the Electric Reliability Council of Texas (ERCOT) under CCN numbers 30193 and 30194.

Application

2. On May 25, 2018, ETT filed an application to amend its CCNs to construct a 345-kV transmission line from the ETT Edith Clarke substation to the new Foard City substation. The Foard City substation will serve Foard City Wind, LLC's planned 350-megawatt (MW) wind farm generation facilities.
3. Foard City Wind will own the new Foard City substation.
4. Burns and McDonnell Engineering Company, Inc. produced an environmental assessment and routing analysis. The study area for the transmission line encompassed approximately 11.4 square miles.

5. ETT proposed one route in the application, which is approximately 2.7 miles long, with 528 feet of the line located within the Edith Clarke substation.
6. The four landowners directly affected by the transmission line (Justin Payne, Robert Borchardt, Jr., the Jim Paul & Jean Norman Irrevocable Family Trust, and the Jo-Ann T. Anthony Family Trust C) agreed to the proposed route.
7. The proposed route represents a relatively direct path from the Edith Clarke substation to the Foard City substation and meets the applicable Commission routing criteria.
8. In Order No. 2 issued on June 28, 2018, the administrative law judge (ALJ) found the application sufficient and materially complete.

Notice

9. ETT mailed notice of the application on May 25, 2018 to directly affected property owners, county and municipal officials, neighboring utilities, the Department of Defense Siting Clearinghouse, the Office of Public Utility Counsel, and Texas Parks & Wildlife Department (TPWD).
10. The transmission line route only directly affects four landowners; therefore, no public meeting was required because there are less than 25 affected landowners.
11. On May 31, 2018, the *Foard County News*, a newspaper of general circulation in Foard County, published notice of the application.
12. Notice of the application appeared in the June 15, 2018 issue of the *Texas Register*.
13. On June 14, 2018, ETT filed an affidavit of proof attesting to mailed and published notice.
14. On August 14, 2018, ETT filed the affidavit of Thomas J. Ademski, Project Manager for Burns & McDonnell, attesting that ETT sent notice of planned filing of the application to the Department of Defense Siting Clearinghouse on March 2, 2018.

Evidentiary Record

15. In Order No. 4 issued on August 8, 2018, the ALJ admitted into the record (a) ETT's application filed on May 25, 2018, (b) ETT's affidavit of mailed and published notice filed on June 14, 2018, (c) Commission Staff's recommendation on final disposition filed

on July 23, 2018, and (d) Commission Staff's errata to its recommendation on final disposition filed on July 27, 2018.

16. In Order No. 6 issued on August 16, 2018, the ALJ admitted into the record the affidavit of Thomas J. Ademski of Burns and McDonnell filed on August 14, 2018.

Interventions

17. Robert H. Borchardt, Jr. filed a motion to intervene on June 14, 2018 and withdrew his motion on June 20, 2018. There were no other motions to intervene filed.

Description of the Proposed Transmission Line

18. ETT will construct the transmission line as a single-circuit 345-kV transmission line on double-circuit capable tubular steel monopole structures.
19. The typical structure for the transmission line will be approximately 140 to 195 feet in height and will require a 150-foot wide right-of-way.
20. The number of miles of right-of-way for the transmission line is approximately 2.6 miles.
21. The Edith Clarke substation will have additional facilities constructed within the existing station footprint for the new transmission line.

Need for the Proposed Project and Alternatives

22. The project will interconnect Foard City Wind's new wind farm generation facility to the ERCOT grid through ETT's transmission system facilities. The wind generation facility will have an output capacity of 350 MW net at the point of interconnection.
23. Foard City Wind executed the ERCOT Standard Generation Interconnection Agreement with ETT for the interconnection of its wind farm generation facility.
24. The transmission line is a Tier 4 "neutral" project under the ERCOT Regional Planning Group Charter (RPG) and the associated Tier classifications in ERCOT Protocols Section 3.11.4 and, thus, was not reviewed by RPG or independently reviewed by ERCOT staff.
25. There are no other existing transmission facilities located at or near the Foard City Wind generation site for connection that are capable of delivering the 350-MW generation plant output to the ERCOT system under normal operating conditions.

26. ETT demonstrated a reasonable need for the transmission line in order to interconnect the Foard City Wind generation facility.

Probable Improvement of Service or Lowering of Consumer Cost

27. Construction of the project will allow the interconnection of the wind farm generation facility to the ERCOT grid through ETT's transmission system and provide for full output of the wind farm generation of 350 MW during normal operating conditions.

Project Alternatives

28. There are no practical alternatives to the transmission line. Distribution alternatives and upgrades to the existing facilities would not be sufficient to interconnect the Foard City Wind generation facilities.

Effect of Granting the CCN on Other Utilities

29. The transmission line will not adversely affect service by other utilities in the area and is necessary to connect generation to the ETT transmission system.
30. The transmission line affects no other utilities.

Estimated Costs

31. The project estimated costs are \$7,535,000 for the transmission line and \$5,290,000 for the Edith Clarke substation facilities.

Prudent Avoidance

32. 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."
33. There are no habitable structures located within 500 feet of the centerline of the proposed route.
34. ETT has routed the proposed route in accordance with the Commission's policy of prudent avoidance.

Community Values

31. ETT and Burns and McDonnell considered information received from local, state, and federal agencies in the routing analysis.
32. All directly affected landowners agreed to the proposed route.
33. The proposed transmission line will have minimal impacts on community values.

Using or Paralleling Compatible Rights-of-Way and Paralleling of Property Boundaries

34. The proposed route parallels an existing transmission line for nearly 50% of its length.
35. The proposed route parallels approximately 5,269 feet of other existing compatible right of way along farm-to-market and county roads.

Engineering Constraints

36. ETT considered engineering and construction constraints, reliability issues, and estimated costs to evaluate the route as it relates to the requirements of PURA and Commission rules.
37. ETT did not identify any engineering constraints that would prevent construction of the transmission line along the proposed route.

Other Comparisons of Land Uses and Land Types

38. The proposed route crosses approximately 3,683 feet of cropland and approximately 1,547 feet of pastureland or rangeland, none of which contains aboveground mobile irrigation systems.
39. There are no commercial AM radio transmitters located within 10,000 feet of the centerline of the proposed route.
40. There are no FM radio transmitters, microwave towers or any other electronic installation devices located within 2,000 feet of the centerline of the proposed route.
41. There are no airports registered with the Federal Aviation Administration with at least one runway longer than 3,200 feet in length located within 20,000 feet of the proposed route.

42. There are no airports registered with the Federal Aviation Administration with a runway no longer than 3,200 feet in length located within 10,000 feet of the centerline of the proposed route.
43. There are no private airstrips located within 10,000 feet of the centerline of the proposed route.
44. There are no heliports located within 5,000 feet of the centerline of the proposed route.

Recreational and Park Areas

45. There are no park or recreation areas crossed by or within 1,000 feet of the centerline of the proposed route.
46. The transmission line will have no adverse impact on parks and recreational areas.

Historical and Archeological Areas

47. There are no known historical or archeological sites crossed by or within 1,000 feet of the centerline of the proposed route.
48. There are no properties listed on the National Register of Historic Places crossed by or within 1,000 feet of the centerline of the proposed route.
49. The transmission line will have no adverse impact on historical or archeological areas.

Aesthetic Values

50. The proposed route is not located within the foreground visual zone of parks or recreation areas.
51. The proposed route is located within approximately 12,195 feet of foreground visual zone of farm-to-market roads.
52. The transmission line will not present a view dissimilar to other linear rights-of-way throughout the area following completion of construction and restoration activities.

Environmental Integrity

53. The proposed route is located within a rural portion of Foard County dominated by agricultural fields, rangeland, and shrubland.

54. The proposed route will cross Beaver Creek and four unnamed creeks or streams, and will parallel streams within 100 feet for approximately 240 feet, but will not cross any open water such as lakes or ponds.
55. The transmission line will span the stream habitats and ETT will avoid the placement of supporting structures in the streambed.
56. There are no endangered or threatened plant species recorded from Foard County and no sensitive plant communities occur in the study area. The transmission line will not adversely impact any threatened or endangered plant species or sensitive plant communities.
57. One endangered or threatened fish species of potential occurrence in Foard County, the federally-listed endangered sharpnose shiner, does not occur in the study area due to its restricted range outside the study area and the lack of suitable habitat.
58. One reptile species of potential occurrence in Foard County, the state-listed threatened Texas horned lizard, may reside within the study area. If present along the proposed route, this species may experience minor disturbance during construction activities.
59. The state-listed threatened Texas kangaroo rat may reside within the study area. If present along the proposed route, this species may experience minor disturbance during construction activities.
60. Protected avian species such as the interior least tern, whooping crane, piping plover and red knot that may migrate through the study area may be affected by the presence of the transmission line. ETT will adhere to Avian Power Line Interaction Commission standards to minimize the attractiveness of the transmission line for perching and nesting.
61. No significant impacts to unique, sensitive, or protected wildlife habitats are anticipated.
62. ETT has conducted an adequate evaluation of potential environmental impacts of the transmission line in the impacted area.
63. ETT committed to comply with all environmental laws and regulations independent of any language included by the Commission in this Notice.

64. Before beginning construction of the proposed transmission line, it is appropriate for ETT to conduct a field assessment of the entire length of the transmission line to identify water resources, cultural resources, potential migratory bird issues, and threatened- or endangered-species habitat impacted as a result of the transmission line. As a result of these assessments, ETT will identify any additional permits that are necessary, will consult any required agencies, will obtain all necessary environmental permits, and will comply with the relevant permit conditions during construction and operation of the transmission line.
65. It is appropriate that ETT use best management practices to minimize the potential impact to migratory birds and threatened or endangered species.

TPWD's Comments and Recommendations

66. On July 27, 2018, TPWD filed comments referencing the recommendations the agency provided to Burns & McDonnell on April 12, 2018, concerning the transmission line prior to the application filing date.
67. ETT agreed to comply with TPWD's recommendations to the extent practicable, consistent with the need to complete the transmission line in a timely and cost-effective manner.
68. The standard mitigation requirements included in the ordering paragraphs in this Notice, coupled with ETT's construction and mitigation practices, are reasonable measures for ETT to undertake when constructing the transmission line.
69. This Notice addresses only those TPWD recommendations and comments for which there is record evidence.

Coastal Management Program

70. The Commission "may grant a certificate for the construction of generating or transmission facilities within the coastal boundary as defined in 31 TAC § 503.1 only when it finds that the proposed facilities are as required under the applicable goals and policies of the Coastal Management Program specified in 31 TAC § 501.14(a), or that the

proposed facilities will not have any direct and significant impacts on any of the applicable coastal natural resource areas specified in 31 TAC § 501.3(b).”¹

71. No part of the proposed transmission line is located in the boundary of the Coastal Management Program as defined in 31 Texas Administrative Code (TAC) § 501.3(b).

Effect on the State’s Renewable Energy Goal

72. 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.
73. The project cannot adversely affect the goal for renewable energy development established in PURA § 39.904(a).

Limitation of Authority

74. 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.
75. Seven years is a reasonable and appropriate limit to place on the authority granted in this order to construct the project.

Informal Disposition

76. At least 15 days have passed since the completion of all notice requirements in this docket.
77. No party requested a hearing in this proceeding.
78. On July 23, 2018, Commission Staff recommended approval of the application.
79. On July 27, 2018, Commission Staff filed an errata to the recommendation.

II. Conclusions of Law

1. The Commission has jurisdiction over this application under PURA² §§ 14.001, 32.001, 37.051, 37.053, 37.054 and 37.056.

¹ 16 Tex. Admin. Code § 25.102(a).

² 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).

2. ETT is an electric utility as defined in PURA §§ 11.004 and 31.002(6).
3. ETT must obtain the approval of the Commission to construct the proposed transmission line and provide service to the public using that line.
4. The application is sufficient under 16 TAC § 22.75(d).
5. ETT's application complies with the requirements of 16 TAC § 25.101.
6. ETT provided notice of the application in compliance with PURA § 37.054 and 16 TAC § 22.52(a).
7. The Commission processed this docket in accordance with the requirements of PURA, the Administrative Procedure Act,³ and Commission rules.
8. The proposed transmission line using the proposed route is necessary for the service, accommodation, convenience, or safety of the public within the meaning of PURA § 37.056(a).
9. The approved route complies with PURA § 37.056(c)(4) and 16 TAC § 25.101(b)(3)(B), including the Commission's policy of prudent avoidance, to the extent reasonable to moderate the impact on the affected community and landowners.
10. 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.
11. 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. The Commission amends ETT's CCN numbers 30193 and 30194 to construct and operate the Edith Clarke to Foard City 345-kV transmission line.
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

³ Administrative Procedure Act, Tex. Gov't Code Ann. §§ 2001.001–.902 (West 2016 & Supp. 2017).

analyzing potential hazards because of alternating-current interference affecting pipelines being paralleled.

3. In the event ETT or its contractors encounter 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.
4. ETT must follow the procedures to protect raptors and migratory birds as outlined in the publications: *Reducing Avian Collisions with Power Lines: The State of the Art in 2012*, Edison Electric Institute and Avian Power Line Interaction Commission (APLIC), Washington, D.C. 2012; *Suggested Practices for Avian Protection on Power Lines: The State of the Art in 2006*, Edison Electric Institute, APLIC, and the California Energy Commission, Washington, D.C. and Sacramento, CA 2006; and *Avian Protection Plan Guidelines*, APLIC 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.
5. ETT must exercise extreme care to avoid affecting non-targeted vegetation or animal life when using chemical herbicides to control vegetation within the right-of-way, and must ensure that such herbicide use complies with the rules and guidelines established in the Federal Insecticide, Fungicide and Rodenticide Act and with Texas Department of Agriculture regulations.
6. 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 TPWD and the U.S. Fish and Wildlife Service.

7. 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 landowners' representatives. ETT need not 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.
8. ETT must use best management practices to minimize the potential impact to migratory birds and threatened or endangered species.
9. ETT must cooperate with directly affected landowners to implement minor deviations in the approved route to minimize the impact of the transmission line. Any minor deviation to 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.
10. 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 CCN.
11. ETT will identify any additional permits that are necessary, must consult any required agencies (such as the U.S. Army Corps of Engineers and U.S. Fish and Wildlife Service), must obtain all necessary environmental permits, and must comply with the relevant permit conditions during construction and operation of the transmission line.
12. ETT must report the transmission line approved by this Notice 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 and when all charges have been identified.
13. The Commission limits the authority granted by this Notice to a period of seven years from the date this Notice is signed unless the transmission line is commercially energized before that time.

14. The Commission denies all other motions and any other requests for general or specific relief, if not expressly granted.

Signed at Austin, Texas the 20th day of September 2018.

PUBLIC UTILITY COMMISSION OF TEXAS



**IRENE MONTELONGO
DIRECTOR, DOCKET MANAGEMENT**

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