PUC DOCKET NO. 42467  
SOAH DOCKET NO. 473-14-4431

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| **APPLICATION OF ELECTRIC TRANSMISSION TEXAS, LLC TO AMEND ITS CERTIFICATES OF CONVENIENCE AND NECESSITY FOR THE PROPOSED BARNEY DAVIS TO NAVAL BASE 138-KV SINGLE-CIRCUIT TRANSMISSION LINE IN NUECES COUNTY** | **§**  **§**  **§§**  **§**  **§§**  **§** | **PUBLIC UTILITY COMMISSION**  **OF TEXAS** |

ORDER

This Order addresses the application of Electric Transmission Texas, LLC (ETT) for approval to amend its certificates of convenience and necessity (CCN) to construct, own, and operate a new, single-circuit, 138-kilovolt (kV) transmission line from ETT’s existing Barney Davis substation to AEP Texas Central Company’s (AEP TCC’s) existing Naval Base substation, both located in Nueces County. A stipulation was executed that resolves all of the issues in this proceeding. Consistent with the stipulation, the Commission approves the application and adds ordering paragraphs, including reporting requirements, intended to ensure ETT exercises best efforts to reduce the costs of the approved transmission line.

In approving the stipulation, the Commission notes its decision is not precedential, by the terms of this Order, as well as the terms of parties’ unopposed stipulation. Further, the Commission recognizes the exceptional and compelling characteristics of the study area that led to the stipulation. The preexisting substations that will be interconnected through this 138-kV transmission line, and therefore the majority of the study area, are located on the significantly-developed Encinal Peninsula (commonly referred to as Flour Bluff) in southeastern Corpus Christi.[[1]](#footnote-1) Flour Bluff is bordered by Corpus Christi Bay to the north, the Laguna Madre to the east, the King Ranch to the south, and Oso Bay to the west.[[2]](#footnote-2) The water resources within the study area pose a significant constraint on construction of several of the proposed routes.[[3]](#footnote-3)

Further, the Naval Air Station Corpus Christi, including its Truax Airfield, and the Navy’s Waldron Airfield are located respectively on the northern and southern portions of the peninsula.[[4]](#footnote-4) These long-established naval installations are used to train pilots.[[5]](#footnote-5) The Naval Air Station Corpus Christi also serves as a major center for military activity and employment in Texas, with tenants including the Chief of Naval Air Training, the U.S Coast Guard, and the Corpus Christi Army Depot.[[6]](#footnote-6) Due to the use of the airfields, Federal Aviation Administration regulations and the Navy’s *Unified Facilities Code* require undergrounding portions of several of the proposed routes, including the approved route.[[7]](#footnote-7) In fact, all but four of ETT’s proposed routes employ some underground facilities.[[8]](#footnote-8) This is not a case in which underground construction is proposed for aesthetics, nor was undergrounding added by stipulation.

Additionally, the study area includes sensitive or environmentally significant sites, such as the Laguna Madre and Texas Parks and Wildlife Department’s Redhead Pond Wildlife Management Area, used to protect wetland habitat for wintering waterfowl and other birds.[[9]](#footnote-9) Routes across open water would present more risk to area wildlife than would the land-based routes, such as the approved route.[[10]](#footnote-10)

The approved route, route 11, best accommodates these unique challenges to routing and at its currently estimated cost, best balances the factors set forth in PURA and the Commission’s CCN rules. Further, it has substantial support, with 53 of the 54 intervenors in this proceeding joining as signatories to the stipulation and no parties opposing the route. Yet, the Commission remains concerned by the expense of route 11. After review for usefulness and prudence in a future rate proceeding, this expense could be incorporated into ETT’s rate base, which would be paid by all electric customers in ERCOT.

Route 11 is estimated to be the most expensive among the filed routes on a cost-per-mile basis.[[11]](#footnote-11) And route 11’s total estimated cost is substantially higher than most of the other filed routes.[[12]](#footnote-12) Route 11’s comparatively high cost is largely attributable to its use of underground facilities near the Waldron and Truax airfields. Given that underground transmission facilities and facilities across open water are typically much more expensive on a per-mile basis than above-ground transmission facilities and that any deviations from the stipulated route could lead to increases in the expense of route 11, the Commission modifies its standard ordering paragraphs regarding minor and more-than-minor deviations in an effort to better control costs. At ETT’s request, the Commission also adds an ordering paragraph to provide guidance regarding the preapproval process for such a deviation and an ordering paragraph that requires minimizing the length of underground facilities and facilities across open water. Furthermore, the Commission adds an ordering paragraph requiring additional reporting by ETT on its best efforts to reduce the costs of the approved transmission facilities.

Finally, the Commission notes that in response to its request for dialogs regarding mitigating the expense of these facilities, ETT, the city of Corpus Christi, and the Naval Air Station Corpus Christi each filed documents supporting the project and expressing willingness to work with ETT regarding the costs of securing easements. The Commission appreciates these entities’ statements and their recognition of the benefits of this project, including lessening the risk of loss of electric load in the Flour Bluff area. The Commission looks forward to hearing the outcome of ETT’s and others’ efforts to mitigate costs.

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

# Findings of Fact

###### Procedural History

1. ETT is an investor-owned electric utility providing service under CCN numbers 30193 and 30194.
2. On May 16, 2014, ETT filed an application to amend its CCN to build, own, and operate a new single-circuit 138-kilovolt (kV) transmission line from ETT’s Barney Davis substation to AEP TCC’s Naval Base substation (project), both located in Nueces County (application).
3. On May 16, 2014, ETT mailed written notice by priority mail of the filing of the application, which included a map, written descriptions of alternative routing segments, and the Landowner Brochure to each landowner of record, as determined by review of the current county tax rolls, that would be directly affected, as defined by 16 Tex. Admin. Code (TAC) § 22.52(a)(3).
4. On May 16, 2014, ETT mailed written notice by first class mail of the filing of the application, which included a map and written descriptions of alternative routing segments, to all electric utilities that provide the same utility service within five miles of the requested facilities.
5. On May 16, 2014, ETT mailed written notice by first class mail of the filing of the application, which included a map and written descriptions of alternative routing segments, to the city of Corpus Christi, the municipality in which the project is located and the only municipality located within five miles of the project.
6. On May 16, 2014, ETT mailed written notice by first class mail of the filing of the application, which included a map and written descriptions of alternative routing segments, to Nueces County, the only county in which the project could be located.
7. On May 16, 2014, ETT sent notice of the application, which included a map and written descriptions of alternative routing segments, to the Office of Public Utility Counsel (OPUC) by first class mail.
8. On May 16, 2014, ETT sent a copy of the application, including all attachments, to the Texas Parks & Wildlife Department (TPWD) by priority mail, including the environmental assessment attached to ETT’s application.
9. ETT caused notice of the application to be published on May 22, 2014, in the *Corpus Christi Caller Times,* which is a newspaper having general circulation in Nueces County, and the *Island Moon,* which is a newspaper having general circulation in the Flour Bluff area of Corpus Christi.
10. On May 20, 2014, the Commission’s administrative law judge (ALJ) issued Order No. 1, describing the application, requiring ETT to provide notice of the application and file proof of notice, and requiring answers to certain standard questions related to the need for the project and potential options to the proposed project. That order also required Commission Staff to comment on the sufficiency of the application and notice and to provide a proposed procedural schedule. That Order also established an intervention deadline of June 30, 2014.
11. Over 50 parties filed requests to intervene in this docket.
12. On May 30, 2014, notice of the application was published in the *Texas Register.*
13. On June 5, 2014, the Commission’s ALJ issued Order No. 2, granting requests to intervene.
14. On June 6, 2014, ETT filed a supplement to the application, providing documentation of the review and recommendation of ERCOT for the project, including the *ERCOT Independent Review of the AEPSC Airline/North Padre Island Area Improvements Project.*
15. On June 9, 2014, ETT filed proof of notice in the form of an affidavit indicating that notice of the application was (a) published in newspapers having general circulation in Nueces County; (b) sent by priority mail to owners of all land within 300 feet of the proposed centerline of any route; (c) sent by first-class mail to utilities providing similar service within five miles of the alternative routing options; (d) sent by first‑class mail to county officials in Nueces County and the mayor of the city of Corpus Christi, which is the only municipality in which the project is located and is the only municipality within five miles of the project; and (e) sent by first-class mail to the OPUC. The affidavit also verified that a copy of the application and all attachments was provided to the TPWD. ETT’s proof of notice also contained copies of the notices provided.
16. On June 9, 2014, ETT filed objections to the requests to intervene of Nancy Summers, Scott Garrett, and Lea Anne Lemon.
17. On June 11, 2014, ETT filed a supplement to its June 9, 2014 proof of notice.
18. On June 11, 2014, Commission Staff filed recommendations regarding the sufficiency of the application and notice.
19. On June 13, 2014, the Commission’s ALJ issued Order No. 3, granting requests to intervene.
20. On June 20, 2014, the Commission’s ALJ issued Order No. 4, deeming the application sufficient, approving the text and provision of notice consistent with Commission’s Staff’s recommendation, and establishing a procedural schedule.
21. On June 23, 2014, the Commission’s ALJ issued Order No. 5, granting motions to intervene.
22. On July 2, 2014, the Commission’s ALJ issued Order No. 6, granting motions to intervene and denying the requests to intervene of Scott Garrett, Nancy Summers, and Lea Anne Lemon.
23. On July 7, 2014, Flour Bluff Independent School District filed a request for hearing.
24. On July 8, 2014, Celso M. Gonzalez, individually and on behalf of Gil-Gon, Inc., Rancho Del Rincon, Inc., and as trustee of the Celso M. Gonzalez Trust filed a request for hearing.
25. On July 8, 2014, the Commission’s ALJ issued Order No. 7, granting motions to intervene.
26. On July 10, 2014, the Commission issued the order of referral and preliminary order referring this matter to the State Office of Administrative Hearings (SOAH) pursuant to the requests for hearing.
27. On July 16, 2014, the SOAH ALJ issued SOAH Order No. 1, establishing a prehearing conference date of August 1, 2014, granting interventions and setting forth certain filing and service procedures.
28. On July 23, 2014, TPWD filed comments and recommendations concerning the project.
29. On August 7, 2014, the SOAH ALJ issued Order No. 2, memorializing the prehearing conference of August 1, 2014. The ALJ established a procedural schedule to bring the matter to hearing by January 12, 2015, established additional deadlines and set forth additional filing and service procedures. The ALJ established a requirement to file a statement of position or testimony, or be subject to dismissal from the proceeding.
30. On September 15, 2014, ETT filed the direct testimonies of John D. Pulay, Daniel N. Lyons, and Thomas Ademski in support of the application.
31. On October 1, 2014, ETT filed a notice of settlement and motion to abate.
32. On October 15, 2014 and October 29, 2014, ETT filed status reports informing the ALJ of the status of settlement.
33. On November 12, 2014, Albert Smykla filed a request to withdraw his intervention in the docket.
34. On November 12, 2014 and November 25, 2014, ETT filed status reports informing the ALJ of the status of settlement.
35. On December 2, 2014, the SOAH ALJ issued SOAH Order No. 4, granting Albert Smykla’s withdrawal as an intervenor and ordering intervenors Jimmie and Kim Gann and Vincent and Dena De Santiago-Young to file a response stating whether they oppose, support, or take no position on the proposed settlement route. SOAH Order No. 4 also stated that if no response was filed on or before December 14, 2014, the ALJ would make a finding that Jimmie and Kim Gann and Vincent and Dena De Santiago‑Young are unopposed to or take no position on the stipulation. Intervenors Gann and Young do not have properties that are either crossed by the stipulation route, route 11, nor properties located within 300 feet of the stipulation route.
36. On December 4, 2014, ETT filed a status report to inform the ALJ that ETT had received a signed stipulation signature page from Vincent and Dena De Santiago-Young.
37. On December 15, 2014 and January 9, 2015, ETT filed status reports informing the ALJ of the status of settlement.
38. On January 13, 2015 the SOAH ALJ issued SOAH Order No. 5, finding that because Jimmie and Kim Gann did not file a response to the stipulation as required by SOAH Order No. 4, they were unopposed to or to took no position on the stipulation.
39. On January 23, 2015, February 6, 2015, February 20, 2015, and March 6, 2015 ETT filed status reports informing the ALJ of the status of settlement.
40. On March 13, 2015, ETT filed the stipulation. The stipulation supports approval of route 11 in this proceeding.
41. No party opposed the stipulation; therefore, the stipulation is not adverse to any party.
42. On March 17, 2015, Commission Staff filed a statement of position indicating that Commission Staff neither supports nor opposes the stipulation.
43. On March 23, 2015, ETT filed a proposed order with findings of fact and conclusions of law, and a motion to admit evidence and return the settled case to the Commission.
44. On March 26, 2015, the SOAH ALJ issued Order No. 6, granting ETT’s motion to admit evidence, returning the proceeding to the Commission, and dismissing the SOAH docket. The following evidence was admitted: (a) ETT’s application, filed May 16, 2014; (b) ETT’s supplement to the application, filed June 6, 2014; (c) ETT’s proof of notice, filed June 9, 2014; (d) ETT direct testimonies of John D. Pulay, Daniel N. Lyons, and Thomas Ademski, filed September 15, 2014; and (e) the stipulation, filed March 13, 2015.

44A. At the May 1, 2015 open meeting, the Commission requested that ETT contact the Navy and other entities in the area to discuss whether contributions, including donations of easement, could be made to lower the cost of route 11.

44B. On May 13, 2015, the city of Corpus Christi filed a letter with an attached city resolution stating in part that, to incent underground placement, the city intends to cooperate with ETT in reducing the cost of using city rights-of-way.

44C. On May 14, 2015, ETT filed a letter stating in part that although it is very unlikely the Navy would make a monetary contribution towards the cost of the underground transmission facilities, the Navy had expressed willingness to consider waiving the consideration for granting an easement. The letter further represented that the Navy would be unable to grant an easement or waive consideration until after a route was approved by the Commission.

44D. At the May 21, 2015 open meeting, the mayor of the city of Corpus Christi told the Commission the city would cooperate with ETT to make sure the costs were minimized.

###### Application/Project Description

1. ETT proposed construction of a single-circuit 138-kV transmission line from ETT’s Barney Davis substation to AEP TCC’s Naval Base substation, both located in Nueces County. The project will provide support to the area transmission network needed to reduce the possibility of loss of electric load.
2. The area is located in the Gulf Coast region of Texas in Nueces County. Land-surface elevations range from mean sea level at the Laguna Madre to approximately 28 feet above mean sea level in the southwestern corner of the Waldron Airfield. The study area lies in the southeastern portion of the city of Corpus Christi, primarily located on the Encinal Peninsula, commonly referred to as Flour Bluff. The city of Corpus Christi serves as the county seat for Nueces County and is the largest city on the south Texas Coast. Once an isolated fishing village outside the city limits of Corpus Christi, Flour Bluff was annexed in 1962. The Flour Bluff area is bordered by Corpus Christi Bay to the north, the King Ranch to the south, the Laguna Madre to the east, and Oso Bay to the west.
3. ETT’s application presented for consideration 18 alternative routes utilizing a combination of 66 alternative routing segments.
4. ETT’s application presented an adequate number of geographically diverse routes.
5. The right-of-way width will typically be 100 feet. The majority of the overhead facilities for the project will be constructed on galvanized steel single-pole structures using 956.6 ACSS/TW/AW conductors. Where underground facilities are required to meet the requirements of the Department of Defense, the Federal Aviation Administration (FAA), along with the Navy’s *Unified Facilities Code* regulations, 5000 kcmil enameled copper cable will be installed.
6. The project will be financed through a combination of debt and equity.

###### Coastal Management Program

1. The project is located within the coastal-management-program (CMP) boundary as defined in 31 Tex. Admin. Code (TAC) § 503.1.
2. The entire project is located seaward of the coastal facilities designation line as defined in 31 TAC § 19.2(a)(21).
3. 16 TAC § 25.102 states that 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 consistent with the applicable goals and policies of the CMP 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)."
4. In 2004, 31 TAC § 501.14(a) was repealed and replaced without substantive changes by 31 TAC § 501.16. (*Texas Register*, Vol. 29, Number 30, July 23, 2004, p. 7039).
5. Policies for the construction of electric transmission lines to or on coastal barrier resource system units and otherwise protected areas (barrier islands) are delineated in 31 TAC § 501.16(a)(4) [formerly § 501.14(a)]. The policy states that transmission lines constructed on coastal barriers shall:
6. be located, where practicable, in existing rights-of-way or previously disturbed areas if necessary to avoid or minimize adverse effects; and
7. be located at sites at which future expansion shall avoid construction in critical areas, Gulf beaches, critical dunes, and washovers to the greatest extent practicable.
8. Though this project is not located on a barrier island, ETT selected alternative routes that comply with this goal by proposing routes that would:
9. be parallel to existing roads and transmission lines, and be located in previously disturbed areas to the greatest extent practicable; and
10. not be located in critical areas, Gulf beaches, critical dunes, and washovers to avoid the possibility that any future expansion will be located in these areas. In addition, any future expansion that will require a CCN amendment will be reviewed by the Commission for consistency with CMP goals and policies.
11. Coastal natural resource areas (CNRA) as specified in 31 TAC § 501.3(b) include: waters of the open Gulf of Mexico, waters under tidal influence, submerged lands, coastal wetlands, submerged aquatic vegetation, tidal sound and mud flats, oyster reefs, hard substrate reefs, coastal barriers, coastal shore areas, gulf beaches, critical dune areas, special hazard areas (floodplains, etc.), critical erosion areas, coastal historic areas, and coastal preserves.
12. To determine whether any CNRA are located along the alternative routes, ETT’s routing consultant, Atkins North America, Inc. (Atkins), conducted a review of the CMP and performed field reconnaissance in the study area. Atkins also reviewed aerial photography and associated mapping provided by the Texas General Land Office, Federal Emergency Management Agency, the United States Fish and Wildlife Service (USFWS), and the U. S. Geological Survey. Based on this review, Atkins determined that the following CNRA are located along the alternative routes to varying extents: waters under tidal influence, submerged lands, coastal wetlands, submerged aquatic vegetation, tidal sound and mud flats, coastal shore areas, special hazard areas (floodplains, etc.), and coastal preserves.
13. Atkins identified 0.14 mile (739 feet) of coastal wetlands, which is the only CNRA potentially located within the right-of-way of the stipulation route (route 11).
14. ETT will attempt to span any coastal wetlands to the greatest extent practicable. ETT will also use best utility practices and employ special construction methods to avoid potential direct and significant impacts of the project on coastal wetlands.
15. The proposed project is consistent with the goals and policies of the Texas CMP as specified in 31 TAC § 501.16 [formerly § 501.14(a)] and will not have any direct and significant impact on any CNRA specified in 31 TAC § 501.3(b).

###### Routing of the Proposed Transmission Line Project — Stipulation Route

1. ETT retained Atkins to prepare an environmental assessment and alternative route analysis for the proposed transmission line project.
2. The routes that were filed in the CCN application ranged from 6.14 miles to 16.07 miles in length. The length of the stipulation route, which is identified as route 11 in the application and further discussed below, is approximately 7.7 miles, which will be constructed as a single-circuit, 138-kV transmission line.
3. The parties signing the stipulation (collectively, signatories) are listed on exhibit 1 of the stipulation and agree that the Commission should approve the transmission project on the stipulation route.
4. The stipulation route as described in the application and shown on exhibit 2 of the stipulation is comprised of segments: 1a–3–4–9–11–14–20–21–37a–37b–45–46–48a–48c.
5. The stipulation route is comprised of noticed segments that were not changed or modified from the segments as filed in the application.
6. The stipulation route is identified as route 11 in the application and is the route that ETT believes best addresses the requirements of PURA and the Commission’s substantive rules.
7. The intervenors have all agreed to the stipulation or either do not oppose or take no position on the stipulation. No party to this docket opposes or contests the stipulation route.
8. The stipulation route is a viable, feasible, and reasonable route considering the numerous environmental, engineering, and land use constraints in the project area.
9. Consistent with the stipulation, the transmission line project will be constructed on the stipulation route.
10. The stipulation route complies with all aspects of PURA[[13]](#footnote-13) § 37.056 and 16 TAC § 25.101.

###### Community Values

1. ETT, with the assistance of Atkins, held two open-house meetings in Corpus Christi, Texas on October 28 and 29, 2014, to solicit public input about the transmission-line project. Direct notice was mailed to approximately 2,700 landowners within 300 feet of the centerline of the routes being presented at the open-house meetings. Names and addresses of the property owners were obtained from the tax rolls in Nueces County traversed by the preliminary alternative routing segments.
2. Information received from the public during open-house meetings and from local, state, and federal agencies was considered and incorporated into both Atkin’s routing analysis and the eventual selection by ETT of alternative routes filed in the CCN application, including the route identified by ETT as best meeting the requirements of PURA and the Commission’s rules.
3. There are no AM radio transmitters located within 10,000 feet of the centerline of the stipulation route. There are no FM radio transmitters within 2,000 feet of the centerline of the stipulation route.
4. There are two FAA-registered airports with runways more than 3,200 feet in length, the United States Navy’s Waldron Airfield and the Naval Air Station Corpus Christi (NASCC) Truax Field, within 20,000 feet of the centerline of the stipulation route.
5. Waldron Airfield is located in the south-central portion of the study area and NASCC Truax Field is located in the northern portion of the study area.
6. Due to the location of the Navy airfields relative to the endpoints of the proposed transmission project, and to other routing constraints, many of the routes proposed by ETT pass in close proximity to the Navy airfields.
7. Airspace restrictions determined by the Department of Defense and the FAA, along with the Navy’s *Unified Facilities Code*, specify zones beyond the end of airport runways with specific grading and land use compatibility requirements. There are three zones applicable to Waldron Field and NASCC Truax Field: the clear zone, accident potential zone 1, and accident potential zone 2.
8. On behalf of ETT, Atkins conducted airspace assessments for both airfields to determine if construction modifications of the proposed transmission line would be required to satisfy any airspace restrictions or limitations. The assessments determined that aboveground transmission lines should not be located within the clear zone or accident potential zone 1, but are permitted within accident potential zone 2 assuming they meet all other height restriction criteria.
9. To comply with applicable airspace restrictions, the stipulation route will be constructed underground for approximately 2.5 miles where it passes through a clear zone or accident potential zone 1 associated with Waldron Field and NASCC Truax Field. In the unique circumstances of this case, such underground construction is reasonable. To minimize the amount of underground construction, ETT will use shorter structures with reduced spans as much as possible to address the airspace restrictions.
10. Required FAA notification and any subsequent coordination with the FAA, the Department of Defense, and the Navy could require changes in the line design, requirements to mark, and requirements to light the transmission line structures or conductors.
11. There are no FAA-registered airports with runways less than 3,200 feet in length within 10,000 feet of the centerline of the stipulation route.
12. There are two heliports located within 5,000 feet of the centerline of the stipulation route.
13. There are no private airstrips located within 10,000 feet of the centerline of the stipulation route.
14. With the line modifications discussed above to address airspace restrictions associated with Waldron Airfield and NASCC Truax Field, there are no significant long-term impacts to any airports, airstrips, or heliports anticipated from construction of the transmission project.
15. The stipulation route traverses no pasture or cropland irrigated by traveling irrigation systems.

###### Recreational and Park Areas

1. No parks or recreational areas are crossed by the stipulation route and there are two parks or recreational areas located within 1,000 feet of the centerline of the stipulation route.
2. The project is not expected to have a significant impact on parks or recreational areas.

###### Historical Values

1. The stipulation route does not cross any known cultural resource sites and there are two cultural resource sites located within 1,000 feet of the centerline of the stipulation route. The stipulation route does not cross any site listed on the National Register of Historic Places (NRHP) or any site that has been determined to be eligible to be listed. One NRHP site is located within 1,000 feet of the centerline of the stipulation route.
2. The project is not expected to have a significant impact on historical or archaeological resources.

###### Aesthetic Values

1. Approximately 0.79 miles of the stipulation route are located within the foreground visual zone of parks or recreation areas.
2. Approximately 0.98 miles of the stipulation route are located within the foreground visual zone of U.S. and state highways.
3. While the stipulation route will generally create a new visual feature across the landscape, it will not be a feature that is inconsistent with existing features in the area. Utility and other linear corridors, including other existing transmission and distribution lines, are common throughout the area.
4. From an aesthetics perspective, the project will not present a view dissimilar to other linear rights-of-way throughout the area following completion of construction and restoration activities.

###### Environmental Integrity

1. Atkins obtained information from the USFWS and the TPWD regarding the possibility of encountering any endangered or threatened species in the area affected by the transmission line project.
2. The stipulation route does not cross any known habitat of federal, endangered or threatened species.
3. ETT and Atkins appropriately considered the potential impacts of the transmission line project on endangered and threatened species.
4. Atkins studied and analyzed potential impacts to soil and water resources, ecology (including endangered/threatened vegetation and fish and wildlife), and land use within the study area.
5. No significant impacts to wetland resources, ecological resources, or land uses are anticipated as a result of the construction of the transmission-line project.
6. Construction of the transmission-line project will have no significant impact on geological features or resources of the area.
7. To protect raptors and migratory birds, ETT will follow the procedures outlined in the publication *Reducing Avian Collisions with Power Lines: The State of the Art in 2012,* Edison Electric Institute and the Avian Power Line Interaction Committee (APLIC), 2012.
8. ETT will minimize the amount of flora and fauna disturbed during construction of the project, except to the extent necessary to establish appropriate right‑of‑way clearance for the project. In addition, ETT shall revegetate using native species where possible and shall consider landowner preferences in doing so. Furthermore, to the maximum extent practicable, ETT shall avoid adverse environmental impacts to sensitive plant and animal species and their habitats as identified by TPWD and USFWS.
9. ETT will implement erosion control measures as appropriate and return each affected landowner’s property to its original contours unless otherwise agreed to by the landowners. ETT shall not be required to restore original contours and grades where different contour or grade is necessary to ensure the safety or stability of the project’s transmission facilities or the safe operation and maintenance of the transmission facilities.
10. ETT will exercise extreme care to avoid affecting non-targeted vegetation or animal life when using chemical herbicides to control vegetation within the right-of-way.
11. ETT shall use best management practices to minimize the potential impact to migratory birds and threatened or endangered species.

###### Compatible Corridors

1. The stipulation route uses or parallels existing compatible corridors and apparent property lines to a reasonable extent. The stipulation route parallels existing transmission line right-of-way or other compatible routing features, including property lines for approximately 5.82 miles of the total 7.7 miles of the route.

###### Prudent Avoidance

1. The proposed transmission line has been routed in accordance with the Commission’s policy of prudent avoidance.
2. Prudent avoidance is achieved by minimizing, to the extent reasonable, the number of habitable structures located in close proximity to a route.
3. ETT and Atkins used a constraints mapping process to identify and reduce the impact of the proposed line on various constraints, including habitable structures. Adjustments made as a result of input from open house meetings further reduced the impact of the proposed line on habitable structures.
4. The number of habitable structures within 300 feet of the 18 alternative routes that were filed in the application ranges from as few as 142 to as many as 399.
5. There are 155 habitable structures that are within 300 feet of the centerline of the stipulation route.
6. Considering the highly developed nature of the study area, ETT’s proposed routes minimized, to the extent reasonable, the number of habitable structures in close proximity to the routes.

###### Estimated Costs

1. The estimated costs for the 18 alternative routes that were filed in the application ranges from a low of $26,230,000 to a high of $65,635,000. The estimated cost for the transmission line along the stipulation route is $44,083,000.
2. The estimated cost for the stipulation route is within the mid to upper range of the costs estimates for the alternative routes in the application and is the route selected by ETT as the route that it believes best addresses the requirements of PURA and the Commission’s substantive rules. The stipulation route is reasonable considering the range of the alternative route cost estimates filed by ETT in the CCN application.
3. The total estimated cost for the project on the stipulation route is reasonable considering the highly developed nature of the study area and the unusual routing constraints in the area.
4. The costs included in the application are only estimates since the route has not yet been surveyed by ETT, and final engineering design has not been performed.

###### Need for the Proposed Transmission Line/Alternatives

1. The project consists of a new 138-kV transmission line from ETT’s Barney Davis substation to AEP TCC’s Naval Base substation and installation of a new 138/69-kV autotransformer and 138-kV termination facilities at the AEP TCC Naval Base substation. The project will improve reliability by providing the Flour Bluff and South Corpus Christi area with another 138-kV direct electrical source from the Barney Davis substation to the Naval Base substation.
2. Load flow studies have shown five different possible transmission-facility outage situations that would result in loss of electric load in the area. The studies showed that the worst situation, the loss of both 138/69-kV autotransformers at the AEP TCC Airline substation, would result in voltage collapse of the area. Studies showed that in order to maintain just one of the 138/69-kV autotransformers, a total of 101 megawatt (MW) of load would have to be shed to keep the voltage collapse from occurring if the remaining autotransformer was outaged for any reason while the other autotransformer was out for maintenance.
3. The other four potential outage scenarios were not as severe, but would result in loss of load until the system facilities could be repaired. Load loss varied from 7 MW to as much as 42 MW. There is very limited ability to perform maintenance on transmission facilities in this area without exposing the area to potential loss of load.
4. The project provides the necessary support to the area transmission network needed to reduce the possibility of loss of electric load, particularly during scheduled maintenance outages of autotransformers at Airline substation, west of Oso Bay, or for either of the existing 69-kV transmission lines from Airline-to-Laguna or Airline-to-Naval Base substations owned by AEP TCC.
5. At the AEP TCC Naval Base substation, AEP TCC will also be constructing a new 69‑kV gas insulated switchgear (GIS) to address corrosion issues that can impact the reliability of the operation of the AEP TCC Naval Base substation in addition to installing a new 138/69-kV autotransformer and 138-kV termination facilities. The new 138-kV source into the AEP TCC Naval Base substation will also increase the load serving capacity for this substation. The GIS installation is independent of this project and not dependent on this project. ETT will be constructing the new 138-kV termination facilities at the ETT Barney Davis substation.
6. Alternatives to the project included new alternative 138-kV sources from Barney Davis to Laguna and from Pharaoh to Naval Base substations. Other alternatives considered additional transformation at Wooldridge and Naval Base substations. Finally, the conversion of the 69-kV system to 138-kV operation was also evaluated.
7. Only options that provided a new 138-kV source resolved the maintenance outage violations (N-1-1) studied under 2013 spring and fall peak conditions. In addition, the proposed line resulted in better support of future load growth when compared to the other options. Also, the voltage-stability margin for the proposed line was significantly higher than the other options. Based on this result, the project is the best alternative to meet the needs of the Flour Bluff area of Corpus Christi.
8. Because the electrical load in the distribution system in the area is the cause of the overloading on the existing transmission network, there is no distribution solution to address the constraints in the area.
9. Construction of the project will result in improved service to electric customers in the area of the project.

###### Improvement of Service or Lowering of Cost

1. Construction of the project will result in improved service to electric customers for the reasons described in findings of fact addressing the need for the project.

###### Effect of the Line on the PURA § 39.904(a) Renewable Energy Goal

1. The project is not designed to serve renewable energy facilities and will have no effect on the attainment of renewable energy goals.

###### Review by Independent Organization

1. The project was reviewed under provisions of the ERCOT Regional Planning Group (RPG) charter and procedures outlined in the ERCOT Protocols Section 3.11.4. The project was reviewed by the ERCOT RPG and independently reviewed by ERCOT Staff. ERCOT endorsed the project on January 24, 2013 to support the reliability of the regional transmission system in the Flour Bluff and Corpus Christi area.

###### Engineering Constraints

1. For purposes of this Order, an *engineering constraint* shall be construed as any physical condition or physical obstacle to construction along the Commission-approved route that would be impossible, unsafe, or unreasonably cost-prohibitive to overcome with design and construction solutions alone.
2. Engineering constraints associated with the project are not severe. As noted in findings of fact regarding community values, ETT will use special construction techniques to address airspace restrictions in the vicinity of Waldron Airfield and NASCC Truax Field, including using reduced pole heights and spans and placement of portions of the project underground. Although all proposed alternatives encounter land-use and geographic constraints, these constraints can be addressed by using usual and customary construction practices and techniques in the electric utility industry.

###### TPWD’s Comments and Recommendations

1. TPWD provided comments and recommendations on the project filed in this docket on July 23, 2014.
2. TPWD comments and recommendations primarily addressed mitigation of potential impacts to wildlife and natural resources. This Order addresses only those TPWD recommendations and comments for which there is record evidence.
3. ETT has agreed to comply with TPWD’s recommendations to the extent practicable, consistent with the need to complete the project in a timely and cost-effective manner.
4. No modifications to the project are required as the result of the recommendations and comments made by TPWD.
5. In its recommendation, TPWD agrees with Atkins and ETT that route 11 (the stipulation route), along with routes 9 and 10, are the best-balanced alternative routes that minimize impacts on natural resources and that also parallel a significant length of roadway, or transmission right-of-way.
6. TPWD recommended that the Commission select a route that would minimize impacts to natural resources, such as Route 9, 10 or 11.
7. As an intervenor in this proceeding, TPWD is a signatory to the stipulation supporting the stipulation route.
8. ETT and its routing consultant, Atkins, followed many of TPWD’s recommendations relating to the use of existing right-of-way, revegetation of disturbed areas, avoiding impacts to water resources, erosion controls, and avoiding potential impacts to endangered species in formulating potential routes.
9. Utilities do not gain access to private property until after a route is approved by the Commission. Once a route is approved by the Commission and ETT obtains access to the property along that route, it can undertake appropriate measures to identify whether there is potential endangered or threatened species habitat and respond appropriately if such habitat is identified.
10. TPWD recommends that ETT follow the procedures outlined in the publication *Reducing Avian Collisions with Power Lines: The State of the Art in 2012,* Edison Electric Institute and the Avian Power Line Interaction Committee (APLIC), 2012.
11. TPWD’s recommendation that ETT prepare a mitigation plan with a 1:1 replacement ratio for impacted habitats could significantly increase the cost of the project, is premature and may not be proportional with any impacts ultimately identified. The Commission has not typically imposed such a requirement in previous transmission line CCN cases. ETT will revegetate impacted areas with native species, as required in ordering paragraph 6 of this Order.
12. Implementation of the measures set forth in the ordering paragraphs in 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.

# Conclusions of Law

* + 1. ETT 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 PURA §§ 14.001, 32.001, 37.051, 37.053, 37.054, and 37.056.
    3. SOAH exercised jurisdiction over this proceeding pursuant to PURA § 14.053 and the Administrative Procedure Act, Tex. Gov’t Code § 2003.049 (Vernon 2008 & Supp. 2014) (APA).
    4. ETT provided proper notice of the application in compliance with PURA § 37.054 and 16 TAC § 22.52(a).
    5. ETT’s application is sufficient and ETT’s notice was adequate.
    6. This docket was processed in accordance with the requirements of PURA, the APA, and Commission rules.
    7. ETT is entitled to approval of the application utilizing the stipulation route, as described in the findings of fact, taking into consideration the factors set out in § 37.056(c)(4)(A)-(D) and (F) of PURA.
    8. The stipulation route complies with the routing factors in PURA § 37.056 and 16 TAC § 25.101, including the Commission’s policy of prudent avoidance.
    9. The 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 applicable factors set out in PURA § 37.056(c).
    10. The project is consistent with the goals and policies of the Texas Coastal Management Plan specified in 31 TAC § 501.16 [formerly §501.14(a)].
    11. The project will not have any direct and significant impacts on any of the applicable coastal natural resource areas specified in 31 TAC § 501.3(b).
    12. The approved route adheres to the Commission’s prudent avoidance policy contained in 16 TAC § 25.101(a)(4) and (b)(3)(iv).
    13. The application does not constitute a major rate proceeding as defined by 16 TAC § 22.2.
    14. The requirements for informal disposition under 16 TAC § 22.35 have been met in this proceeding.

# Ordering Paragraphs

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

* + - 1. Consistent with the stipulation, ETT’s application is approved.
      2. Consistent with the stipulation, ETT’s CCN numbers 30193 and 30194 are amended to include the construction and operation of the transmission facilities requested in the application.
      3. In the event ETT or its contractors encounter any archaeological artifacts or other cultural resources during construction of the transmission line, ETT shall cease work immediately in the vicinity of the resource and report the discovery to the Texas Historical Commission (THC) and take action as directed by the THC.
      4. ETT shall follow the procedures to protect raptors and migratory birds as outlined in the publication *Reducing Avian Collisions with Power Lines: The State of the Art in 2012,* Edison Electric Institute and the Avian Power Line Interaction Committee (APLIC), 2012. ETT shall take precautions to avoid disturbing occupied nests and will 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 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, and shall ensure that such herbicide use complies with the rules and guidelines established in the Federal Insecticide, Fungicide and Rodenticide Act and with the Texas Department of Agriculture regulations.
      6. ETT shall minimize the amount of flora and fauna disturbed during construction of the transmission line, except to the extent necessary to establish appropriate right-of-way clearance for the transmission line. In addition, ETT shall revegetate using native species considering landowner preferences and wildlife needs in doing so. Furthermore, to the maximum extent practicable, ETT shall avoid adverse environmental impacts to sensitive plant and animal species and their habitats as identified by TPWD and the USFWS.
      7. ETT shall implement erosion control measures as appropriate. Said 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 will also exercise care when clearing near waterways and will take reasonable steps to minimize adverse impacts on vegetation. ETT shall return each affected landowner’s property to its original contours and grades unless otherwise agreed to by the landowner or landowner’s representative. ETT shall not be required to restore original contours and grades where 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 shall use best management practices to minimize the potential impact to migratory birds and threatened or endangered species.
      9. ETT shall cooperate with directly affected landowners to implement minor deviations in the approved route to minimize the impact of the project. Any minor deviation in 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) or who have waived notice and agreed to accept the transmission line across their property, and shall directly affect only those landowners that have agreed to the minor deviation, excluding public right-of-way. Any minor deviation affecting underground facilities or facilities across open water also requires prior Commission approval.
      10. 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 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. Additionally, any deviation that is more than a minor deviation and affects underground facilities or facilities across open water also requires prior Commission approval. Unless these 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 Order.
      11. If required under Ordering Paragraphs 9 or 10, ETT shall file a petition seeking Commission approval for any minor or more-than-minor deviation affecting underground facilities or facilities across open water. The petition shall include, at a minimum, a detailed description of the deviation sought, the additional costs, if any, associated with the deviation, and proof of consent to the deviation by any landowners affected by the deviation.
      12. ETT shall minimize the length of underground facilities and facilities across open water to the greatest extent practicable.
      13. ETT shall update the reporting of the transmission line project on its monthly construction progress report prior to the start of construction to reflect final estimated cost and schedule in accordance with 16 TAC § 25.83(b). In addition, ETT shall provide final construction costs, with any necessary explanation for cost variance, after completion of construction and when all charges have been identified.
      14. ETT shall exercise best efforts to mitigate the costs of the approved transmission facilities, especially through donations of facility rights-of-way. At the Commission’s first open meeting in September 2015, currently scheduled to be held on September 11, ETT shall provide a report to the Commission on these efforts; additional reports shall be provided as directed by the Commission.
      15. Resolution of this docket was the product of negotiation and compromise between the parties. Entry of this Order consistent with the stipulation does not indicate the Commission’s endorsement or approval of any principle or methodology that may underlie the stipulation. Entry of this Order consistent with the stipulation shall not be regarded as binding holding or precedent as to the appropriateness of any principle or methodology that may underlie the stipulation.
      16. 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 herein, are denied.

**SIGNED AT AUSTIN, TEXAS the** \_\_\_\_\_\_ **day of \_\_\_\_\_\_\_\_\_\_ 2015.**

**PUBLIC UTILITY COMMISSION OF TEXAS**

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**KENNETH W. ANDERSON, JR., COMMISSIONER**

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**BRANDY MARTY MARQUEZ, COMMISSIONER**

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1. ETT Application of Electric Transmission Texas. LLC to Amend its Certificates of Convenience and Necessity for the Proposed Barney Davis to Naval Base Single-circuit 138-kV Transmission Line, ETT Ex. 1 at 6 (May 16, 2014) (ETT’s Application). [↑](#footnote-ref-1)
2. *Id*. (Attachment 1, Environmental Assessment, Figure 2-1) at 69. [↑](#footnote-ref-2)
3. *Id*. (Attachment 1, Environmental Assessment) at 142; Direct Testimony of Thomas Ademski, ETT Ex. 6 at 34-35. [↑](#footnote-ref-3)
4. ETT’s Application at 6. [↑](#footnote-ref-4)
5. *Id*. (Attachment 1, Environmental Assessment) at 118;Direct Testimony of John D. Pulay, ETT Ex. 4 at 11. [↑](#footnote-ref-5)
6. *Id*. (Attachment 1, Environmental Assessment) at 118. [↑](#footnote-ref-6)
7. *Id*.;Direct Testimony of John D. Pulay, ETT Ex. 4 at 11-12. [↑](#footnote-ref-7)
8. ETT’s Application (Attachment 4a) at 531-36. [↑](#footnote-ref-8)
9. *Id*. (Attachment 1, Environmental Assessment) at 84-85. [↑](#footnote-ref-9)
10. *Id*. (Attachment 1, Environmental Assessment) at 147; Direct Testimony of Thomas Ademski, ETT Ex. 6 at 34. [↑](#footnote-ref-10)
11. *Id*. (Attachment 4c) at 538. [↑](#footnote-ref-11)
12. *Id*. [↑](#footnote-ref-12)
13. Public Utility Regulatory Act, Tex. Util. Code Ann. §§ 11.001‑66.016 (Vernon 2007 & Supp. 2014) (PURA). [↑](#footnote-ref-13)