Public Utility Commission of Texas

TO: **Electric Transmission Texas LLC**

Commission Staff -- Legal Division
Commission Staff – Infrastructure Reliability Division

FROM: **Irene Montelongo**
Director, Docket Management

RE: **Docket No. 37983 – *Application of Electric Transmission Texas LLC to Amend its Certificate of Convenience and Necessity to Construct the Alamito Creek to Gonzales 138-kV Transmission Line in Presidio County***

NOTICE OF APPROVAL

This Notice approves the application of Electric Transmission Texas, LLC (ETT) to amend its Certificate of Convenience and Necessity (CCN) for the construction of a 138-kilovolt (kV) transmission line project within Presidio County, Texas. The proposed project is designated as the Alamito Creek to Gonzales 138-kV Transmission Line Project. The M.D. Bryant Family Trust (Bryant) filed a request for hearing but subsequently withdrew the request. No other party requested a hearing. On May 14, 2010, Public Utility Commission of Texas (Commission) Staff recommended approval of the application.

This docket was processed in accordance with applicable statutes and Commission rules. Based on the Commission Staff's memorandum recommending approval of the application, the following fact statements, and legal conclusions are hereby approved, effective the date of this notice.

Procedural History

1. On March 5, 2010, ETT filed an application to construct a 138-kV capable transmission line project within Presidio County, Texas.

2. On March 9, 2010, Order No. 1 required Commission Staff to comment on the sufficiency of the application and proposed notice and ETT to provide proof of notice and answers to certain issues related to potential options to the proposed project.

3. On March 22, 2010, ETT filed responses relating to the potential options to the proposed project.

4. On March 24, 2010, ETT filed publisher's affidavits, copies of newspaper notices as published, and proof of mail notices.

5. On April 2, 1010, Commission Staff filed a recommendation on ETT's application finding both the application and ETT's notice sufficient. Staff also filed a proposed procedural schedule.

6. On April 8, 2010, Order No. 4 was issued finding ETT's application and notice sufficient and adopting a procedural schedule.

7. Requests to intervene were filed by Charles Bass, David and Pedro Muniz, M.D. Bryant Family Trust, Gerald Gellet-Tinner, Armando Hernandez, Leticia Ruiz, Charles T. Johnson, and Yolanda Alvarado. All requests to intervene were granted by subsequent orders.

8. On April 19, 2010, David and Pedro Muniz filed a request to treat their intervention as comments. Order No. 6, issued on April 22, 2010, granted the request of David and Pedro Muniz to be removed as intervenors.

9. On April 26, 2010, M.D. Bryant Family Trust requested a hearing. No other intervenor requested a hearing.

10. Order No. 8, issued on April 29, 2010, entered an amended procedural schedule in the docket pursuant to the request of parties to accommodate settlement discussions.

11. On April 30, 2010, Charles T. Johnson filed a motion to withdraw as an intervenor. Order No. 9 issued on May 3, 2010, granted Charles T. Johnson's motion to withdraw as an intervenor.

12. On May 3, 2010, Charles Bass filed a request to withdraw as an intervenor. Order No. 10 issued on May 6, 2010, granted Charles Bass' motion to withdraw as an intervenor.

13. On May 3, 2010, Gerald Gellet-Tinner filed comments indicating his support for the preferred route. Yolanda Alvarado stated in her request to intervene that she agrees with the project as long as she is compensated for the use of her land.

14. On May 10, 2010, M.D. Bryant Family Trust withdrew its request for hearing.

15. There were eight intervenors in this docket, three of them withdrew and two filed statements of support for the line. The two other remaining intervenors, Leticia Ruiz and Armando Hernandez, have not requested a hearing.

16. Throughout the pendency of this docket, comments were filed by Jack McPherson, Archie B. Gergen, William Hubbard, Joe Sutton, Archie and Sylvia Gergen, Marianne Stockebrand, Dawn Shannon and Gerald Gellet-Tinner.

17. On May 14, 2010, Commission Staff filed a recommendation of approval of ETT's application and ETT's Preferred Route as filed in the application.

18. On May 24, 2010, Commission Staff filed a letter advising of conversations with the Texas Parks & Wildlife Department (TPWD) that TPWD plans to file comments/recommendation in the near future on ETT's application pursuant to TPWD Code § 12.0011.

Notice

19. Notice of the application was published in the *Texas Register* on March 19, 2010.

20. ETT complied with all notice requirements of P.U.C. PROC. R. 22.52(a).

Project Description

21. ETT will construct a new approximately 59.3 mile 138-kV capable transmission line from the AEP Texas North Company (TNC) Alamito Creek Substation located east of

Marfa, Texas to the new ETT Gonzales Substation located northeast of Presidio, Texas. The new line will initially be operated at 69-kV. The new line would almost entirely (94% of total length) parallel the existing 69-kV transmission line from the TNC Presidio Substation located in Presidio, Texas to the TNC Alamito Creek Substation located east of Marfa, Texas. The new line would also utilize approximately 32 miles of existing ROW that is parallel to the TNC existing 69-kV transmission line and when placed in service would replace the existing TNC 69-kV transmission line.

22. The new 138-kV transmission line will improve the transmission service reliability and quality to TNC and Rio Grande Electric Cooperative (RGEC) distribution service customers. TNC will have existing distribution facilities cut-in to the new ETT Gonzales Substation of which the transmission line terminates at its south end northeast of Presidio, Texas. The transmission line will also connect to the existing RGEC Cienega Substation and the TNC Shafter, Chinati, Atkinson Ranch and Bryant Substations. TNC will transfer approximately 32 miles of easements to ETT that will be used to supplement the easements necessary for the construction of the new 138-kV line. The majority of the existing 69-kV transmission line will be retired upon the new 138-kV transmission line being placed in service.

23. The project will be built with single pole structures made of either steel or concrete.

Need for the Proposed Project

24. The City of Presidio is currently served by a single 69-kV transmission line that originates at the Marfa Substation. Electrical load at Marfa, north to Ft. Davis, and south to Presidio primarily receives bulk transmission network service from one 138-kV transmission line into Marfa and two 69-kV lines. The 138-kV and 69-kV source lines into Marfa are also long in length, with the 138-kV from Barrilla Junction approximately 68 miles in length and the two 69-kV lines from Barrilla Junction and Ft. Stockton averaging approximately 80 miles in length. Long lines such as these are subject to voltage drop, increase line losses, and more exposure to outage causes.

25. The existing line from Marfa to Presidio is approximately 60 miles in length. This 69-kV transmission line was constructed in 1948 as a 33-kV transmission line on single wood pole structures using #2 ACSR conductor. This conductor size is used today for distribution residential electric service. The transmission line design at the time of construction provided no shielding from lightning strikes.

26. Because of the small conductor size, the voltage from Marfa to Presidio drops more than 8% under normal conditions. Line losses incurred on this transmission line to serve the 6.8 MW peak load at Presidio equals 1.5 MW. This loss amount is almost a multiple of 10 times what the average loss on a transmission line in the Texas transmission network would experience.

27. Because of the age of the line and the exposure that it has been subjected to for over 60 years, the failure rate of transmission structure components has been on the increase. The old design of the line does not provide options to improve significantly its performance by just replacing the deteriorating components. Complete structures are in need of replacement, which cannot be accomplished without significant interruption to load since the electrical service to the load is radial from Marfa.

28. Commission Federal de Electricidad (CFE) has been relied upon at times to provide back-up service to some electrical load in the Presidio area when a portion of the radial 69-kV line from Presidio to Marfa is out of service. Depending on the load level in Presidio, the school load in Presidio is interrupted during this outage.

29. Load flows created using future load growth projections for Presidio demonstrate that very little load growth can be accommodated by the existing transmission line before voltages during single contingency of the 138-kV source feed from Barrilla Junction will result in unacceptable voltages at Presidio. Load growth projections demonstrate if there is outage somewhere on the Presidio to Marfa line that more load than just the school load in Presidio will have to be interrupted because of electric service limitations from CFE.

30. The distance to strong transmission sources has also contributed to the power quality to the load in the Presidio area being degraded. Customer complaints have been on the increase. A voltage recorder placed in Presidio during a recent three-month period (July-September) showed 81 poor voltage service quality events with as many as 8 such events in a single day.

31. AEP Service Company (AEPSC) submitted a report to the Electric Reliability Council of Texas Regional Planning Group (ERCOT RPG) titled, Presidio Area Reliability Improvements, in March 2008, that described the problems with the age and condition of the existing 69-kV transmission line and the service problems to the load in Presidio caused by the current line construction and being located remotely from any major transmission source. In this report, load growth data was provided, results from load flow analysis were described, and recommendations were made.

32. AEPSC recommended that the following improvements should be made:
- A second 138/69-kV autotransformer installed at Alamito Creek (Marfa)
- Install 2-2.4 MW NaS Battery units at Presidio
- Replace the existing 69-kV Alamito Creek to Presidio transmission line with a new 69-kV transmission line designed for 138-kV operation

33. In the ERCOT independent review ERCOT agreed that these improvements should be made as soon as possible. At the ERCOT Board of Directors meeting on July 15, 2008 these transmission improvements were approved. The letter of approval from ERCOT to AEPSC for these transmission improvements was signed August 5, 2008.

Project Alternatives

34. A distribution alternative was not an option because it could not solve the service issue of load being served through the existing radial 69-kV transmission line.

35. An upgrade to the line would require reconstruction of the line, which could not be done because of the radial nature of the line that would result in service interruptions to loads.

36. Distributed generation was not an option because ETT is not a bundled utility that can provide such services.

37. Other transmission options consisted of a 138-kV transmission line being constructed on one of the alternative routes, which would result in large portions of the existing 69-kV transmission line having to remain in service to serve several small distribution substations along the existing 69-kV line.

38. Of the viable transmission alternatives, the project as proposed along the Preferred Route is the best alternative.

Project Costs

39. The total ETT cost of the transmission facilities for this project is estimated to be $44,616,515.

Community Values

40. All twenty of the habitable structures that are located within 300 feet of the centerline of this transmission line are located within 300 feet of the existing transmission line that will be replaced by the new 138-kV transmission line.

41. No commercial AM radio transmitters are located within 10,000 feet of the transmission line. One electronic communications tower is within 2,000 feet of the centerline of the transmission line.

42. There are two FAA-registered airports with at least one runway more than 3,200 feet in length that are located within 20,000 feet of the centerline of the transmission line. The structures on the transmission line are likely to exceed the 100:1 horizontal slope from the closest point of the runway and will require FAA notification.

43. The project does not cross any pasture or cropland that is irrigated by center-pivot or rolling irrigation systems.

44. The transmission line project will have minimal adverse impacts on community values.

Park and Recreational Areas

45. No parks or recreation areas are located within 1,000 feet of the centerline of the transmission line.

46. The transmission line project will have no adverse impact on parks and recreational areas.

Historical and Archeological Areas

47. The study area that consists of the preferred and alternate routes presents a high probability potential for cultural resources being encountered for all routes. The Preferred Route had the lowest amount of ROW with High Probability of Archaeological/Historic site potential (HPA) of all alternative routes.

48. Numerous known historical or archeological sites are located within 1,000 feet of the centerline of the exiting 69-kV transmission line that the new 138-kV will parallel for the majority of its distance from the TNC Alamito Creek Substation to the new ETT Gonzales Substation. The possibility exist that construction of the new 138-kV transmission line could encounter previously unrecorded sites.

49. The preferred transmission line route will have the lowest potential impact on historical or archeological areas.

Aesthetic Values

50. The transmission line project will parallel the existing 69-kV transmission line for approximately 94% of its total distance from the TNC Alamito Creek Substation to the new ETT Gonzales Substation and once placed in service the majority of the existing 69-kV line will be retired. All other alternative routes would result in more 138-kV line construction not being parallel to the existing transmission line and less retirement of the existing 69-kV line once the new 138-kV line is placed in service.

51. The new transmission line construction for this project will have the least impact to aesthetic values as compared to all other alternative routes.

Environmental Impact

52. ETT contracted with PBS&J to perform an Environmental Assessment and Alternative Route Analysis of the proposed transmission line project.

53. Data used by PBS&J in the delineation and evaluation of alternative routes were drawn from a variety of sources, including published literature (documents, reports, maps, aerial photography, etc.), and information from local, state, and federal agencies; including TPWD.[1] Recent color aerial (1:12,000) digital photography (SAM, 2008), U.S. Geological Survey (USGS) topographic maps (1:24,000 and 1:100,000), Texas Department of Transportation (TxDOT) county highway maps, and ground reconnaissance surveys were used throughout the selection and evaluation of alternative routes. Ground reconnaissance of the study area and computer-based evaluation of digital aerial imagery was utilized for both refinement and evaluation of alternative routes.

54. The transmission line project will cause only short-term impacts to soil, water, and ecological resources. The routing of the transmission line segment is primarily located in rugged arid rangeland dominated by rock outcroppings, several small mountain ranges, canyons, desert, and ephemeral streams.

55. No significant adverse affects on land use as a result of the project are anticipated.

56. The project is expected to have minimal adverse impacts on any threatened or endangered plant or animal species identified by TPWD and the United States Fish and Wildlife Service, as described in the application.

57. The project is not located within the boundaries of the Coastal Management Program Boundary as defined Title 31, Texas Administrative Code § 503.1.

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[1] In March 2008, PBS&J solicited comments by letter from local, state, and Federal agencies regarding potential impacts, permits, or approvals related to the proposed transmission line. A map of the study area was included with each letter. A copy of the response from TPWD dated May 14, 2008, is included in the Environmental Assessment at Appendix A.

58. ETT has conducted an adequate evaluation of potential environmental impacts of the transmission project in the impacted area.

Prudent Avoidance

59. The proposed line has been routed in accordance with the Commission's policy of prudent avoidance and has minimal residential area impact.

Informal Disposition

60. At least 15 days have passed since the completion of all notice requirements.

61. One party requested a hearing in this proceeding, but the request was subsequently withdrawn.

62. Commission rules provide that an application for a transmission line that is uncontested must be approved within 80 days from the date a complete application is filed.

Statutory Findings

1. ETT is an electric utility as defined in § 37.001 of the Public Utility Regulatory Act, TEX. UTIL. CODE ANN. §§ 11.001-66.016 (Vernon 2007 & Supp. 2009) (PURA).

2. The Commission has jurisdiction over these matters pursuant to PURA §§ 14.001, 32.001, 37.051, 37.053, 37.054, 37.056, and 37.057.

3. Notice of the application was provided in compliance with PURA § 37.054 and P.U.C. PROC. R. 22.52(a)(1)-(3).

4. ETT is entitled to approval of the application described above, having demonstrated that the proposed transmission project is necessary for the service, accommodation, convenience or safety of the public within the meaning of PURA § 37.056(a), taking into consideration the factors set out in PURA § 37.056(c).

5. The application may be approved without a hearing pursuant to the Administrative Procedure Act, TEX. GOV'T CODE ANN. Chapter 2001 (Vernon 2008 & Supp. 2009).

6. ETT's proposed project complies with the Commission's prudent avoidance policy.

7. ETT's application for a CCN to construct the proposed 138-kV transmission line as described above complies with P.U.C. SUBST. R. 25.101.

8. The requirements for administrative approval pursuant to P.U.C. SUBST. R. 25.101(b)(3)(C) have been met in this proceeding.

9. This application does not constitute a major rate proceeding as defined by P.U.C. PROC. R. 22.2.

10. The requirements for informal disposition pursuant to P.U.C. PROC. R. 22.35 have been met in this proceeding.

Ordering Paragraphs

In accordance with these fact statements and legal conclusions, the Commission issues the following order:

1. ETT's application to amend CCN No. 30193 for construction of a 138-kV transmission line project in Presidio County, Texas, on Route 1 (the Preferred Route) as described in the application and fact statements, and as consistent with the conditions and agreements associated with Commission Staff's recommendation, is approved.

2. ETT shall comply with the following measures to mitigate construction impacts:

   (a) ETT shall minimize the amount of flora and fauna disturbed during construction of the proposed transmission line, except to the extent necessary to establish appropriate right-of-way clearance for the transmission line. In addition, the utility shall re-vegetate using native species considering landowner preference. To the maximum extent practicable, ETT shall avoid adverse environmental impacts to sensitive wildlife and vegetative habitats as identified by the TPWD and the United States Fish and Wildlife Service.

(b) ETT shall implement erosion control measures during the construction of the proposed project as appropriate. Also, the utility shall return the site to its original contours and grades unless otherwise agreed to by the landowners or landowners' representatives.

(c) ETT shall exercise extreme care to avoid affecting non-targeted vegetation or animal life when using chemical herbicides for controlling vegetation within the right-of-way. Herbicide use shall comply with rules and guidelines established in the *Federal Insecticide, Fungicide and Rodenticide Act* and with Texas Department of Agriculture regulations.

(d) ETT shall follow the procedures as determined necessary to protect raptors as outlined in *Suggested Practices for Avian Protection on Power Lines: The State of Art in 2006,* Avian Power Line Interaction Committee (APLIC), 2006 and the *Avian Protection Plan Guidelines* published by APLIC in April, 2005.

(e) In the event ETT or its contractors encounter any archaeological artifacts or other cultural resources during project construction, ETT shall cease work immediately in the vicinity of the resource and report the discovery to the Texas Historical Commission (THC) and shall take action as directed by the THC.

(f) ETT shall cooperate with directly affected landowners to implement minor deviations in the approved transmission project routing to minimize the impact of the transmission line. Any minor deviation to the approved route shall only directly affect landowners who received notice of the transmission line in accordance with P.U.C. PROC. R. 22.52(a)(3) and shall directly affect only those landowners that have agreed to the minor deviation.

3. ETT shall comply with the reporting requirements of P.U.C. SUBST. R. 25.83.

4. 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 hereby denied.

SIGNED AT AUSTIN, TEXAS on the 24th day of May 2010.

PUBLIC UTILITY COMMISSION OF TEXAS

IRENE MONTELONGO
DIRECTOR, DOCKET MANAGEMENT

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