



Control Number: 48785



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JOINT REPORT AND APPLICATION §  
OF ONCOR ELECTRIC DELIVERY §  
COMPANY LLC, AEP TEXAS INC., AND §  
LCRA TRANSMISSION SERVICES §  
CORPORATION TO AMEND THEIR §  
CERTIFICATES OF CONVENIENCE §  
AND NECESSITY FOR 345-KV §  
TRANSMISSION LINES IN PECOS, §  
REEVES, AND WARD COUNTIES, §  
TEXAS (SAND LAKE TO SOLSTICE §  
AND BAKERSFIELD TO SOLSTICE) §

BEFORE THE  
  
STATE OFFICE OF  
  
ADMINISTRATIVE HEARINGS

**OCCEIDENTAL PERMIAN LTD., OXY DELAWARE BASIN, LLC, OXY  
USA INC., OXY USA WTP LP, HOUNDSTOOTH RESOURCES, LLC, AND  
OCCEIDENTAL WEST TEXAS OVERTHRUST, INC.'S INITIAL BRIEF**

**I. INTRODUCTION**

Occidental Permian Ltd., Oxy Delaware Basin, LLC, Oxy USA, Inc., Oxy USA WTP LP, Houndstooth Resources, LLC, and Occidental West Texas Overthrust, Inc. (collectively “Oxy”) have extensive oil and gas operations in this study area and will be directly affected by any route the Commission selects for this transmission line.<sup>1</sup> Oxy understands the need for new infrastructure in this area, and is willing to accept a line that affects property that it owns and leases. However, Oxy urges the Commission to make its routing decision with an eye toward minimizing the impact of this line on the densely packed and rapidly expanding oil and gas operations that make up the *vast majority* of the development in this study area.<sup>2</sup> As established in testimony and at the hearing, bisecting actively expanding oil and gas fields will substantially interfere with ongoing drilling, impede maintenance operations, and create operational safety concerns.<sup>3</sup> Additionally, building a transmission line through dense oil and gas production areas will cause significant economic harm by preventing Oxy and other operators from efficiently

<sup>1</sup> See Oxy Exhibit 2, Direct Testimony of Albert Mendoza – Sand Lake to Solstice Portion (Routing Phase) (Mendoza Dir.) at 2 (Jan. 10, 2019).

<sup>2</sup> Tr. (Marusak Cr.) at 40:19-41:4; see also Oncor/AEP Ex. 1, Application, Attachment 1 (Environmental Assessment) at 3-29 (“The bulk of the region is used for oil and gas production or range for livestock; cropland within the study area is less common and is limited to scattered irrigated fields.”).

<sup>3</sup> Oxy Ex. 2A (Confidential Mendoza Dir.) at 6-8.

developing wells in and around the line's right-of-way.<sup>4</sup> If the line is constructed through planned drilling areas, Oxy would need to be compensated for the mineral interests being taken, which could substantially increase the costs of the line.<sup>5</sup> Worse, due to the extremely fast development timeline for oil and gas infrastructure,<sup>6</sup> running the line through the densest oil and gas production areas increases the chance that Oncor and AEP will encounter unanticipated obstacles when construction begins.<sup>7</sup> Such unanticipated obstacles have the potential to increase the cost of this line<sup>8</sup> and delay construction<sup>9</sup> on a project that needs to be built on a short timeline in order to satisfy a critical reliability need.<sup>10</sup>

The Commission's best option to mitigate the negative impacts of this line and facilitate its timely construction is to select Oxy and COG Operating, LLC's (Concho's) proposed route 325 Modified,<sup>11</sup> which was not opposed by any intervenor to this proceeding and which Oncor witness Ms. Brenda Perkins referred to as "an attractive route the Commission should strongly consider."<sup>12</sup> Route 325 Modified still impacts both Oxy and Concho,<sup>13</sup> but avoids the bulk of the oil and gas development in the study area by following the less developed "western corridor."<sup>14</sup> While route 325 Modified is more expensive than the "central corridor" routes, including the

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<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> Oxy Ex. 2 (Mendoza Dir.) at 7; Tr. (Mendoza Cr.) at 90:7-18 (wells typically go from planning through permitting to construction in six to eight weeks); Tr. (Lowery Cr.) at 101:17-25 (accelerated wells can go from planning to construction in one to two weeks).

<sup>7</sup> Tr. (Peppard Cr.) at 42:24-43:4; *see also* Oncor/AEP Ex. 12, Rebuttal Testimony of Wilson Peppard (Peppard Reb.) at 5.

<sup>8</sup> Tr. (Peppard Cr.) at 44:2-6, 45:7-46:4.

<sup>9</sup> Tr. (Peppard Cr.) at 44:13-18, 45:7-46:4.

<sup>10</sup> Tr. (Peppard Cr.) at 46:5-16.

<sup>11</sup> Route 325 Modified uses links A-B2-B3-C2 Modified-D1 -E1/F1 Modified-I1-K11 Modified-K12-L2-Z.

<sup>12</sup> Oncor/AEP Ex. 13, Rebuttal Testimony of Brenda Perkins (Perkins Reb.) at 4.

<sup>13</sup> *See* Oxy Ex. 3, Cross-Rebuttal Testimony of Albert Mendoza (Mendoza Cross-Reb.) at 11; COG Operating LLC (Concho) Ex. 2, Rebuttal Testimony of Brent Lowery (Lowery Reb.) at 8-9.

<sup>14</sup> Oxy Ex. 3 (Mendoza Cross-Reb.) at 3 ("Route 325 Modified follows the western corridor, where Oxy and Concho's oil and gas operations are not as densely packed or rapidly expanding as they are along the central corridor used by the utilities' suggested route 320 or Commission Staff's recommended route 41.").

utilities' suggested route 320 or Commission Staff's suggested route 41,<sup>15</sup> it is still over \$9.7 million cheaper than the most expensive alternative route filed along with the Application.<sup>16</sup> Additionally, the increased cost of route 325 Modified is justified to avoid significantly interfering with ongoing operations and development in the oil and gas fields that would be bisected by the central corridor routes.<sup>17</sup> Because oil and gas development is the primary economic driver in this region,<sup>18</sup> minimizing the impact of this line on oil and gas development is consistent with the Commission's obligation to route transmission lines "to the extent reasonable to moderate the impact on the affected community and landowners."<sup>19</sup> Given the extent and pace of oil and gas development along the central corridor, the less developed western corridor is a more rational choice for siting transmission infrastructure.

Regardless of which route the Commission ultimately chooses, it should incorporate Oxy and Concho's agreed modifications into that route. There are a number of proposed links that, if built as proposed, would significantly interfere with existing and ongoing oil and gas operations and thereby harm both the operating companies and their underlying leaseholders. The most severe impacts of this line can be mitigated along route 325 Modified with relatively minor modifications along links C2, E1/F1, and K11.<sup>20</sup> Mitigating the impact of the central corridor routes would require the same modification along link C2, and more extensive modifications

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<sup>15</sup> Including all of Oxy and Concho's proposed modifications, route 325 Modified is estimated to cost \$117,176,000, compared to \$101,324,000 for route 41 Modified and \$99,726,000 for route 320 Modified. *See* Oncor/AEP Ex. 1, Application at Attachment 3 (cost of filed routes); Oncor/AEP Exhibit 12, (Peppard Reb.) at 12 (cost of route modifications).

<sup>16</sup> The most expensive proposed route is estimated to cost \$126,903,000. *See* Oncor/AEP Ex. 6, Direct Testimony of Wilson Peppard (Peppard Dir.) at 7 ( $\$126,903,000 - \$117,176,000 = \$9,727,000$ ).

<sup>17</sup> Oxy Ex. 2 (Mendoza Dir.) at 8-15; Oxy Ex. 3 (Mendoza Cross-Reb.) at 3-4.

<sup>18</sup> Tr. (Marusak Cr.) at 40:19-41:4; *see also* Oncor/AEP Ex. 1, Application, Environmental Assessment at 3-29 ("The bulk of the region is used for oil and gas production or range for livestock; cropland within the study area is less common and is limited to scattered irrigated fields.").

<sup>19</sup> *See* PUC Subst. R. 25.101(b)(3)(B).

<sup>20</sup> *See* Oncor/AEP Ex. 11, Rebuttal Testimony and Exhibits of Russell Marusak (Marusak Reb.) at Exhibits RJM-R-1 (link C2), RJM-R-4 (links E1/F1), and RJM-R-6 (link K11); *see also* Oxy Ex. 2 (Mendoza Dir.) at 20-22 (describing proposed modification to links E1/F1); Oxy Ex. 3 (Mendoza Cross-Reb.) at 4-5, 9-10 (describing most updated modifications to links C2 and K11).

along links F3/G4/G51/I2 and J1/J7.<sup>21</sup> These modifications are discussed in greater detail below. As indicated in rebuttal testimony, Oncor and AEP believe that Oxy and Concho's proposed modifications are constructible,<sup>22</sup> and do not oppose any of the modifications, provided that landowner consent agreements are obtained.<sup>23</sup> Oxy and Concho are in the process of obtaining those agreements and will provide them along with reply briefing.

## II. OXY'S ROUTING PREFERENCES

The ALJs requested that each party's initial brief include a list ranking that party's routing preferences. Oxy's preferences are as follows:

- Route 325 Modified (most preferred)
- Route 325, as proposed
- Routes 41/320 Modified
- Routes 41/320, as proposed (Oxy strongly opposes these routes without modifications)

## III. ARGUMENT

### A. Application (Order of Referral Issue 1)

Not addressed.

### B. Need (Order of Referral Issues 2-3)

Not addressed.

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<sup>21</sup> See Oncor/AEP Ex. 11 (Marusak Reb.) at Exhibits RJM-R-1 (link C2), RJM-R-2 (links F3/G4/G51/I2), and RJM-R-3 (links J1/J7); see also Oxy Ex. 3 (Mendoza Cross-Reb.) at 6-8 (describing updated modifications to links F3/G4/G51/I2 and J1/J7).

<sup>22</sup> Oncor/AEP Ex. 12 (Peppard Reb.) at 11-12.

<sup>23</sup> Oncor/AEP Ex. 13 (Perkins Reb.) at 5.

**C. Route (Order of Referral Issues 4-6)**

**4. Which proposed transmission line route is the best alternative weighing the factors set forth in PURA § 37.056(c) and 16 TAC § 25.101(b)(3)(B)?**

Route 325 Modified is the best alternative under the factors set forth in PURA § 37.056(c) and 16 TAC § 25.101(b)(3)(B). In short, while route 325 Modified is more expensive than the central corridor routes, that additional expense is justified in order to moderate the impact of this line on the local community and landowners and avoid placing a disproportionate burden on oil and gas production in the study area.

**i. Route 325 Modified best satisfies the factors set forth in PURA § 37.056(c).**

PURA § 37.056(c)(4) requires the Commission to consider the impact of a transmission line on community values, recreational and park areas, historical and aesthetic values, environmental integrity, and the quality of service in the study area.<sup>24</sup> There is not a significant difference between route 325 Modified and the central corridor routes with respect to recreational and park areas, historical and aesthetic values, or the quality of service they would provide. However, as mentioned above, route 325 Modified avoids the majority of the oil and gas development that is the primary economic driver in this study area, and the benefits of that route far outweigh the slight difference it presents with respect to environmental factors.

**a) Routing this line along the western corridor protects community values associated with oil and gas development.**

The central corridor routes would significantly interfere with ongoing oil and gas development, which represents the *vast majority* of the economic activity in this study area.<sup>25</sup> As described in the Environmental Assessment, “[m]ost of the study area consists of *rural, undeveloped land used primarily for oil and gas production*; livestock grazing; and/or irrigated crop production.”<sup>26</sup> Within the study area, there are over 4,600 locations registered in the

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<sup>24</sup> See PURA § 37.056(c)(4).

<sup>25</sup> Tr. (Marusak Cr.) at 40:19-41:4.

<sup>26</sup> Oncor/AEP Ex. 1, Application, Environmental Assessment at 3-70 (emphasis added).

Railroad Commission's database of oil and gas infrastructure,<sup>27</sup> and oil and gas facilities are so pervasive that "*the oil and gas industry is the primary aesthetic for a great majority of the study area.*"<sup>28</sup> Those operations are rapidly expanding. As the Environmental Assessment explains, "[d]uring field reconnaissance, well and pipeline facilities not shown on the aerial or in the RRC database were either constructed, under construction, or being staked for construction, indicating that this particular land use constraint is very dynamic and subject to change depending on the date of observation."<sup>29</sup> Testimony from Oxy and Concho corroborates this assessment.<sup>30</sup> For instance, Oxy already has twelve completed wells within 1,000 feet of route 320,<sup>31</sup> and is in the process of constructing an additional seven wells along that same narrow corridor, which is over a 50% increase just this year.<sup>32</sup> Similarly, the aerial maps provided in Concho Exhibit 4 show that over the last six years, there has been a dramatic increase in oil and gas development in the southern end of this study area near links J1/J7.<sup>33</sup> And there is no indication that the pace of development is slowing.<sup>34</sup> Because oil and gas development factors so strongly into the local economy,<sup>35</sup> minimizing the impact of this line on such development should be the Commission's primary concern with respect to community values.

The central corridor routes would interfere with existing and expanding oil and gas development by bisecting significant oil and gas production areas like Oxy's Barilla Draw and South Red Bull production areas.<sup>36</sup> As discussed in Mr. Mendoza's testimony, building a

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<sup>27</sup> *Id.* at 3-72.

<sup>28</sup> *Id.* at 3-73. Similarly, the majority of the habitable structures near this proposed line are temporary, mobile "man camps" that generally house oil field workers. *See* Oncor/AEP Ex. 7, Direct Testimony and Exhibits of Brenda J. Perkins (Perkins Dir.) at 9 (32 of the habitable structures within 500 feet of link B2, which appears on routes 320 and 325 are travel trailers in a temporary "man camp").

<sup>29</sup> Oncor/AEP Ex. 1, Application, Environmental Assessment at 3-72.

<sup>30</sup> Oxy Ex. 2 (Mendoza Dir.) at 5; Concho Ex. 1, Direct Testimony of Terry Burkes (Burkes Dir.) at 6.

<sup>31</sup> Tr. (Mendoza Re-Dir.) at 92:21-93:3.

<sup>32</sup> Tr. (Mendoza Re-Dir.) at 93:4-15; *see also* Oxy Ex. 4-6.

<sup>33</sup> *See* Concho Ex. 4 (Confidential Illustration of Development from 2013 to 2019) at 2-3.

<sup>34</sup> Tr. (Mendoza Cr.) at 88:23-89:8; Tr. (Lowery Cr.) at 102:1-7.

<sup>35</sup> *See, e.g.*, Oncor/AEP Ex. 1, Application, Environmental Assessment at 3-70, 3-72, 3-73; Tr. (Marusak Cr.) at 40:19-41:4; Tr. (Lowery Cr.) at 108:12-109:10.

<sup>36</sup> *See* Oxy Ex. 2 (Mendoza Dir.) at 11, 14.

transmission line in close proximity to Oxy's operations will interfere with ongoing drilling and maintenance operations both (1) directly, because transmission lines and structures create obstacles to moving tall drilling equipment,<sup>37</sup> and (2) indirectly, as transmission line construction often leads to outages on the existing electrical facilities that serve Oxy's fields.<sup>38</sup> In addition, transmission lines can pose a significant health and safety hazard to Oxy personnel, and the coordination necessary to safely operate drilling and other tall equipment in proximity to a transmission line could delay Oxy's construction efforts.<sup>39</sup> Further, building a transmission line through dense oil and gas production areas will prevent Oxy and other operators from efficiently developing new wells or other surface facilities in and around the line's right-of-way.<sup>40</sup> As discussed at the hearing, Oxy has already invested money and effort into developing a series of drilling corridors that are designed to efficiently space wells and maximize production.<sup>41</sup> Many of those corridors would be disrupted if a transmission line were constructed along either of routes 41 or 320.<sup>42</sup> Concho witness Mr. Lowery explained that Concho has invested in creating similar development plans, and that when those plans are disrupted, it can result in some portion of the available reserves being trapped underground.<sup>43</sup> Oxy will lose significant revenue if it is unable to efficiently develop its leases or maintain existing wells.<sup>44</sup> That lost production will also have broader economic impacts by reducing payments to royalty owners and revenues to the State of Texas, which benefits from the additional taxes and jobs generated by oil and gas development.<sup>45</sup>

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<sup>37</sup> Oxy Ex. 2 (Mendoza Dir.) at 6-8.

<sup>38</sup> *Id.*

<sup>39</sup> *Id.*

<sup>40</sup> *Id.*; Tr. (Peppard Cr.) at 46:17-48:5.

<sup>41</sup> Planned drilling corridors are represented by yellow boxes on Oxy Exhibits 4-6. *See* Oxy Ex. 4-6; Tr. (Mendoza Re-Dir.) at 95:5-23.

<sup>42</sup> *See* Oxy Ex. 4-6.

<sup>43</sup> *See* Tr. (Lowery Re-Dir.) at 107:17-109:15.

<sup>44</sup> Oxy estimates that losing a single productive well in this area (because it cannot be developed or would have to be shut in) would cost Oxy \*\*\*[REDACTED]\*\*\* in revenue per year, which is even more substantial considering that a well can be expected to produce for \*\*\*[REDACTED]\*\*\*. Oxy Ex. 2A (Confidential Mendoza Dir.) at 7-8.

<sup>45</sup> *Id.*

Route 325 Modified would mitigate the impacts of this line on oil and gas development in the study area by using the less developed western corridor. While that western route would still impact both Oxy and Concho's ongoing oil and gas operations, the impact would be significantly less than it would be along the central routes because there is simply less oil and gas development in the western end of the study area.<sup>46</sup> Accordingly, rather than disrupting expanding oil and gas operations along the central corridor, the Commission has the opportunity to route this line through primarily undeveloped rangeland pasture<sup>47</sup> that will not be significantly impacted by the presence of a transmission line. Further, as described in greater detail below, using the western corridor will decrease the chances that the utilities will be forced to invest additional time and effort to work around unanticipated, newly-built oil and gas infrastructure that they might encounter when they attempt to build the line.<sup>48</sup> This will facilitate the provision of safe and reliable electric service in the area by helping the utilities to construct this line in an efficient and timely manner.<sup>49</sup>

***b) The benefits of route 325 Modified easily outweigh the slight differences it presents with respect to environmental issues.***

The central corridor routes slightly outperform route 325 Modified with respect to environmental issues because they spend approximately four fewer miles crossing riparian areas and two fewer miles crossing habitat for endangered/threatened species.<sup>50</sup> However, it is important to note that these are slight differences in the context of a line that is expected to run between 44.5 and 58.7 miles.<sup>51</sup> Further, these slight differences are far outweighed by the impact that the central routes would have on the oil and gas development that is the primary

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<sup>46</sup> See Oncor/AEP Ex. 10A and 10B (Intervenor Maps) (aerial views of the study area make it apparent that there is less oil and gas development along the western corridor); Oxy Ex. 2A (Confidential Mendoza Dir.) at Exhibit AM-2 (HSPM) (showing Oxy's active leases, which are located primarily along the central and eastern corridors); see also Oxy Ex. 3 (Mendoza Cross-Reb.) at 11 ("[Route 325 Modified], which is supported by both Oxy and Concho, avoids the bulk of the oil and gas development in the study area by following the less-developed western corridor.").

<sup>47</sup> Approximately 84% of the area traversed by Route 325 Modified is "rangeland pasture." See Oncor/AEP Ex. 11 (Marusak Reb.) at Exhibit RJM-R-7.

<sup>48</sup> Tr. (Peppard Cr.) at 43:5-10, 44:2-18, 45:7-46:4; Tr. (Perkins Cr.) at 48:8-16.

<sup>49</sup> Tr. (Peppard Cr.) at 46:5-16; Tr. (Perkins Cr.) at 48:8-16.

<sup>50</sup> See Oncor/AEP Ex. 11 (Marusak Reb.) at Exhibit RJM-R-7.

<sup>51</sup> Oncor/AEP Ex. 1, Application at 4.

economic driver in this study area. As such, route 325 Modified outperforms the central corridor routes under the factors laid out in PURA § 37.056(c).

**ii. Route 325 Modified best satisfies the factors set forth in 16 TAC § 25.101(b)(3)(B).**

In addition to the criteria in PURA § 37.056(c), Substantive Rule 25.101(b)(3)(B) requires the Commission to consider potential engineering constraints, costs, paralleling, and the Commission's policy of prudent avoidance in order to route transmission lines "to the extent reasonable to moderate the impact on the affected community and landowners."<sup>52</sup> As discussed below, route 325 Modified is more costly than the central corridor routes, but that cost is justified in order to (1) minimize the possibility that unanticipated obstacles will interfere with the construction of this line and (2) moderate the impact of this line on the oil and gas operations that make up the vast majority of the development in this study area.

**a) *Selecting route 325 Modified will reduce the chances that Oncor and AEP will encounter unexpected engineering constraints when constructing this line.***

Due to the extremely short development timeline for oil and gas infrastructure,<sup>53</sup> routing this project through the densely packed oil and gas production areas along the central corridor will increase the chance that Oncor and AEP will encounter unanticipated engineering constraints when they attempt to construct this line.<sup>54</sup> Recognizing how rapidly oil and gas infrastructure is expanding in this study area, Oncor witness Mr. Peppard indicated that "it is very likely that unanticipated obstacles [such as a recently granted pipeline easement, a recently constructed pipeline facility, or a recently drilled well] will be encountered during the post-certification process for the Proposed Transmission Line Project."<sup>55</sup> The pace of oil and gas development in this area is such that when the utilities' environmental consultant performed field

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<sup>52</sup> 16 TAC § 25.101(b)(3)(B).

<sup>53</sup> The entire development timeline for a new oil and gas facility can be measured in terms of weeks, with a typical well going from planning to permitting to execution in six to eight weeks, and accelerated wells taking as little as 1-2 weeks. Tr. (Mendoza Cr.) at 90:7-18; Tr. (Lowery Cr.) at 101:17-25.

<sup>54</sup> Oncor/AEP Ex. 12, Peppard Reb. at 5; *see also* Tr. (Peppard Cr.) at 42:24-43:4.

<sup>55</sup> Oncor/AEP Ex. 12, Peppard Reb. at 5; *see also* Tr. (Peppard Cr.) at 43:5-10.

reconnaissance, it encountered many “well and pipeline facilities not shown on the aerial or in the RRC database [that] were either constructed, under construction, or being staked for construction, *indicating that this particular land use constraint is very dynamic and subject to change depending on the date of observation.*”<sup>56</sup> Consistent with this observation, Oxy is currently in the process of constructing seven new wells and a new battery facility within 1,000 feet of route 320.<sup>57</sup> And it is anticipated that Oxy and other operators (who may not even be aware of this transmission project<sup>58</sup>) will have additional facilities on the ground by the time the utilities attempt to build this line.<sup>59</sup>

Unanticipated engineering constraints due to oil and gas development have the potential to increase the cost of this line<sup>60</sup> and delay construction<sup>61</sup> on a project that, like the Bakersfield to Solstice line, needs to be built on a short timeline in order to satisfy a critical reliability need.<sup>62</sup> The potential for increased cost and delay would be especially acute if Oncor or AEP were unable to develop an agreed modification and was instead forced to use the court system to condemn expensive oil and gas infrastructure.<sup>63</sup>

As Oncor witness Ms. Perkins testified, the Commission can reduce the chance that the utilities will encounter unanticipated engineering constraints when constructing this line by selecting route 325 Modified, which travels down a corridor where oil and gas development is not as dense.<sup>64</sup> This is a substantial advantage of selecting route 325 Modified, and should factor heavily in the Commission’s routing decision.

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<sup>56</sup> Oncor Ex. 1, Application, Environmental Assessment at 3-72 (emphasis added).

<sup>57</sup> Tr. (Mendoza Re-Dir.) at 93:4-15, 95:24-96:20; *see also* Oxy Ex. 4-6.

<sup>58</sup> It is Oxy’s experience that, unlike surface owners, potentially affected mineral interest holders are generally not notified of transmission CCN cases.

<sup>59</sup> *See* Tr. (Lowery Cr.) at 102:1-7.

<sup>60</sup> Tr. (Peppard Cr.) at 44:7-12.

<sup>61</sup> Tr. (Peppard Cr.) at 44:13-18.

<sup>62</sup> Tr. (Peppard Cr.) at 46:5-16.

<sup>63</sup> Tr. (Peppard Cr.) at 45:7-46:4.

<sup>64</sup> Tr. (Perkins Cr.) at 48:8-22.

*b) The additional cost associated with route 325 Modified is justified to obtain its other benefits.*

The additional cost associated with route 325 Modified is justified by the benefits associated with avoiding the dense and rapidly expanding oil and gas production areas that would be bisected by the central corridor routes. Route 325 Modified is estimated to cost \$117.2 million<sup>65</sup> which is \$17.5 million more than route 320 Modified, but still more than \$9.7 million cheaper than the most expensive alternative route filed along with the Application.<sup>66</sup> Additionally, the cost differential between route 325 Modified and the central corridor routes is likely overstated for two reasons. First, the cost estimates for the central corridor routes do not factor in the expense of resolving any unanticipated engineering constraints that the utilities might encounter as they attempt to build this line through a densely packed oil field.<sup>67</sup> Second, those estimates do not account for any costs associated with condemning mineral interests or expensive oil and gas infrastructure, which could be substantial. Oxy estimates that losing a single productive well in this area (because it cannot be developed or would have to be shut in) would cost Oxy \*\*\*[REDACTED]\*\*\* in revenue per year, which is even more substantial considering that a well can be expected to produce for \*\*\*[REDACTED]\*\*\*.<sup>68</sup> It is easy to see how condemning rights-of-way through an active oil and gas field could quickly become very expensive.

Additionally, the cost of route 325 Modified is reasonable in the context of prior Commission decisions. In other transmission CCN cases, the Commission has adopted routes that added significantly more than \$17.5 million to the cost of a line (compared to the utility's preferred route) in order to resolve concerns expressed by landowners. For instance, in Docket No. 38517, the utility's preferred route cost \$148.5 million, and the Commission ultimately

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<sup>65</sup> See Oncor/AEP Ex. 1, Application at Attachment 3 (cost of filed routes); Oncor/AEP Ex. 12 (Peppard Reb.) at 12 (cost of route modifications).

<sup>66</sup> Proposed route 183 is estimated to cost \$126,903,000. See Oncor/AEP Ex. 6 (Peppard Dir.) at 7 (\$126,903,000 - \$117,176,000 = \$9,727,000).

<sup>67</sup> See Section III.C.4.ii.a.

<sup>68</sup> Oxy Ex. 2A (Confidential Mendoza Dir.) at 7-8.

approved a route that cost \$173.6 million—a difference of \$25.1 million.<sup>69</sup> Similarly, in Docket No. 38140, the Commission approved a settlement route that cost approximately \$42.1 million more than the utility’s suggested route, and was also far more expensive than the most expensive alternative route filed along with that application.<sup>70</sup> Accordingly, it is clear that the cost differential between route 325 Modified and the central corridor routes is not prohibitive, and route 325 Modified should be selected because its other benefits outweigh the additional cost.

***c) Route 325 Modified performs relatively well in terms of paralleling property boundaries and compatible rights-of-way.***

Route 325 Modified parallels property boundaries and compatible rights-of-way for 43.0% of its length,<sup>71</sup> which is significantly better than the utilities’ suggested route 320 or Commission Staff’s suggested route 41, which only parallel such features for 27.2% and 26.6% of their length, respectively.<sup>72</sup> It is important to note that the modifications proposed by Oxy and Concho (which attempt to follow property boundaries as much as possible), result in significant improvements in paralleling along the central routes. Nevertheless, even the modified versions of the central corridor routes do not present a significant paralleling advantage over route 325 Modified, as shown below:<sup>73</sup>

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<sup>69</sup> Cf. *Application of Oncor Electric Delivery Company LLC to Amend Its Certificate of Convenience and Necessity for the Clear Crossing to Willow Creek CREZ 345-kV Transmission Line in Haskell, Jones, Throckmorton, Shackelford, Young, Stephens, Jack, Palo Pinto, Wise, and Parker Counties*, Docket No. 38517, Direct Testimony of Brenda Perkins at 9 (Aug. 16, 2010) (preferred route estimated to cost \$148,512,000); *with* Docket No. 38517, Final Order at 8, 14 (Feb. 10, 2011) (adopting modified route 1091 at a cost of \$173,594,000 in order to address the concerns of active intervenors).

<sup>70</sup> Cf. *Application of Oncor Electric Delivery Company LLC to Amend a Certificate of Convenience and Necessity for the Riley-Krum West 345-kV CREZ Transmission Line (Formerly Oklaunion to West Krum) in Archer, Clay, Cooke, Denton, Jack, Montague, Wichita, Wilbarger, and Wise Counties, Texas*, Docket No. 38140, Direct Testimony of Jill Alvarez at 11 (Apr. 30, 2010) (preferred route estimated to cost \$196,896,000; most expensive filed route estimated to cost \$213,118,000); *with* Docket No. 38140, Final Order at 15 (Oct. 29, 2010) (approving a settlement route that was estimated to cost \$239,000,000).

<sup>71</sup> See Oncor/AEP Ex. 11 (Marusak Reb.) at Exhibit RJM-R-7 (data for modified routes).

<sup>72</sup> See Oncor/AEP Ex. 7 (Perkins Dir.) at Exhibit BJP-5 at 4 (data for as-filed routes).

<sup>73</sup> Oncor/AEP Ex. 11 (Marusak Reb.) at Exhibit RJM-R-7 (data for modified routes); Oncor/AEP Ex. 7 (Perkins Dir.) at Exhibit BJP-5 at 4 (data for as-filed routes).

<b>Route</b>	325 Modified	320	41	320 Modified	41 Modified
<b>Paralleling %</b>	43.0%	27.2%	26.6%	43.3%	42.3%

*d) Route 325 Modified conforms with the Commission’s policy of prudent avoidance.*

Route 325 Modified passes within 500 feet of 37 habitable structures, which is one less than the utilities’ suggested route 320 (or route 320 Modified).<sup>74</sup> Additionally, as discussed in detail at the hearing, the 32 habitable structures located within 500 feet of link B2 (which appears on both route 325 Modified and route 320/320 Modified) are impermanent travel trailers that make up a temporary “man camp,”<sup>75</sup> and those structures should not weigh heavily in the Commission’s routing decision. Accordingly, for purposes of the Commission’s policy of prudent avoidance, route 325 Modified performs comparably to the other routes that are still at issue:<sup>76</sup>

<b>Route</b>	325 Modified	320	41	320 Modified	41 Modified
<b>Habitable Structures</b>	37	38	3	38	3
<b>Habitable Structures (minus 32 “man camp” trailers)</b>	5	6	3	6	3

Given the limited differences between the routes at issue with respect to prudent avoidance, this factor should not weigh heavily in the Commission’s routing decision.

<sup>74</sup> See Oncor/AEP Ex. 11 (Marusak Reb.) at Exhibit RJM-R-7 (data for modified routes).

<sup>75</sup> Oncor/AEP Ex. 7 (Perkins Dir.) at 9 (32 structures within 500 feet of link B2 “are mobile living units that appear to be temporary construction housing, and none of which appear to have permanent foundations.”).

<sup>76</sup> Oncor/AEP Ex. 11 (Marusak Reb.) at Exhibit RJM-R-7 (data for modified routes); Oncor/AEP Ex. 7 (Perkins Dir.) at Exhibit BJP-5 at 4 (data for as-filed routes).

5. ***Are there alternative routes or facilities configurations that would have a less negative impact on landowners? What would be the incremental cost of those routes?***

Route 325 Modified incorporates reasonable changes to links C2, E1/F1, and K11 that will substantially reduce the negative impact of this line on Oxy and Concho's rapidly developing oil and gas operations. Similarly, if the Commission decides to accept either of routes 41 or 320, Oxy and Concho's agreed modifications to those routes along links C2, F3/G4/G51/I2 and J1/J7 would also serve to minimize their negative impact.

**i. Oxy and Concho's proposed modifications to route 325 are justified and should be adopted if that route is chosen.**

Along route 325, Oxy and Concho are jointly supporting proposed modifications to links C2, E1/F1, and K11. As discussed in detail in Oxy and Concho's testimony, the modifications to links C2 and K11 are justified because they avoid areas where Oxy and Concho are currently in the process of developing oil and gas infrastructure.<sup>77</sup> Additionally, the modification to links E1/F1 (which *decreases* the cost of the line by \$180,000<sup>78</sup>) shifts the line slightly so it can follow section boundaries and thereby minimize the impact of this line on Oxy's ability to efficiently develop the underlying oil and gas leases.<sup>79</sup> No party has expressed opposition to the modifications, and Oncor and AEP have indicated that they are constructible.<sup>80</sup> Oxy and Concho are in the process of obtaining written consent for each of their proposed modifications from the affected surface owners, and intends to present those consent agreements along with reply briefing.

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<sup>77</sup> See Oxy Ex. 2 (Mendoza Dir.) at 9-10 ("Oxy has already invested significant resources into planning a new well site in the northeastern corner of tract 504, and proposed link C2 would interfere with the development of that well. . . . Shifting a portion of link C2 slightly to the northeast would allow Oxy to effectively mitigate the impact of this transmission line on its operations."); Concho Ex. 2 (Lowery Reb.) at 9 (noting that link K11 Modified "avoids Concho's existing wells and ongoing development.").

<sup>78</sup> Oncor/AEP Ex. 12 (Peppard Reb.) at 12.

<sup>79</sup> Oxy Ex. 2 (Mendoza Dir.) at 22 ("Oxy has identified a modification that would shift links E1/F1 slightly to the east so that they follow the eastern boundaries of tracts 131 and 206 while still maintaining safe clearances from existing Oxy infrastructure. This modification will increase the length of the line paralleling property boundaries, and will also decrease the number of angle structures from four to two. Additionally, the modification will allow Oxy to effectively mitigate the impact of this line on its ongoing development activities.").

<sup>80</sup> Oncor/AEP Ex. 12 (Peppard Reb.) at 11-12.

There is minimal additional cost associated with Oxy and Concho's proposed modifications to route 325. The modifications to links C2, E1/F1, and K11 are projected to cost a total of \$794,000, which is a difference of *less than 0.7%* compared to route 325 as proposed.<sup>81</sup> This additional cost is in line with modification proposals that the Commission has approved in recent CCN cases. For instance, in Docket No. 47808, which was decided in January of this year, the Commission adopted proposed modifications that were designed to mitigate the impact of a transmission line on oil and gas production.<sup>82</sup> Those modifications added \$867,000, or approximately 3.2%, to the cost of the utilities' proposed version of the approved route.<sup>83</sup> As in that case, the additional cost of Oxy and Concho's proposed modifications is justified to avoid severely impairing Oxy and Concho's oil and gas operations along the western corridor.

**ii. Oxy and Concho's proposed modifications along routes 41 and 320 are justified and should be adopted if those routes are chosen.**

As discussed above, Oxy believes that either of the central corridor routes (routes 41 or 320) would seriously interfere with Oxy's existing and rapidly expanding oil and gas operations in the center of the study area.<sup>84</sup> However, if the Commission decides to adopt either of those routes, it can somewhat mitigate their negative impact by adopting Oxy and Concho's proposed modifications to links C2, F3/G4/G51/I2 and J1/J7, which no party to this proceeding has opposed.<sup>85</sup> Those modifications are designed to avoid oil and gas infrastructure that Oxy and Concho are currently in the process of developing,<sup>86</sup> and also to shift the line toward section

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<sup>81</sup> The cost estimate for proposed route 325 is \$116,382,000. *See id.* at 12 ( $\$794,000 / \$116,382,000 = 0.68\%$ ).

<sup>82</sup> *See Joint Application of Oncor Electric Delivery Company LLC and Brazos Electric Cooperative, Inc. to Amend Certificates of Convenience and Necessity for the Cogdell to Clairemont 138-kV Transmission Line in Kent and Scurry Counties*, Docket No. 47808, Final Order at 18-19 (Jan. 18, 2019).

<sup>83</sup> *Id.* at 11.

<sup>84</sup> *See, e.g.*, Oxy Ex. 3 (Mendoza Cross-Reb.) at 3-4.

<sup>85</sup> *Id.*

<sup>86</sup> *See* Oxy Ex. 2 (Mendoza Dir.) at 9-10 ("Oxy has already invested significant resources into planning a new well site in the northeastern corner of tract 504, and proposed link C2 would interfere with the development of that well. . . . Shifting a portion of link C2 slightly to the northeast would allow Oxy to effectively mitigate the impact of this transmission line on its operations.").

boundaries as much as possible in order to minimize disruption of planned drilling corridors.<sup>87</sup> This can be seen in Oxy Exhibits 4-6, which show the proposed links and Oxy/Concho's modified versions overlaid on yellow boxes that represent Oxy's planned drilling corridors.<sup>88</sup> The modifications shift the path of this transmission line toward the edges of those drilling corridors (or the seams between them), and thereby mitigate the impact of this line on Oxy's ongoing operations.<sup>89</sup> While Oxy would prefer that the line avoid the central corridor altogether, Oxy has determined that it can reasonably mitigate the adverse impact of the line on its Collie, Barilla Draw, and South Red Bull production areas if the Commission adopts its requested modifications to links C2, F3/G4/G51/I2, and J1/J7.<sup>90</sup>

The modifications to the central routes also have the added benefit of substantially increasing the amount of those routes that parallels property boundaries and existing compatible rights-of-way, which improves the performance of the central routes under the factors laid out in 16 TAC § 25.101(b)(3)(B). This is shown in the chart below:<sup>91</sup>

<b>Route</b>	320	41	320 Modified	41 Modified
<b>Paralleling %</b>	27.2%	26.6%	43.3%	42.3%

As with the proposed modifications to route 325 Modified discussed above, the modifications to the central routes do not significantly increase the cost of this line. The total cost of Oxy and Concho's proposed modifications to links C2, F3/G4/G51/I2 and J1/J7 is only \$1.5 million, which is approximately 1.5% of the estimated cost of routes 41 or 320.<sup>92</sup> As noted in the previous section, this is in line with the cost of modifications that the Commission has

<sup>87</sup> See Oxy Ex. 4-6 (showing that the modifications to links F3/G4/G51/I2 and J1/J7 shift the line toward the edges of Oxy's existing drilling corridors (represented by yellow boxes) and thereby mitigates the disruption of Oxy's ongoing development); Tr. (Mendoza Re-Dir.) at 95:5-23.

<sup>88</sup> *Id.*

<sup>89</sup> *Id.*

<sup>90</sup> Oxy Ex. 3 (Mendoza Cross-Reb.) at 3-4.

<sup>91</sup> Oncor/AEP Ex. 11 (Marusak Reb.) at Exhibit RJM-R-7 (data for modified routes); Oncor/AEP Ex. 7 (Perkins Dir.) at Exhibit BJP-5 at 4 (data for as-filed routes).

<sup>92</sup> See Oncor/AEP Ex. 1, Application at Attachment 3 (cost of filed routes); Oncor/AEP Exhibit 12, (Peppard Reb.) at 12 (cost of route modifications).

recently approved in other cases in order to minimize the impact of transmission infrastructure on oil and gas operations.<sup>93</sup> As in those cases, the additional cost of Oxy and Concho's proposed modifications is justified to avoid severely impairing oil and gas operations along the central corridor.

**6. *If alternative routes or facility configurations are considered due to individual landowner preference:***

**a) *Have the affected landowners made adequate contributions to offset any additional costs associated with the accommodations?***

Oxy has invested significant time and effort to determine whether and how it could mitigate the effects of this transmission project on its operations and accommodate this much-needed electrical infrastructure. As noted above, Oxy owns or leases property for oil and gas operations throughout the study area,<sup>94</sup> and would be directly affected by 26 different proposed links.<sup>95</sup> Nevertheless, Oxy has only opposed links that cross especially sensitive production areas that Oxy is rapidly developing. Oxy has indicated that it can accept a route through its operations along the western corridor, and has even developed an alternate path through the central corridor that would minimize the negative impacts of this line on its operations (and vice versa) in the event the Commission chooses either route 41 or 320. As noted in Mr. Mendoza's testimony, even if the Commission adopts Oxy's preferred route 325 Modified, Oxy will be directly affected by four links, including link D1 where it was not possible to modify the proposed link to mitigate its impact on Oxy's Birds of Prey production area.<sup>96</sup> Oxy's willingness to accommodate the line on its leases and accept significant impacts to its ongoing operations in order to facilitate the construction of this line should be given substantial weight in the routing analysis.

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<sup>93</sup> See Docket No. 47808, Final Order at 11, 18-19.

<sup>94</sup> See Oxy Ex. 2 (Mendoza Dir.) at 2-3.

<sup>95</sup> *Id.* at 3.

<sup>96</sup> Oxy Ex. 3 (Mendoza Cross-Reb.) at 9.

**b) *Have the accommodations to landowners diminished the electric efficiency of the line or reliability?***

Oxy and Concho's proposed modifications will not diminish the electric efficiency of this line or impact its reliability. As Oncor witness Mr. Peppard noted in its rebuttal testimony, "Applicants are not aware of any engineering constraints or construction impediments affecting the currently proposed route modifications that likely could not be resolved through additional consideration by Applicants during the design and construction phase of the Proposed Transmission Line Project."<sup>97</sup>

**D. Texas Parks and Wildlife Department (Order of Referral Issue 7)**

Not addressed.

**E. Other Issues (Order of Referral Issue 8)**

Not addressed.

#### **IV. CONCLUSION**

Oxy urges the Commission to adopt route 325 Modified, which uses the less developed western corridor to avoid the densely packed and rapidly expanding oil and gas operations in the center of the study area. As discussed above, building this line on either of routes 41 or 320 would significantly interfere with existing and ongoing oil and gas development in an area where the *vast majority* of development is oil and gas related. Protecting and facilitating that development is in the best interests of the local community and the state as a whole. The less developed western corridor is a superior choice for locating transmission infrastructure, and using that corridor would ensure that the burden of this line does not fall disproportionately on Oxy and other oil and gas producers.

Additionally, regardless of which route the Commission selects, it should incorporate Oxy and Concho's agreed modification proposals along links C2, E1/F1, F3/G4/G51/I2, J1/J7, and K11, as applicable. Adopting those unopposed modification proposals will allow Oxy and Concho to mitigate the most severe effects of this line and accommodate its construction in the middle of their operations.

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<sup>97</sup> Oncor Ex. 12 (Peppard Reb.) at 11-12.

Oxy looks forward to continuing to work with Oncor, AEP, and the Commission as this project moves forward.

Respectfully submitted,

THOMPSON & KNIGHT LLP



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**CERTIFICATE OF SERVICE**

I, Michael McMillin, Attorney for Oxy, hereby certify that a copy of the foregoing document was served on all parties of record in this proceeding on this 5th day of March, 2019 by hand-delivery, facsimile, electronic mail and/or First Class, U.S. Mail, Postage Prepaid.



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Michael McMillin