

Control Number: 41606



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SOAH DOCKET NO. 473-13-5207  
PUC DOCKET NO. 41606

JOINT APPLICATION OF ELECTRIC § BEFORE THE STATE OFFICE  
TRANSMISSION TEXAS, LLC AND §  
SHARYLAND UTILITIES, L.P. TO §  
AMEND THEIR CERTIFICATES OF §  
CONVENIENCE AND NECESSITY FOR § OF  
THE PROPOSE NORTH EDINBURG §  
TO LOMA ALTA DOUBLE-CIRCUIT §  
345-KV TRANSMISSION LINE IN §  
HIDALGO AND CAMERON COUNTIES, §  
TEXAS § ADMINISTRATIVE HEARINGS

2013 DEC 18 PM 12:43  
FILING CLERK

**TEXAS PARKS AND WILDLIFE DEPARTMENT'S INITIAL BRIEF**

**Introduction and Procedural History Regarding TPWD**

Texas Parks and Wildlife Department (TPWD) is “the state agency with primary responsibility for protecting the state’s fish and wildlife resources.”<sup>1</sup> TPWD’s resource protection responsibilities include “providing recommendations that will protect the state’s fish and wildlife resources to local, state, and federal agencies that approve, permit, license, or construct developmental projects”, including the electrical transmission project proposed in this proceeding, and “providing information on fish and wildlife resources to any local, state, and federal agencies or private organizations that make decisions affecting those resources.”<sup>2</sup> Consideration of TPWD’s comments and recommendations to minimize impacts to the state’s fish and wildlife resources as result of this project made to the Public Utility Commission (PUC) is an issue to be addressed in this proceeding.<sup>3</sup>

<sup>1</sup> TEX. PARKS & WILD. CODE §12.0011(a).

<sup>2</sup> TEX. PARKS & WILD. CODE §12.0011(b)(2), and (3).

<sup>3</sup> See Public Utility Commission’s Order of Referral and Preliminary Order at p. 4, and TEX. PARKS & WILD. CODE §12.0011(c).

On May 31, 2012, TPWD provided by letter to Power Engineers, Inc. (Power Engineers), who performed the Environmental Assessment and Alternative Route Analysis for joint applicants Electric Transmission Texas, L.L.C. and Sharyland Utilities, L.P., preliminary information, comments and recommendations regarding natural resources within the study area.<sup>4</sup>

On August 19, 2013, TPWD filed its Motion to Intervene based on TPWD's authority under TEX. PARKS & WILD. CODE §12.0011 to provide comments and recommendations regarding this project and because of potential impacts to TPWD's World Birding Center, including the Bensten-Rio Grande Valley State Park which is crossed by Link 84a, and the multiple managed tracts owned by TPWD or the United States Fish and Wildlife Service (USFWS) that comprise the Rio Grande Valley Wildlife Corridor.<sup>5</sup>

On September 13, 2013, TPWD provided comments and recommendations regarding this project to the PUC. TPWD's comments and recommendations made to the PUC on September 13, 2013, considered only the routes proposed in the initial application, all of which were routed in proximity to the existing American Electric Power Texas Central Company South McAllen Substation.<sup>6</sup>

On November 8, 2013, TPWD filed the Direct Testimony of Russell Hooten, admitted as TPWD Exhibit "TPWD 1", wherein Mr. Hooten summarized the comments and recommendations made to the PUC on September 13, 2013 and provided new comments and recommendations considering the supplemental alternative Routes 1S through 10S proposed by the joint applicant in their Amended Application in Response to Order No. 6.

On December 4, 2013, Mr. Hooten testified at the hearing on the merits and answered questions posed by Judge Pomerleau, counsel for various intervenors, and counsel from TPWD.

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<sup>4</sup> See Item No.2, Joint Application, Power Engineer's Environmental Assessment, Appendix A.

<sup>5</sup> See Item No. 580, TPWD's Motion to Intervene.

<sup>6</sup> See Item No. 958, TPWD's Comments and Recommendations.

### Summary of TPWD's Position

TPWD opposes any routes and utilize Links 70, 71a, 71b, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84a, 84b, or 359 because of their proximity to several managed tracts owned either by TPWD or USFWS that are part of the Rio Grande Valley Wildlife Corridor, including the World Birding Center at Bensten-Rio Grande Valley State Park, and the associated adverse impacts to the wildlife and wildlife habitat on these managed tracts.<sup>7</sup>

TPWD recommends Route 9S as the route that would best avoid or minimize adverse impacts to wildlife and wildlife habitat, including lands managed specifically for the preservation of habitat and conservation of wildlife.<sup>8</sup>

In the event that the route selected must be in proximity to the existing American Electric Power Texas Central Company South McAllen Substation, TPWD recommends Route 29 as the route that would best avoid or minimize adverse impacts to wildlife and wildlife habitat, including lands managed specifically for the preservation of habitat and conservation of wildlife.<sup>9</sup>

TPWD does not oppose what was referred to at the hearing on the merits as the Agreed Route, a modification of Route 3S, but recommends that links east of US 77 (Links 273, 308, 321, 322, 327, 328, 335, 340 and 341) be marked with bird flight diverters in accordance with the standards of *Reducing Avian Collisions with Power Lines: The State of the Art in 2012*, Avian Power Line Interaction Committee.<sup>10</sup>

TPWD requests that its recommendations provided to the PUC on September 13, 2013, and in Mr. Hooten's direct and live testimony be incorporated into the final order.

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<sup>7</sup> See Testimony of Russell Hooten at the hearing on the merits, and TPWD Exhibit "TPWD 1".


<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

Respectfully submitted,

**Texas Parks and Wildlife Department**



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**ATTORNEYS FOR INTERVENOR  
TEXAS PARKS AND WILDLIFE  
DEPARTMENT**

**CERTIFICATE OF SERVICE**

I hereby certify that on this 18<sup>th</sup> day of December 2013, a true and correct copy of the foregoing document was served on all parties of record *via* the PUC Interchange in accordance with SOAH Order No. 4.



Todd George