

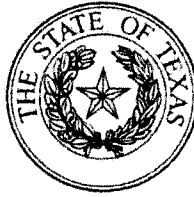
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State Office of Administrative Hearings



Cathleen Parsley
Chief Administrative Law Judge

March 3, 2014

TO: Stephen Journeay, Director **VIA FACSIMILE (512) 936-7208**
Commission Advising and Docket Management
William B. Travis State Office Building
1701 N. Congress, 7th Floor
Austin, Texas 78701

RE: SOAH Docket No. 473-13-5207
PUC Docket No. 41606

JOINT APPLICATION OF ELECTRIC TRANSMISSION TEXAS, LLC AND SHARYLAND UTILITIES TO AMEND THEIR CERTIFICATES OF CONVENIENCE AND NECESSITY FOR THE NORTH EDINBURG TO LOMA ALTA DOUBLE-CIRCUIT 345-KV TRANSMISSION LINE IN HIDALGO AND CAMERON COUNTIES, TEXAS

Electric Transmission Texas, LLC (ETT) and Sharyland Utilities, L.P. (Sharyland)(together, Applicants) and the Staff of the Public Utility Commission of Texas (Commission) timely filed exceptions to the Proposal for Decision (PFD), which was issued January 30, 2014. EIA/Dougherty/Verde Parties, Commission Staff, and the Agreed Parties timely filed responses.

Commission Staff's exceptions go to the heart of the Administrative Law Judge's (ALJ's) recommendation. Staff recommends the selection of Route 1S Modified, as opposed to the Agreed Route. Route 1S Modified is a viable option. However, the ALJ ultimately finds that the Agreed Route better meets the regulatory and statutory criteria, for the reasons set out in the PFD. Accordingly, the ALJ does not adopt Staff's exceptions.

The Applicants suggested 17 recommended additions, corrections, and clarifications to the PFD and the Findings of Fact. The Agreed Parties object to Exception Nos. 5, 13, and 16. They also note another clarification to the PFD on Page 23. EIA/Dougherty/Verde Parties also object to Exception No. 5. Commission Staff opposes Applicants' Exception Nos. 1 and 2.

ALJ's Agreed Changes to Proposed Order

The ALJ notes that recommended changes to the Findings of Fact and Ordering Paragraphs, if adopted by the Commission, will become part of the Commission's Final Order. Regarding Applicants' suggested changes, the ALJ recommends that the Commission adopt the following:

Exception No. 9: the first sentence in Finding of Fact No. 18 should be changed by adding the word "partial" to Links 285 and 279. Thus, the first sentence in Finding of Fact No. 18 should read: The Agreed Route is comprised of the following Links: 134-136a-355-137b-138-141-147-152-155-162-165-169-193a-193b-361-351b-193c-194-201-207-208-209-212-214-219-226-233-235-256-258-265-286-285(partial)-362-279(partial)-278-268-267-273-308-321-322-327-328-335-340-341.

Finding of Fact No. 48 is repetitive and should be deleted.

Exception No. 10: Finding of Fact No. 42, should read: "Applicants held six public open-house meetings in October 2012 to solicit comments from landowners, public officials, and other interested residents regarding the preliminary alternative links. A notice of the public open-house meetings, in both English and Spanish, was mailed to the approximately 12,000 landowners who own property located within 500 feet of the preliminary alternative routing links. After revising the routing options in response to public input, Applicants held an additional open house meeting in February 2013 for new potentially affected landowners that were not mailed notice of the October 2012 meetings."

Exception No. 15: Finding of Fact No. 125 should clarify that bird flight diverters be used for lines approved in this application. Thus, Finding of Fact No. 125 should read: "It is reasonable for Applicants to place bird flight diverters on all portions of the transmission line approved in this proceeding and constructed in the area east of US 77, as recommended by TPWD."

Similarly, Ordering Paragraph No. 8 should read: "For all portions of the transmission line approved in this proceeding and routed east of US 77, Applicants shall use bird flight diverters to mark the transmission lines."

Exception No. 17: Ordering Paragraph No. 3 should be modified to read: The Applicants shall follow the procedures described in the following publications for protecting raptors: Avian Power Line Interaction Committee (APLIC), 2012, *Reducing Avian Collisions with Power Lines: The State of the Art in 2012*, Edison Electric Institute and APLIC, Washington, D.C. The Applicants shall take precautions to avoid disturbing occupied nests and will take steps to minimize the impact of construction on migratory birds, especially during nesting season.

The ALJ does not adopt Exception Nos. 1 and 2, which would add a new finding of fact and ordering paragraph respectively. The ALJ does not adopt Exception No. 16.

ALJ's Agreed Clarifications of the PFD

While the Commission does not adopt the PFD, the ALJ agrees that the PFD should reflect the following to eliminate confusion:

Exception No. 3, PFD page 4, hearing date was on December 3, 2013.

Exception No. 4, PFD page 5, the eastern routes exited "east from the North Edinburg substation."

Exception No. 6, PFD page 6, line 3 of second full paragraph, should read: "from the Brownsville area to the McAllen area" to "from the western side of the Valley to the eastern side."

Exception No. 7, PFD page 8, first line, should read: "Rio Hondo to Loma Alta 345" to "La Palma to Palo Alto 138."

Exception No. 8, this figure is the Agreed Parties' interpretation of a future connection, not the Applicants. (However, the Agreed Parties would slightly alter this diagram, as indicated in their reply to exceptions.)

Exception No. 11, page 30, line 1-2, of the second paragraph, delete "property."

Exception No. 12, page 38, lines 7-10 of first paragraph, change "reduce the right-of-way width" to "reduce the width of right-of-way that would be cleared whenever possible."

Exception No. 14, page 47 change Route 1A to 1S.

Agreed Parties also recommend a correction on page 23, in the first full paragraph, line two, which should read: "More specifically, ERCOT's designation of critical need applies to a transmission line from the North Edinburg substation to the Loma Alta substation."

The ALJ does not adopt the clarification noted in Exception No. 13 and does not find additional clarifications to the PFD necessary.

Sincerely,

A handwritten signature in black ink, appearing to read "Lilo D. Pomerleau", written over a horizontal line.

Lilo D. Pomerleau
Administrative Law Judge

xc: All Parties of Record