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Public Utility Commission of Texas

April 20, 2022

Your ref: TPWD Project No. 45562

John Silovsky
Wildlife Habitat Assessment Program
Wildlife Division
Texas Parks & Wildlife Department
4200 Smith School Road
Austin, Texas 78744-3291

Re: Response to Texas Parks and Wildlife Department Recommendations and Comments related to PUC Docket No. 51476, SOAH Docket No. 473-21-1200, *Application of El Paso Electric Company to Amend its Certificate of Convenience and Necessity for the Pine-to-Seabeck 115-kV Transmission Line in El Paso County*

Dear Mr. Silovsky:

In accordance with the requirements of Section 12.0011 of the Texas Parks and Wildlife Code, the Public Utility Commission of Texas provides a written response to the recommendations and comments of the Texas Parks and Wildlife Department filed in the above styled case.

The Commission's responses are contained in the attached order. Because the Department's recommendations and comments were submitted in connection with a contested case, the Commission's decisions were based on admitted evidence and matters officially noticed as required by the Administrative Procedures Act, Tex. Gov't Code Ann. § 2001.141.

If you have any questions or need further information, please do not hesitate to contact me at 512-936-7215.

Sincerely,

A handwritten signature in black ink, appearing to read "Stephen Journeay".

Stephen Journeay
Commission Counsel



**PUC DOCKET NO. 51476
SOAH DOCKET NO. 473-21-1200**

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| APPLICATION OF EL PASO ELECTRIC COMPANY TO AMEND ITS CERTIFICATE OF CONVENIENCE AND NECESSITY FOR THE PINE-TO- SEABECK 115-KV TRANSMISSION LINE IN EL PASO COUNTY | § § § § § § § | PUBLIC UTILITY COMMISSION OF TEXAS |
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ORDER

This Order addresses the application of El Paso Electric Company to amend its certificate of convenience and necessity (CCN) to construct, own, and operate the Pine-to-Seabeck single-circuit transmission line on single-circuit-capable structures and the Pine and Seabeck substations in El Paso County. On November 12, 2021, El Paso Electric and Commission Staff filed a unanimous agreement between themselves as the only two parties in this proceeding to route the line along route 2. The Commission approves the agreed route and amends El Paso Electric's CCN number 30050 to the extent provided by this Order.

I. Findings of Fact

The Commission makes the following findings of fact.

Applicant

1. El Paso Electric is a Delaware corporation registered with the Texas secretary of state under filing number 1073400.
2. El Paso Electric owns and operates for compensation in Texas facilities and equipment to produce, generate, transmit, distribute, and sell electricity within its certificated service area.
3. El Paso Electric is required under CCN number 30050 to provide service to the public and retail electric utility service within its certificated service area.

Application

4. On November 16, 2020, El Paso Electric filed an application to amend its CCN for the proposed construction of a new transmission line.

5. On December 10, 2020, El Paso Electric filed errata to the application to correct some errors.
6. El Paso Electric retained HDR, Inc. to prepare an environmental assessment and routing analysis for the transmission line.
7. In Order No. 2 filed on December 21, 2020, the State Office of Administrative Hearings (SOAH) administrative law judge (ALJ) found the application sufficient.

Description of the Transmission Facilities

8. El Paso Electric proposed to construct in El Paso County, Texas a new 115-kilovolt (-kV) single-circuit transmission line and the new Pine and Seabeck substations to which the transmission line will connect. This Order refers to the new transmission line and the two new substations collectively as the transmission facilities.
9. The Pine substation will be located approximately 1.51 miles southeast of the intersection of United States highway 180 and Ballard Street and Desert Storm Road, on the south side of La Pine Avenue, across the street from the existing Coyote-to-Dell City transmission line.
10. El Paso Electric purchased a 9.85-acre site for the Pine substation, which is planned to have physical dimensions of 500 feet by 500 feet.
11. The major equipment to be installed initially at the Pine substation includes 115-kV breakers, aluminum bus, disconnect switches, steel structures, dead-end structures, coupling-capacitor voltage transformers, chain-link fence, and a prefabricated electric supply station.
12. The Pine substation will initially serve as a switching station for existing transmission lines and the transmission line approved by this Order. The Pine substation will have the capabilities for adding two new distribution transformers and a capacitor bank in the future.
13. The Seabeck substation will be located approximately nine miles south of the Pine substation at the northeast corner of the intersection of Seabeck and Farm Road 1281 (Horizon Boulevard) and adjacent to the existing Horizon-to-Hueco transmission line.

14. The Seabeck substation, which is planned to have physical dimensions of 500 feet by 500 feet, will be constructed on an 8.24-acre site.
15. Major equipment to be installed initially at the Seabeck substation includes 115-kV breakers, aluminum bus, disconnect switches, steel structures, dead-end structures, coupling-capacitor voltage transformers, chain-link fence, and a prefabricated electric supply station.
16. The Seabeck substation will initially serve as a switching station for existing transmission lines, the transmission line approved by this Order, and the proposed Seabeck-to-San Felipe transmission line. The Seabeck substation will have the capabilities for adding two new distribution transformers and a capacitor bank in the future.
17. El Paso Electric plans to construct single-circuit-capable steel monopole structures with a vertical or delta phase configuration. The structures will be approximately 95 feet tall, with a maximum height of 110 feet, and will be located in a 150-foot-wide right-of-way.
18. El Paso Electric plans to use 954 kilocircular mill ACSR rail conductors having a continuous summer static current rating of 928 amperes and a continuous summer static line capacity of 185 megavolt-amperes.
19. The transmission facilities proposed in this docket are part of a larger loop expansion that also includes the transmission facilities proposed in Docket No. 51480.¹

Routes

20. The application included six alternative routes comprising 16 segments.
21. The six routes range in length from approximately 8.9 miles to 12.4 miles.
22. All alternative routes are viable and constructible.

Schedule

23. El Paso Electric estimated that it would acquire all rights-of-way and land by June 2022, finalize engineering and design by June 2023, procure material and equipment by

¹ *Application of El Paso Electric Company to Amend its Certificate of Convenience and Necessity for the Seabeck-to-San Felipe 115-kV Transmission Line in El Paso County*, Docket No. 51480 (pending).

January 2024, complete construction by October 2024, and energize the transmission facilities approved by this Order by October 2024.

Public Input

24. To develop information on community values for the transmission facilities, El Paso Electric held a public meeting in El Paso, Texas on July 11, 2019. The public meeting was for the transmission facilities proposed in this docket as well as the transmission facilities proposed in Docket No. 51480.
25. El Paso Electric directly mailed individual written notices of the public meeting to 3,684 landowners who own property located within 350 feet of the centerlines of the routes proposed in this docket and in Docket No. 51480, or who own a habitable structure within 1,000 feet of those routes' centerlines. El Paso Electric obtained the landowners' names and addresses from El Paso County's tax rolls database. The notice included a map of the study area depicting the preliminary route segments and a document with frequently asked questions.
26. El Paso Electric directly mailed notice of the public meeting to the Department of Defense Siting Clearinghouse, 23 elected officials, and eight pipeline operators.
27. A total of 20 people signed in as attending the public meeting.
28. A total of three people attending the meeting completed questionnaires and submitted them to El Paso Electric for consideration. No additional questionnaires were received after the meeting.
29. Information from the public meeting and from local, state, and federal agencies was considered and incorporated into the selection of recommended and alternative routes by El Paso Electric.
30. Based on public feedback at the public meeting, one proposed segment was removed, one segment was modified, and two segments were combined to form a single segment.

Notice of the Application

31. On November 16, 2020, El Paso Electric sent written notice of the application by first-class mail to municipal officials of the City of El Paso and the Town of Horizon City, the two municipalities located within five miles of the proposed routes.
32. On November 16, 2020, El Paso Electric sent written notice of the application by first-class mail to county officials in El Paso County.
33. El Paso Electric did not send written notice of the application by first-class mail to neighboring utilities that provide similar utility service because there are none within five miles of the proposed routes.
34. On November 16, 2020, El Paso Electric sent written notice of the application by first-class mail to each landowner, as stated on current county tax rolls, who could be directly affected by any of the proposed routes.
35. On November 16, 2020, El Paso Electric sent notice of the application by first-class mail to the Office of Public Utility Counsel.
36. On November 16, 2020, El Paso Electric sent written notice of the application by first-class mail and email to the Department of Defense Siting Clearinghouse.
37. On November 16, 2020, El Paso Electric sent a copy of the environmental assessment and routing analysis by certified mail to the Texas Parks and Wildlife Department.
38. On November 16, 2020, El Paso Electric sent written notice of the application by first-class mail to each pipeline company whose pipelines may be affected by any proposed route.
39. On December 7, 2020, El Paso Electric filed the affidavit of Mariah Medley Novela, a regulatory case manager for El Paso Electric. Ms. Novela testified that notice of the application had been provided as described above in findings of fact 31 through 37.
40. El Paso Electric published notice of the application in the *El Diario* on November 18, 2020 and in the *El Paso Times* on December 7, 2020. Both newspapers have general circulation in El Paso County.

41. On December 10, 2020, El Paso Electric filed another affidavit by Ms. Novela as well as publishers' affidavits. The affidavits stated that notice had been published as described in finding of fact 40.
42. In Order No. 2 filed on December 21, 2020, the Commission ALJ found the notice of the application sufficient.

Intervenors and Alignment of Intervenors

43. In Order No. 3 filed on January 5, 2021, the Commission ALJ granted the motions to intervene filed by Fernando Valles, the City of El Paso, and Deborah Teltscher and William Coleman.
44. In Order No. 4 filed on January 13, 2021, the Commission ALJ granted the motions to intervene filed by Santos Betancis and Katie and Johnny Vickers.
45. In SOAH Order No. 7 filed on October 18, 2021, the SOAH ALJ dismissed the following intervenors for failure to file direct testimony or a statement of position by the September 1, 2021 deadline: the City of El Paso, Santos Betancis, Deborah Teltscher and William Coleman, Fernando Valles, and Katie and Johnny Vickers.
46. No parties provided notice of a voluntary alignment, nor was any alignment requested or ordered.

Route Adequacy

47. No party contested whether the application provided an adequate number of reasonably differentiated routes to conduct a proper evaluation.
48. Given the distance between the transmission-line endpoints and the nature of the area in which the alternative routes are located, the application provided an adequate number of reasonably differentiated routes to conduct a proper evaluation.

Statements of Position and Testimony

49. On July 29, 2021, El Paso Electric filed the direct testimony of Bryn Davis, El Paso Electric's senior director of asset management services, and of John D. Wooten, Jr., an area business group manager and an environmental project manager for HDR.

50. On September 30, 2021, Commission Staff filed the direct testimony of its witness John Poole, P.E.

Referral to SOAH for Hearing

51. On January 13, 2021, Commission Staff requested a hearing on the merits.
52. On January 27, 2021, the Commission referred this docket to SOAH and filed a preliminary order specifying issues to be addressed in this proceeding.
53. In SOAH Order No. 6 filed on June 24, 2021, the SOAH ALJ provided notice of a hearing on the merits set for 9:00 a.m. on November 17, 2021 at SOAH's hearing facility in Austin, Texas.
54. On November 12, 2021, El Paso Electric and Commission Staff filed a unanimous agreement agreeing on route 2.
55. In SOAH Order No. 8 filed on November 15, 2021, the SOAH ALJ admitted the following into the evidentiary record: the application and its attachments filed on November 16, 2020; El Paso's proof of notice filed on December 7, 2020 and proof of publication filed on December 10, 2020; the Texas Parks and Wildlife Department's comments letter filed on January 4, 2021; the direct testimony of Mr. Davis filed on July 29, 2021; the direct testimony of Mr. Wooten filed on July 29, 2021; and the direct testimony of Mr. Poole filed on September 30, 2021.
56. In SOAH Order No. 8 filed on November 15, 2021, the SOAH ALJ dismissed the proceeding from SOAH's docket and remanded it to the Commission.

Return to the Commission

57. In response to a memo from the Commission's Office of Policy and Docket Management, on January 14, 2022, El Paso Electric filed additional evidence regarding the proposed substations. El Paso Electric also clarified that it is requesting approval of only a single-circuit transmission line on single-circuit-capable monopole structures in this proceeding.
58. In Order No. 5 filed on January 18, 2022, the Commission ALJ admitted into the evidentiary record El Paso Electric's response and supplemental information regarding substations filed on January 14, 2022.

Adequacy of Existing Service and Need for Additional Service

59. The need for the transmission facilities was uncontested.
60. The loop expansion that includes the transmission facilities approved in this Order is needed to address projected overload conditions on El Paso Electric's transmission system under contingency planning scenarios. It will also accommodate expected load growth in eastern El Paso County.
61. The population of El Paso County has steadily increased over the past decade, and continued growth is expected.
62. The Texas Water Development Board projects a population increase of 16% from 2010 to 2020, an increase of 14% from 2020 to 2030, and an increase of 11% from 2030 to 2040.
63. El Paso Electric's long-term forecast predicts 10- and 20-year compound annual growth rates of 1.2% and 1.4%, respectively, for native system-peak demand.
64. Over the past five years, load on the existing substations near the transmission facilities approved in this Order in eastern El Paso County has increased 24%, and forecasted growth for the next five years is over 20%.
65. El Paso Electric projects several overloaded transmission conditions under certain contingency conditions during the 2024 and 2025 heavy-summer-loading cases.
66. The transmission facilities approved in this Order will help eliminate the projected overload conditions.
67. Construction of the loop expansion, including the transmission facilities approved in this Order, provides an infrastructure backbone to address load growth in eastern El Paso County through an expanded distribution system.
68. Because of the projected overloads on the transmission system in 2024 and 2025, no distribution alternative or feasible distributed-generation alternative adequately addresses the reliability need.
69. El Paso Electric found no circumstances under which adding transformers would address the projected overloads on the transmission system.

70. Upgrading the capacity of existing transmission lines to address the need is projected to cost more than the transmission facilities approved in this Order.

Routing of the Transmission Line

71. HDR's project team included professionals with expertise in different environmental and land-use disciplines who were involved in preparing the environmental assessment for the proposed transmission-line routes.
72. El Paso Electric's application as well as Commission Staff's direct testimony identified route 2 as the alternative route that best addresses the Commission's routing criteria.
73. The agreed route, route 2, consists of the following segments: C1, H1, L1, P1, and Q1.
74. The agreed route consists entirely of noticed segments that were not changed or modified from the segments proposed in the application.
75. The agreed route is approximately 8.9 miles in length.

Effect of Granting the Application on El Paso Electric and Other Utilities and Probable Improvement of Service or Lowering of Cost

76. The transmission facilities approved in this Order will not serve another electric utility or connect with the facilities owned by another electric utility.
77. It is likely that construction of the transmission facilities will result in a more reliable transmission system.
78. One existing transmission line is located within the study area but will not be crossed by the agreed route.
79. It is unlikely that the construction of the transmission facilities along the agreed route will adversely affect service by other utilities in the area.

Estimated Costs

80. The estimated construction costs of the six filed routes range from \$6,378,477 to \$11,622,617, excluding station costs.
81. The estimated cost to construct the agreed route is \$6,378,477, excluding substation costs.

82. The estimated cost to construct both the Pine and Seabeck substations for any route, including the agreed route, is \$11,167,805 (\$5,544,362 for the Pine substation and \$5,623,443 for the Seabeck substation).
83. The cost of the agreed route is reasonable considering the range of the cost estimates for the routes.
84. The transmission facilities will be financed through cash from operations, debt, equity, or a combination of those three.

Prudent Avoidance

85. All the proposed alternative routes considered in the application conform to the Commission's policy of prudent avoidance in that they reflect reasonable investments of money and effort to minimize exposure to electric and magnetic fields.
86. The greatest number of habitable structures within 300 feet of the centerline of any route is two on routes 1, 2, and 9. The other three routes have no habitable structures within 300 feet of their centerlines.
87. The construction of the transmission facilities along the agreed route complies with the Commission's policy of prudent avoidance.

Community Values

88. The principal concern expressed in the three questionnaire responses from the public meeting was avoiding residential areas or subdivisions.
89. The agreed route adequately addresses the expressed community values.

Using or Paralleling Compatible Rights-of-Way and Paralleling Property Boundaries

90. None of the proposed alternative routes use existing transmission-line rights-of-way.
91. All of the proposed alternative routes parallel existing transmission-line rights-of-way to some extent.
92. Routes 1 and 4 parallel existing transmission lines, other existing rights-of-way or apparent property boundaries for 77% of their length—the least of any route.

93. Route 9 parallels existing transmission lines, other existing rights-of-way or apparent property boundaries for 98% of its length—the most of any route.
94. The agreed route parallels existing transmission lines, other existing rights-of-way, and apparent property boundaries for 92% of its length.
95. The agreed route will require 8.9 miles of new right-of-way.
96. The agreed route uses or parallels existing compatible rights-of-way and parallels apparent property boundaries to a reasonable extent.

Engineering Constraints

97. El Paso Electric did not identify any engineering constraints that would prevent the construction of the transmission facilities along the agreed route.
98. All alternative routes are viable, feasible, and reasonable from an engineering perspective.

Land Uses and Land Types

99. HDR identified the study area boundaries based on the location of the Pine and Seabeck substation sites, the known endpoints for the proposed transmission line.
100. The study area was defined to provide an area large enough to develop an adequate set of geographically diverse alternative routes. The northern boundary of the study area is parallel to and south of Montana Avenue; the southern boundary is parallel to and south of farm-to-market road 1281; the western boundary is within or east of the extraterritorial jurisdiction of the City of El Paso; and the eastern boundary is parallel to and 2.5 miles west of the El Paso and Hudspeth county line.
101. The majority of the study area is desert and has little development.
102. The study area's terrain can be characterized as open desert shrubland with occasional bluffs.
103. The limited land use within the study area is private recreation such as off-road vehicle driving and some livestock grazing.
104. All the routing segments proposed by El Paso Electric in this proceeding can be safely and reliably constructed and operated without significant adverse effects on uses of property.

Radio Towers and Other Electronic Installations

- 105. No commercial AM radio transmitters were identified within 10,000 feet of the agreed route's centerline.
- 106. No FM radio transmitters, microwave relay stations, or other electronic installations were identified within 2,000 feet of the agreed route's centerline.
- 107. None of the proposed alternative routes would have a significant effect on electronic communication facilities or operations in the study area.

Airstrips and Airports

- 108. No public or military airports that are registered with the Federal Aviation Administration and have runways only 3,200 feet or shorter in length are located within 10,000 feet of the centerline of any of the proposed alternative routes.
- 109. No public or military airports registered with the Federal Aviation Administration with at least one runway longer than 3,200 feet are located within 20,000 feet of the centerline of any of the proposed alternative routes.
- 110. No private airstrips are located within 10,000 feet of the centerline of any of the proposed alternative routes.
- 111. No heliports are located within 5,000 feet of the centerline of any of the proposed alternative routes.
- 112. It is unlikely that the transmission facilities along the agreed route will adversely affect any airports, airstrips, or heliports.

Irrigation Systems

- 113. None of the proposed alternative routes, including the agreed route, cross agricultural lands with known rolling or pivot irrigation systems.
- 114. It is unlikely that the transmission facilities along the agreed route will adversely affect any agricultural lands with known rolling or pivot irrigation systems.

Pipelines

- 115. All of the proposed alternative routes, including the agreed route, cross five metallic pipelines transmitting hydrocarbons.

116. It is unlikely that the transmission facilities along the agreed route will adversely affect any metallic pipelines that transport hydrocarbons.

Recreational and Park Areas

117. None of the proposed alternative routes, including the agreed route, cross recreational and park areas.
118. It is unlikely that the transmission facilities along the agreed route will adversely affect the use and enjoyment of any recreational or park areas.

Historical and Archaeological Values

119. None of the proposed alternative routes, including the agreed route, cross any recorded historical or archaeological sites.
120. Five recorded historical or archaeological sites are located within 1,000 feet of the agreed route's centerline.
121. No properties listed on or determined eligible for listing on the National Register of Historic Places are located within 1,000 feet of the centerline of any of the proposed alternative routes.
122. The agreed route crosses areas with a high potential for historical or archeological sites for less than a mile.
123. It is unlikely that the transmission facilities along the agreed route will adversely affect historical or archeological resources.

Aesthetic Values

124. None of the proposed alternative routes, including the agreed route, are located within the foreground visual zone of United States or state highways.
125. The agreed route is located within the foreground visual zone of farm-to-market or county roads for approximately half a mile.
126. None of the proposed alternative routes, including the agreed route, are located within the foreground visual zone of a park or recreational area.

127. The study area exhibits a moderate degree of aesthetic quality as a far west Texas desert environment. But the aesthetic quality of the study area is not distinguishable from that of other adjacent areas within the region.
128. Aesthetic values would be impacted to a minor extent throughout the study area, and these temporary and permanent negative aesthetic effects will occur on any proposed alternative route.

Environmental Integrity

129. The environmental assessment and routing analysis analyzed the possible effects of the transmission facilities on numerous environmental factors.
130. El Paso Electric evaluated the effects of the transmission facilities on the environment, including endangered and threatened species.
131. El Paso Electric evaluated potential consequences for soil and water resources, the ecosystem (including endangered and threatened vegetation and fish and wildlife), and land use within the study area.
132. It is unlikely that constructing the transmission facilities approved by this Order will significantly affect wetland resources, ecological resources, endangered and threatened species, or land use.
133. The agreed route does not cross upland woodlands.
134. The agreed route does not cross bottomland or riparian woodlands.
135. The agreed route crosses wetlands mapped by the National Wetland Inventory for 64 feet.
136. The agreed route does not cross the known habitat of a federally listed endangered or threatened species of plant or animal.
137. El Paso Electric will cooperate with the United States Fish and Wildlife Service to the extent that field studies identify threatened or endangered species' habitats.
138. It is unlikely that significant adverse consequences for populations of any federally listed endangered or threatened species will result from constructing the transmission facilities approved by this Order.

139. El Paso Electric will mitigate any effect on federally listed plant or animal species according to standard practices and measures taken in accordance with the Endangered Species Act.
140. It is appropriate for El Paso Electric to minimize the amount of flora and fauna disturbed during construction of the transmission facilities approved by this Order.
141. It is appropriate for El Paso Electric to re-vegetate cleared and disturbed areas using native species and consider landowner preferences and wildlife needs in doing so.
142. It is appropriate for El Paso Electric to avoid, to the maximum extent reasonably possible, causing adverse environmental effects on sensitive plant and animal species and their habitats as identified by the Texas Parks and Wildlife Department and the United States Fish and Wildlife Service.
143. It is appropriate for El Paso Electric to implement erosion-control measures and return each affected landowner's property to its original contours and grades unless the landowner agrees otherwise. However, it is not appropriate for El Paso Electric to restore original contours and grades where different contours and grades are necessary to ensure the safety or stability of any transmission line's structures or the safe operation and maintenance of any transmission line.
144. It is appropriate for El Paso Electric to exercise extreme care to avoid affecting non-targeted vegetation or animal life when using chemical herbicides to control vegetation within rights-of-way. The use of chemical herbicides to control vegetation within rights-of-way is required to comply with the rules and guidelines established in the Federal Insecticide, Fungicide, and Rodenticide Act and with Texas Department of Agriculture regulations.
145. It is appropriate for El Paso Electric to protect raptors and migratory birds by following the procedures outlined in the following publications: *Reducing Avian Collisions with Power Lines: State of the Art in 2012*, Edison Electric Institute and Avian Power Line Interaction Committee, Washington, D.C. 2012; *Suggested Practices for Avian Protection on Power Lines: The State of the Art in 2006*, Edison Electric Institute, Avian Power Line Interaction Committee, and California Energy Commission, Washington, D.C. and Sacramento, CA

2006; and the *Avian Protection Plan Guidelines*, Avian Power Line Interaction Committee and United States Fish and Wildlife Service, April 2005. It is appropriate for El Paso Electric to take precautions to avoid disturbing occupied nests and take steps to minimize the burden of construction on migratory birds during the nesting season of the migratory bird species identified in the area of construction.

146. It is appropriate for El Paso Electric to use best management practices to minimize any potential harm that the agreed route presents to migratory birds and threatened or endangered species.
147. It is unlikely that the transmission facilities along the agreed route will adversely affect the environmental integrity of the surrounding landscape.

Texas Parks and Wildlife Department's Written Comments and Recommendations

148. On January 4, 2021, the Texas Parks and Wildlife Department filed a comment letter making various comments and recommendations regarding the transmission facilities.
149. The Texas Parks and Wildlife Department's comment letter addressed issues relating to effects on ecology and the environment but did not consider the other factors the Commission and utilities must consider in CCN applications.
150. The Texas Parks and Wildlife Department identified route 2 as the route that best minimizes adverse effects on natural resources.
151. Before beginning construction, it is appropriate for El Paso Electric to undertake appropriate measures to identify whether a potential habitat for endangered or threatened species exists and to respond as required.
152. El Paso Electric will comply with all applicable environmental laws and regulations, including those governing threatened and endangered species.
153. El Paso Electric will comply with all applicable regulatory requirements in constructing the transmission facilities, including any applicable requirements under section 404 of the Clean Water Act.
154. If construction affects federally listed species or their habitat or affects water under the jurisdiction of the United States Army Corps of Engineers or the Texas Commission on

Environmental Quality, El Paso Electric will cooperate with the United States Fish and Wildlife Service, United States Army Corps of Engineers, and the Texas Commission on Environmental Quality as appropriate to coordinate permitting and perform any required mitigation.

155. HDR relied on habitat descriptions from various sources, including the Texas Natural Diversity Database, other sources provided by the Texas Parks and Wildlife Department, and observations from field reconnaissance to determine whether habitats for some species are present in the area surrounding the transmission facilities.
156. El Paso Electric will cooperate with the United States Fish and Wildlife Service and the Texas Parks and Wildlife Department if field surveys identify threatened or endangered species' habitats.
157. The standard mitigation requirements included in the ordering paragraphs of this Order, coupled with El Paso Electric's current practices, are reasonable measures for a transmission service provider to undertake when constructing a transmission line and sufficiently address the Texas Parks and Wildlife Department's comments and recommendations.
158. This Order addresses only those recommendations by the Texas Parks and Wildlife Department for which there is record evidence.
159. The recommendations and comments made by the Texas Parks and Wildlife Department do not necessitate any modifications to the transmission facilities.

Permits

160. Before beginning construction of the transmission facilities approved by this Order, El Paso Electric will obtain any necessary permits from the Texas Department of Transportation or any other applicable state agency if the facilities cross state-owned or -maintained properties, roads, or highways.
161. Before beginning construction of the transmission facilities approved by this Order, El Paso Electric will obtain a miscellaneous easement from the General Land Office if the transmission facilities cross any state-owned riverbed or navigable stream.

162. Before beginning construction of the transmission facilities approved by this Order, El Paso Electric will obtain any necessary permits or clearances from federal, state, or local authorities.
163. It is appropriate for El Paso Electric, before commencing construction, to obtain a general permit to discharge under the Texas pollutant discharge elimination system for stormwater discharges associated with construction activities as required by the Texas Commission on Environmental Quality. In addition, because more than five acres will be disturbed during construction of the transmission facilities, it is appropriate for El Paso Electric, before commencing construction, to prepare the necessary stormwater-pollution-prevention plan, to submit a notice of intent to the Texas Commission on Environmental Quality, and to comply with all other applicable requirements of the general permit.
164. It is appropriate for El Paso Electric to conduct a field assessment of the agreed route before beginning construction of the transmission facilities approved by this Order to identify water resources, cultural resources, potential migratory bird issues, and threatened and endangered species' habitats disrupted by the transmission facilities. As a result of these assessments, El Paso Electric will identify all necessary permits from El Paso County and federal and state agencies. El Paso Electric will comply with the relevant permit conditions during construction and operation of the transmission facilities along the agreed route.
165. After designing and engineering the alignments, structure locations, and structure heights, El Paso Electric will determine the need to notify the Federal Aviation Administration based on the final structure locations and designs. If necessary, El Paso Electric will use lower-than-typical structure heights, line marking, or line lighting on certain structures to avoid or accommodate requirements of the Federal Aviation Administration.

Coastal Management Program

166. No part of the transmission facilities approved by this Order is located within the coastal management program boundary as defined in 31 Texas Administrative Code (TAC) § 503.1(b).

Effect on the State's Renewable Energy Goal

167. The goal in PURA² § 39.904(a) for 10,000 megawatts of renewable capacity to be installed in Texas by January 1, 2025 has already been met.
168. The transmission facilities along the agreed route cannot adversely affect the goal for renewable energy development established in PURA § 39.904(a).

Limitation of Authority

169. It is not reasonable or appropriate for a CCN order to be valid indefinitely because it is issued based on the facts known at the time of issuance.
170. Seven years is a reasonable and appropriate limit to place on the authority granted in this Order to construct the transmission facilities.

Informal Disposition

171. More than 15 days have passed since the completion of notice provided in this docket.
172. Commission Staff originally requested a hearing in this proceeding but effectively withdrew that request by joining the agreement.
173. No hearing is necessary.
174. Commission Staff recommended approval of the application.
175. This decision is not adverse to any party.

II. Conclusions of Law

The Commission makes the following conclusions of law.

1. El Paso Electric is a public utility as defined in PURA § 11.004 and an electric utility as defined in PURA § 31.002(6).
2. El Paso Electric is required to obtain the Commission's approval to construct the proposed transmission facilities and provide service to the public using the facilities.
3. The Commission has authority over the application under PURA §§ 14.001, 32.001, 37.051, 37.053, 37.054, and 37.056.

² Public Utility Regulatory Act, Tex. Util. Code §§ 11.001–66.016.

4. SOAH exercised jurisdiction over the proceeding under PURA § 14.053 and Texas Government Code §§ 2003.021 and 2003.049.
5. The application is sufficient under 16 TAC § 22.75(d).
6. El Paso Electric provided notice of the application according to PURA § 37.054 and 16 TAC § 22.52(a).
7. Additional notice of the approved route is not required under 16 TAC § 22.52(a)(2) because it consists entirely of properly noticed segments contained in the original CCN application.
8. El Paso Electric provided notice of the public meeting in compliance with 16 TAC § 22.52(a)(4).
9. The hearing on the merits was set, and notice of the hearing was provided, in compliance with PURA § 37.054 and Texas Government Code §§ 2001.051 and 2001.052.
10. The Commission processed this docket in accordance with the requirements of PURA, the Administrative Procedure Act,³ and Commission rules.
11. The transmission facilities using the agreed route are necessary for the service, accommodation, convenience, or safety of the public within the meaning of PURA § 37.056(a).
12. The Texas Coastal Management Program does not apply to any of the transmission facilities approved by this Order, and the requirements of 16 TAC § 25.102 do not apply to the application.
13. The proceeding meets the requirements for informal disposition under 16 TAC § 22.35.

III. Ordering Paragraphs

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

1. The Commission amends El Paso Electric's CCN number 30050 to include the construction and operation of the transmission facilities, including a 115-kV single-circuit

³ Administrative Procedure Act, Tex. Gov't Code §§ 2001.001–.902.

transmission line on single-circuit-capable structures along the agreed route (segments C1, H1, L1, P1, and Q1).

2. El Paso Electric must consult with pipeline owners or operators in the vicinity of the approved route regarding the pipeline owners' or operators' assessment of the need to install measures to mitigate the effects of alternating-current interference on existing pipelines that are paralleled by the electric transmission facilities approved by this Order.
3. El Paso Electric must conduct surveys, if not already completed, to identify metallic pipelines that could be affected by the transmission facilities approved by this Order and cooperate with pipeline owners in modeling and analyzing potential hazards because of alternating-current interference affecting metallic pipelines being paralleled.
4. El Paso Electric must obtain all permits, licenses, plans, and permission required by state and federal law that are necessary to construct the transmission facilities approved by this Order, and if El Paso Electric fails to obtain any such permit, license, plan, or permission, it must notify the Commission immediately.
5. El Paso Electric must identify any additional permits that are necessary, consult any required agencies (such as the United States Army Corps of Engineers and United States Fish and Wildlife Service), obtain all necessary environmental permits, and comply with the relevant conditions during construction and operation of the transmission facilities approved by this Order.
6. If El Paso Electric encounters any archaeological artifacts or other cultural resources during construction, work must cease immediately in the vicinity of the artifact or resource, and El Paso Electric must report the discovery to, and act as directed by, the Texas Historical Commission.
7. Before beginning construction, El Paso Electric must undertake appropriate measures to identify whether a potential habitat for endangered or threatened species exists and must respond as required.
8. El Paso Electric must use best management practices to minimize the potential harm to migratory birds and threatened or endangered species that is presented by the agreed route.

9. El Paso Electric must follow the procedures to protect raptors and migratory birds as outlined in the following publications: *Reducing Avian Collisions with Power Lines: State of the Art in 2012*, Edison Electric Institute and Avian Power Line Interaction Committee, Washington, D.C. 2012; *Suggested Practices for Avian Protection on Power Lines: The State of the Art in 2006*, Edison Electric Institute, Avian Power Line Interaction Committee, and the California Energy Commission, Washington, D.C. and Sacramento, CA. 2006; and the *Avian Protection Plan Guidelines*, Avian Power Line Interaction Committee and the United States Fish and Wildlife Service, April 2005. El Paso Electric must take precautions to avoid disturbing occupied nests and take steps to minimize the burden of the construction of the transmission facilities on migratory birds during the nesting season of the migratory bird species identified in the area of construction.
10. El Paso Electric must exercise extreme care to avoid affecting non-targeted vegetation or animal life when using chemical herbicides to control vegetation within the rights-of-way. Herbicide use must comply with rules and guidelines established in the Federal Insecticide, Fungicide, and Rodenticide Act and with Texas Department of Agriculture regulations.
11. El Paso Electric must minimize the amount of flora and fauna disturbed during construction of the transmission facilities, except to the extent necessary to establish appropriate right-of-way clearance for the transmission line. In addition, El Paso Electric must re-vegetate using native species and must consider landowner preferences and wildlife needs in doing so. Furthermore, to the maximum extent practicable, El Paso Electric must avoid adverse environmental effects on sensitive plant and animal species and their habitats, as identified by the Texas Parks and Wildlife Department and the United States Fish and Wildlife Service.
12. El Paso Electric must implement erosion-control measures as appropriate. Erosion-control measures may include inspection of the rights-of-way before and during construction to identify erosion areas and implement special precautions as determined reasonable to minimize the effect of vehicular traffic over the areas. Also, El Paso Electric must return each affected landowner's property to its original contours and grades unless otherwise agreed to by the landowner or the landowner's representative. However, the Commission does not require El Paso Electric to restore original contours and grades where a different

contour or grade is necessary to ensure the safety or stability of the structures or the safe operation and maintenance of the line.

13. El Paso Electric must cooperate with directly affected landowners to implement minor deviations in the approved route to minimize the disruptive effect of the transmission line approved by this Order. Any minor deviations from the approved route must only directly affect landowners who were sent notice of the transmission line in accordance with 16 TAC § 22.52(a)(3) and have agreed to the minor deviation.
14. The Commission does not permit El Paso Electric to deviate from the approved route in any instance in which the deviation would be more than a minor deviation without first further amending the relevant CCN.
15. If possible, and subject to the other provisions of this Order, El Paso Electric must prudently implement appropriate final design for the transmission facilities to avoid being subject to the Federal Aviation Administration's notification requirements. If required by federal law, El Paso Electric must notify and work with the Federal Aviation Administration to ensure compliance with applicable federal laws and regulations. The Commission does not authorize El Paso Electric to deviate materially from this Order to meet the Federal Aviation Administration's recommendations or requirements. If a material change would be necessary to meet the Federal Aviation Administration's recommendations or requirements, then El Paso Electric must file an application to amend its CCN as necessary.
16. El Paso Electric must include the transmission facilities approved by this Order on its monthly construction progress reports before the start of construction to reflect the final estimated cost and schedule in accordance with 16 TAC § 25.83(b). In addition, El Paso Electric must provide final construction costs, with any necessary explanation for cost variance, after the completion of construction when El Paso Electric identifies all charges.
17. Entry of this Order does not indicate the Commission's endorsement or approval of any principle or methodology that may underlie the agreement and must not be regarded as precedential as to the appropriateness of any principle or methodology underlying the agreement.

18. The Commission limits the authority granted by the Order to a period of seven years from the date the Order is signed unless the transmission facilities are commercially energized before that time.
19. The Commission denies all other motions and any other requests for general or specific relief that the Commission has not expressly granted.

Signed at Austin, Texas the 11th day of February 2022.

PUBLIC UTILITY COMMISSION OF TEXAS



PETER M. LAKE, CHAIRMAN



WILL MCADAMS, COMMISSIONER



LORI COBOS, COMMISSIONER



JIMMY GLOTFELTY, COMMISSIONER