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October 27, 2021

Ms. Rachelle Robles
Legal Division Director
Public Utility Commission of Texas
P.O. Box 13326
Austin, TX 78711-3326

RE: PUC Docket No. 52455: Application of Oncor Electric Delivery Company, LLC to Amend a Certificate of Convenience and Necessity for the Proposed Old Country Switch 345-kilovolt Tap Transmission Line Project in Ellis County, Texas

Dear Ms. Robles:

The Texas Parks and Wildlife Department (TPWD) has reviewed the Environmental Assessment and Alternative Route Analysis (EA) regarding the above-referenced proposed transmission line project, received by our office August 29, 2021. TPWD offers the following comments and recommendations concerning this project.

Please be aware that a written response to a TPWD recommendation or informational comment received by a state governmental agency may be required by state law. For further guidance, see the Texas Parks and Wildlife Code (PWC) section 12.0011. For tracking purposes, please refer to TPWD project number 47224 in any return correspondence regarding this project.

Project Description

Oncor Electric Delivery Company, LLC (Oncor) proposes to construct and operate approximately 3.2 to 4.9 miles of double circuit 345-kilovolt (kV) electric transmission line to connect the proposed Oncor Old Country Switch and the Oystercatcher Solar Substation in Ellis County, Texas. The new transmission line will use a single circuit position on double circuit capable structures. The proposed Old Country Switch will be located along the existing Oncor Venus Switch to Navarro 345-kV transmission line approximately two miles to the west of Interstate Highway 35 East and approximately 0.3 miles to the east of Farm to Market Road 876. The proposed Oystercatcher Substation is located proximal to the intersection of Iola Lane and L.R. Campbell Road approximately 3.5 miles to the north-northwest of Italy, Texas.

Oncor retained Freese and Nichols, Inc. (FNI) to prepare the EA in support of Oncor's application for a Certificate of Convenience and Necessity (CCN) for this project. The EA has been prepared to provide information and address the requirements of Section 37.056(c)(4)(A)-(D) of the Texas Utilities Code, the Public Utility Commission of Texas (PUC) Procedural Rules Section 22.52 (a)(4), PUC Substantive Rules Section 25.101, and PUC CCN application form for a proposed transmission line.

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Previous Coordination

TPWD provided scoping information and recommendations regarding the preliminary study area for this project to FNI on April 26, 2021. This letter is included in Appendix A of the EA.

> **Recommendation:** Please review the TPWD correspondence in Appendix A and consider the recommendations provided, as they remain applicable to the project as proposed.

Proposed Route

Oncor's Recommended Route

According to the EA, FNI evaluated 157 alternative routes using numerous alternative route links, and Oncor selected 43 geographically diverse alternative routes that were filed with the CCN application. In addition to reviewing the EA, Oncor considered engineering feasibility, the estimated cost of alternative routes, construction limitations, and other information. Oncor selected Route 54 (Links A-T-U1-V1-X1-Y-Z-DD-FF-JJ-NN-OO) as the route that best addresses the requirements of the Texas Utilities Code and the PUC Substantive Rules section 25.101. Oncor's office memorandum, which is included as Attachment No. 6 to the CCN application, discusses Oncor's selection of routes filed with the application and selection of Route 54, excerpted as follows:

The other significant factors which led to the selection of Route 54 include the following:

- *The length of Alternative Route 54 is approximately 3.2 miles, which is the shortest among all the filed routes and approximately 1.7 miles shorter than the longest alternative route included in the Application (Alternative Route 150 is the longest at approximately 4.9 miles)*
- *The transmission line estimated cost for alternative Route 54 is the least expensive route at $10,392,000. It is $3,303,000 less than the most expensive alternative route (Route 72)*
- *Alternative Route 54 parallels existing compatible corridors for 43.8% of its length (including apparent property boundaries). Alternative Route 69 had the lowest percentage (8.3%) parallel to existing corridors; the highest percentage (59%) was along Alternative Route 55*
- *There are five habitable structures within 500 feet of the centerline of Alternative Route 54 (Alternative Route 31 had the highest number of habitable structures (9) within 500 feet of the centerline)*

- *Alternative Route 54 crosses Chambers Creek parallel to an existing road corridor, Farm to Market ("FM") 876, utilizing Link Z, where no potential wetland areas have been mapped by the USFWS*
- *Alternative Route 54 has no recorded cultural resource sites within 1,000 feet of its centerline (15 of the filed routes have one recorded cultural resource site within 1,000 feet of their centerline)*
- *Alternative Route 54 has no FAA-registered airports with a runway greater than 3,200 feet within 20,000 feet of the centerline along its entire length*
- *Alternative Route 54 has no FAA-registered airports with a runway greater than 3,200 feet within 10,000 feet of the centerline along its entire length*
- *Alternative Route 54 has no electronic installations within 2,000 feet of its centerline along its entire length*
- *Alternative Route 54 crosses three FM, county roads or other streets along its entire length (the alternative route that crossed the greatest number of FM, county roads or other street crossings was Route 72, with 7 crossings)*
- *Alternative Route 54 has been judged to be feasible from an engineering perspective based on currently known conditions, without the benefit of on-the-ground and subsurface surveys, and there are no currently identifiable engineering constraints that impact this route that cannot be addressed with additional consideration by Oncor during the engineering and construction process.*

TPWD review of Table 4-1 of the EA indicates that Oncor's recommended Route 54 will cross the following land uses or ecological resources:

- 9,090 feet cropland/hay meadow
- 2,324 feet of rangeland pasture
- 2,934 feet of upland woodlands
- 701 feet of riparian areas
- 104 feet of potential wetlands
- four streams
- follows parallel (within 100 feet) to streams for zero feet

TPWD's Recommended Route

In addition to the review of the EA and publicly available GIS data, TPWD evaluated potential impacts to fish and wildlife resources using the following criteria from Table 4-1 in the EA:

- Length of alternative route
- Length of route parallel to existing transmission lines
- Length of route parallel to existing public roads/highways
- Length of route parallel to existing compatible rights-of-way (ROW)
- Length of route across cropland/hay meadow
- Length of route across rangeland pasture

- Length of route across upland woodlands
- Length of route across riparian areas
- Length of route across potential wetlands
- Number of stream crossings by the route
- Length of route parallel (within 100 feet) to streams

TPWD did not evaluate the routes using the Table 4-1 *length of route parallel to apparent property boundaries* because the existence of property lines does not always represent a linear disturbance or a break between contiguous tracts of habitat and cannot be used to assume existing habitat fragmentation. The following ecological and land use criteria had values of zero for all routes and were not used by TPWD to compare routes: length of route parallel to railroads, length of route parallel to pipelines, length of route across parks/recreational areas, number of parks or recreational areas within 1,000 feet of route centerline, length of route across agricultural cropland with mobile irrigation systems, length across lakes or ponds (open waters), number of known rare/unique plant locations within the ROW, length of route through known habitat of endangered or threatened species, and estimated length of ROW within foreground visual zone of park/recreational areas.

TPWD typically recommends that transmission line routes be located adjacent to previously disturbed areas such as existing utility or transportation ROWs and discourages fragmenting habitat or locating in areas that could directly negatively impact wildlife, including federally and state listed species, while minimizing the route length. After careful evaluation of the 43 routes filed with the CCN application, TPWD selected **Route 54** as the route having the least potential to impact fish and wildlife resources. This is in concurrence with the applicant's selection. The decision to recommend **Route 54** was based primarily on the following factors that **Route 54**:

- Is the shortest route (16,940 feet) (All routes: 16,940 feet to 26,118 feet)
- Along with Route 31, has the fourth longest length of route parallel to existing public roads/highways (7,420 feet) (All routes: 8,579 feet to zero feet)
- Crosses cropland, hay meadow, and rangeland pasture for 67.0% of route length (All routes: 72.3% to 39.6%)
- Along with seven other routes, has the third shortest length of route across upland woodlands (2,934 feet) (All routes: 681 feet to 8,426 feet)
- Along with three other routes, has the second shortest length of route across riparian areas (701 feet) (All routes: 650 feet to 5,140 feet)
- Along with nine other routes, has the second shortest length across potential wetlands (104 feet) (All routes zero to 832 feet)
- Along with three other routes has the second least number of stream crossings (four) (All routes: three to nine)
- Along with thirteen other routes has the shortest length of route parallel (within 100 feet) to streams (zero feet) (All routes: zero feet to 860 feet)

The EA indicates that the extent of field investigation included reconnaissance surveys of the study area by visual observation from public roads and public ROW. The EA did not provide sufficient information based on field surveys to determine which route would best minimize impacts to important, rare, and protected species. Therefore, TPWD's routing recommendation is based solely on the natural resource information provided in the CCN application and the EA, as well as publicly available information examined in a Geographic Information System (GIS).

Recommendation: Of the routes evaluated in the EA and filed with the CCN application, **Route 54** appears to best minimize adverse impacts to natural resources while maintaining a shorter route length, crossing open agricultural areas for approximately two thirds of the total route length, and following parallel to existing road ROW for a portion of the total route length. TPWD recommends the PUC select a route that would minimize adverse impacts to natural resources, such as **Route 54**.

Federal Regulations: Endangered Species Act (ESA)

The EA indicates that the Texas fawnsfoot (*Truncilla macrodon*) is a federal candidate species under consideration for protection by the ESA.

Comment: Please note that as of August 26, 2021, the U.S. Fish and Wildlife Service proposed to list the Texas fawnsfoot, and the federal listing status of the species is proposed threatened with proposed critical habitat. A TPWD review of the Federal Register regarding the proposed rule indicates that the study area of the proposed Old Country Switch 345-kV Tap Transmission Line Project does not occur within proposed critical habitat for the Texas fawnsfoot.

The EA indicates that the project study area lies within the designated migration corridor of the federal and state listed endangered whooping crane (*Grus americana*). The EA cites a 2001 Austin and Richer publication of the U.S. Geological Survey (USGS) that describes the whooping crane migration corridor based on data from 1943 through 1999.

Comment: Please note that TPWD's scoping letter informed FNI of the 2018 whooping crane migration corridor publication which can be found on the USGS website. Data for the 2018 migration route is periodically updated, using data that includes 1943-1999 data as well as data since 1999. TPWD utilizes the most recent update to the 2018 migration corridor when conducting project reviews. Although FNI used an outdated dataset, the location of the project study area is correctly presented in the EA as occurring within the whooping crane migration corridor.

The EA indicates that no preferred habitats of the whooping crane were observed within the study area and that there are no large, wetted areas within the study area that would provide suitable habitat. The EA indicates that small, wetted habitats or fields could serve as stopover habitat, though it is unlikely that the project would impact the

whooping crane. The EA indicates that upon PUC approval of a route, Oncor will conduct field surveys to evaluate the presence of federal and state listed threatened, endangered, candidate, or rare fish and wildlife species and preferred habitat that may be present along the PUC-approved alignment.

Comment: As indicated in TPWD's scoping letter, where suitable stopover habitat is present along a route, the whooping crane would be susceptible to collisions with transmission lines during stopover events when landing or taking flight.

Recommendation: TPWD recommends the PUC require Oncor to assess the approved route for potential stopover habitat for the whooping crane, to mark lines with bird flight diverters near areas of potential stopover habitat, and to consult with the U.S. Fish and Wildlife Service (USFWS) - Arlington Ecological Services and Dr. Wade Harrell, the USFWS Whooping Crane Recovery Coordinator, pursuant to the ESA for guidance, survey protocols, permitting or mitigation for the whooping crane. The USFWS would be able to provide technical assistance to Oncor in determining if an incidental take permit and habitat conservation plan is appropriate for the level of risk the project may have with respect to potential whooping crane take.

Migratory Bird Treaty Act (MBTA)

In Section 3.5.2.4 of the EA, the discussion of endangered species indicates that three additional bird species, American golden plover (*Pluvialis dominica*), Harris's sparrow (*Zonotrichia querula*), and lesser yellowlegs (*Tringa flavipes*) are not federally listed but are protected during migration under the MBTA.

Comment: It is not clear to TPWD why these three bird species were named in the EA. For clarification purposes, please be aware that the MBTA protects many migratory bird species and not just the three species named above. Additionally, the MBTA protects migratory birds during all seasons, both during migration and outside of migration.

Implementation of Beneficial Management Practices

The EA identifies several beneficial management practices (BMPs) that were considered in selecting preliminary alternative route links such as following along existing roads and transmission lines, allowing sufficient structure spacing to construct a span across Chambers Creek, minimizing parallel impacts to Chambers Creek and its tributaries, floodplain, and riparian buffer, and minimizing route length across woodlands to reduce vegetation removal. The EA also identified other BMPs that Oncor will employ to conserve natural resources during ROW preparation, construction, and maintenance. Some BMPs to be employed include disturbing only small areas at any particular time; short-duration construction; preservation of streamside vegetation where practical; implementing erosion control measures; cutting stumps to ground level to avoid root disturbance and erosion; spanning streams and

wetlands; obtaining a Section 404 permit, if applicable; retaining existing ground cover and protecting native vegetation where possible; conducting vegetation restoration in disturbed areas emphasizing native species; as Oncor standard practice, installing devices to deter birds from landing on the insulator between the conductor and structure; using visibility markers on high-voltage electrical wires and infrastructure to warn birds; minimizing the construction of temporary access roads and culverts; and using appropriate chemical herbicides during vegetation control to avoid harm to aquatic life. TPWD appreciates Oncor's commitment to implement the BMPs listed above to avoid or minimize impacts to natural resources and wildlife.
A review of the EA indicates that a portion of the information and recommendations provided in TPWD's April 26, 2021, scoping letter were acknowledged; however, the EA and CCN application did not present commitments to implement several BMPs provided by TPWD to avoid or minimize potential impacts to fish and wildlife resources.

Recommendation: TPWD recommends Oncor, and the PUC utilize the following BMPs, which are more fully described in TPWD's April 26, 2021, letter when specifically applicable to the project:

- As recommended above, implement surveys to identify suitable whooping crane stopover habitat along the PUC-approved route
- Avoid vegetation clearing during March 15 – September 15 general bird nesting season
- Survey for active bird nests and avoid disturbance until fledged
- Use dark-sky friendly lighting practices at lighted facilities
- Educate employees and contractors of state-listed threatened species that are susceptible to project activities and that potentially occur within the area
- Utilize a biological monitor during construction, when feasible
- Allow wildlife to safely leave the site on their own, without harassment or harm
- Use a TPWD-permitted individual to translocate state-listed threatened species that will not readily leave the site on their own
- Use wildlife escape ramps in trenches and inspect trenches for trapped wildlife prior to backfilling
- Avoid the use of erosion control blankets containing polypropylene fixed-intersection mesh
- Report encounters of threatened species, endangered species, and species of greatest conservation need to the Texas Natural Diversity Database
- Prepare an Aquatic Resource Relocation Plan and coordinate with TPWD Kills and Spills Team to obtain a *Permit to Introduce Fish, Shellfish or Aquatic Plants into Public Waters* if working in inland waters
- Prepare and follow an aquatic invasive species transfer prevention plan, if equipment will come in contact with inland waters
- Prepare and follow a revegetation and maintenance plan to monitor, treat, and control terrestrial invasive species within the ROW

- Include flowering herbaceous species in revegetation plans for the benefit of pollinators

TPWD appreciates the opportunity to review and comment on this EA. If you have any questions, please do not hesitate to contact Habitat Assessment Biologist Ms. Karen Hardin by email at karen.hardin@tpwd.texas.gov or by phone at (903) 322-5001. Thank you for your favorable consideration.

Sincerely,

John Silovsky
Wildlife Division Director

JS:KH:bdk

cc: Ife Adetoro, Regulatory Project Manager, Oncor
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