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PUC DOCKET NO. 52455
SOAH DOCKET NO. 473-22-0768

APPLICATION OF ONCOR ELECTRIC	§	BEFORE THE STATE
DELIVERY COMPANY LLC TO	§	
AMEND ITS CERTIFICATE OF	§	
CONVENIENCE AND NECESSITY FOR	§	OFFICE OF
THE OLD COUNTRY SWITCH 345-KV	§	
TAP TRANSMISSION LINE IN ELLIS	§	
COUNTY	§	ADMINISTRATIVE HEARINGS

ONCOR ELECTRIC DELIVERY COMPANY’S
REQUEST TO ADDRESS TEXAS PARKS AND WILDLIFE DEPARTMENT
RECOMMENDATIONS AT THE INITIAL PREHEARING CONFERENCE

Oncor Electric Delivery Company LLC (“Oncor”) submits this request to address the Texas Parks and Wildlife Department’s (“TPWD’s”) recommendations at the initial prehearing conference, and would respectfully show as follows:

On August 26, 2021, Oncor filed an application (the “Application”) for a certificate of convenience and necessity (“CCN”) with the Public Utility Commission of Texas (the “Commission”) for the Old Country Switch 345-kV transmission line project (the “Project”). Attached to the Application was an Environmental Assessment and Routing Study that included correspondence between Oncor and TPWD, in which TPWD provided recommendations for protecting fish and wildlife resources during the construction process. On October 27, 2021, TPWD filed a letter to the Commission in this docket with additional recommendations and proposed beneficial management practices for the Project.

On November 10, 2021, the Commission’s Office of Policy & Docket Management issued an Order of Referral and Preliminary Order (the “Preliminary Order”), which provided a list of issues to be addressed in this proceeding. Among them was the issue of what, if any, modifications, conditions, limitations, or other disposition should be made of any TPWD recommendations and whether any of TPWD’s recommendations should not be incorporated in the Commission’s final order regarding the Project.

On November 16, 2021, the State Office of Administrative Hearings (“SOAH”) issued SOAH Order No. 1 in this docket, which set a date of December 10, 2021 for the initial prehearing conference and specified the matters that will be addressed at the prehearing conference, including “[a]ny . . . matter that may assist in the disposition of this proceeding in a fair and efficient manner.” Oncor hereby requests that the recommendations of TPWD, and how those recommendations will be treated in this docket, be addressed at the initial prehearing conference on December 10, 2021.

Oncor supports TPWD’s mission to manage and conserve Texas’ natural resources. Oncor, and specifically Oncor’s Environmental Group, shares similar objectives and employs individuals who are experts in implementing best practices to protect natural resources in the context of constructing and operating electric transmission and distribution infrastructure. However, Oncor also recognizes that TPWD’s recommendations involve trade-offs in terms of feasibility, schedule, cost, and landowner and other impacts. There are also questions of interpretation and ambiguities in many recommendations that require clarification. Oncor recognizes TPWD’s expertise and understands that a state agency’s views should be respected; at the same time, if TPWD’s recommendations were adopted in their current form, without an opportunity for clarification through discovery and cross-examination as the sponsored exhibits of a capable witness, these recommendations would increase costs, cause contention with landowners, and still not be certain to accomplish the protection for wildlife that TPWD seeks. Further, many of TPWD’s recommendations are duplicative of or run counter to the Commission’s standard ordering language regarding environmental protection that has been utilized for decades.

Oncor is, and has been for several weeks, actively attempting to engage with both TPWD and Commission Staff to address these concerns more broadly, but Oncor also wishes to address the substance and treatment of TPWD’s recommendations in this docket from its outset.

Pursuant to the Preliminary Order, Oncor plans to address the substance of TPWD’s recommendations in testimony. However, Oncor believes that TPWD may be a necessary party to this proceeding to have its recommendations properly addressed. In a separate docket, the Commission recently raised questions regarding the appropriate treatment of TPWD’s

recommendations.¹ Without TPWD actively participating to provide guidance, those questions interfered with the settlement of that CCN proceeding.² Specifically at issue in that proceeding was the question of whether TPWD's recommendations should be admitted into evidence. Oncor is of the view that (i) TPWD's recommendations are advisory only and are not evidence in a CCN proceeding; and (ii) TPWD is a necessary party in any proceeding where its recommendations will be given evidentiary weight.

If TPWD's recommendations are admitted as evidence in a proceeding without TPWD as a party, there is no opportunity for the applicant to propound discovery and get clarification from TPWD on the breadth, scope, or ambiguity of particular recommendations. Oncor supports the mission and objectives of TPWD. However, as TPWD attempts to modify or recommend new practices that impact transmission line construction, TPWD must be a party so that both the applicant and the Commission may have sufficient clarity on TPWD's recommendations. No other party can fill this void. Therefore, even though the intervention window in this docket has passed, Oncor encourages and would support TPWD's participation in this proceeding.

Accordingly, consistent with SOAH Order No. 1, to assist in the disposition of this proceeding in a fair and efficient manner, Oncor respectfully requests an opportunity at this initial prehearing conference to discuss the TPWD's recommendations and how they will be addressed in this docket.

¹ See *Application of Oncor Electric Delivery Company LLC to Amend Its Certificate of Convenience and Necessity for the Johnson Draw POD—Flat Iron Substation 138-kV Transmission Line Project in Midland County*, Docket No. 52327, Order No. 6 (Oct. 11, 2021).

² *Id.*

Respectfully submitted,

By: /s/ Jared M. Jones

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**ATTORNEYS FOR ONCOR ELECTRIC
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CERTIFICATE OF SERVICE

It is hereby certified that a copy of the foregoing has been served by email on all parties of record who have provided an email address on this the 1st day of December, 2021, in accordance with the Commission's Second Order Suspending Rules issued on July 16, 2020, in Project No. 50664.

/s/ Jared M. Jones