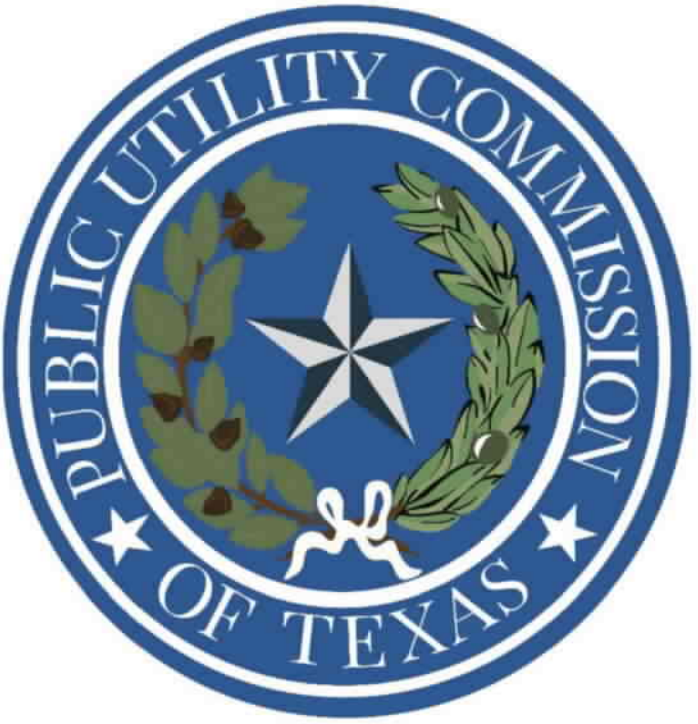

Filing Receipt

Filing Date - 2024-07-02 10:04:40 AM

Control Number - 55573

Item Number - 155

Public Utility Commission of Texas

July 2, 2024

Your ref: TPWD Project No. 51550

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. 55573, *Joint Application of AEP Texas Inc. and Electric Transmission Texas, LLC to Amend Their Certificates of Convenience and Necessity for the Ajo-to-Reforzar Double-Circuit 345-kV Transmission Line In Brooks, Kenedy and Kleberg Counties*

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 512-936-7282.

Sincerely,

Shelah Cisneros

Shelah Cisneros
Commission Counsel

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Control Number: 55573

Item Number: 151

PUC DOCKET NO. 55573
SOAH DOCKET NO. 473-24-02678

JOINT APPLICATION OF AEP TEXAS INC. AND ELECTRIC TRANSMISSION TEXAS, LLC TO AMEND THEIR CERTIFICATES OF CONVENIENCE AND NECESSITY FOR THE AJO-TO-REFORZAR DOUBLE-CIRCUIT 345-KV TRANSMISSION LINE IN BROOKS, KENEDY AND KLEBERG COUNTIES	§ § § § § § § § §	**PUBLIC UTILITY COMMISSION** **OF TEXAS**

ORDER

This Order addresses the application of AEP Texas Inc. and Electric Transmission Texas, LLC (ETT) (together, the applicants) to amend their certificates of convenience and necessity (CCNs) to construct, own, and operate the double-circuit 345-kilovolt (kV) Ajo-to-Reforzar transmission line in Brooks, Kenedy, and Kleberg counties. The Electric Reliability Council of Texas, Inc. (ERCOT) has deemed this transmission line as critical to the reliability of the ERCOT system. The joint applicants filed an unopposed agreement to route the line along route M-MOD. The Commission approves the agreed route and amends AEP Texas's CCN number 30028 and ETT's CCN numbers 30193 and 30194 to the extent provided in this Order.

I. Findings of Fact

The Commission makes the following findings of fact.

Applicant

1. AEP Texas is a Delaware corporation registered with the Texas secretary of state under filing number 802611352.
2. AEP Texas owns and operates for compensation in Texas facilities and equipment to transmit and distribute electricity in the ERCOT region.
3. AEP Texas holds CCN numbers 30028 and 30170 to provide service to the public.
4. ETT is a Delaware limited liability company registered with the Texas secretary of state under filing number 800757205.

5. ETT owns and operates for compensation in Texas facilities and equipment to transmit electricity in the ERCOT region.

6. ETT holds CCN numbers 30193 and 30194 to provide service to the public.

Application

7. On October 6, 2023, AEP Texas and ETT filed an application to amend their CCNs for the proposed construction of a new transmission line and associated station termination equipment.

8. AEP Texas and ETT retained Burns and McDonnell Engineering Company, Inc. to prepare an environmental assessment and routing analysis, which AEP Texas and ETT attached to the application.

9. In their application, AEP Texas and ETT stated that route N best addressed the requirements of PURA[1] and the Commission's rules.

10. In State Office of Administrative Hearings (SOAH) Order No. 2 filed on November 15, 2023, the SOAH administrative law judge (ALJ) found the application sufficient.

11. On November 16, 2023, AEP Texas and ETT filed errata to the application.

Description of the Transmission Facilities

12. The applicants propose to construct a new 345-kV double-circuit transmission line in Brooks, Kenedy, and Kleberg counties, with both circuits installed initially.

13. The transmission line will connect the existing ETT Ajo 345-kV station to the future AEP Texas Reforzar 345-kV station.

14. The proposed transmission line will begin at the existing ETT Ajo 345-kV station, which is located approximately nine miles south of Sarita and 0.9 miles east of United States Highway 77 in Kenedy County. The new transmission line will extend west until it reaches the future AEP Texas Reforzar 345-kV station on the north side of State Highway 285, approximately eight miles northeast of Falfurrias in Brooks County. The new transmission

[1] Public Utility Regulatory Act, Tex. Util. Code §§ 11.001–66.016 (PURA).

line will be between approximately 25 and 30 miles in length, depending on the route selected.

15. In this Order, the term *transmission facilities* includes the new transmission line and the new termination equipment additions to the Ajo and Reforzar stations.

16. The applicants plan to construct the transmission line on steel lattice structures. The typical structure will be between 122 and 180 feet tall, with an estimated maximum height of 250 feet, and will be located in a 150-foot-wide right-of-way.

17. AEP Texas and ETT plan to use 954-kilocircular-mil 54/7 aluminum-conductor steel-reinforced conductors, with three conductors per phase, having a continuous summer static current rating of 3,319 amperes and a continuous summer static line capacity of 1,983 megavolt-amperes.

18. ETT plans to add new substation equipment necessary to terminate and integrate the two new 345-kV transmission circuits into the existing ETT Ajo 345-kV station including: preparing the footprint of the bay area for construction of the two new 345-kV circuit terminations, which includes the station dead-end structures, cable trays, foundations, drainage, wiring and cable as necessary for power, relaying, supervisory control and data acquisition, and other cables necessary for operations, monitoring, and protection; four 345-kV circuit breakers added with six associated disconnect switches, new bus infrastructure, and six surge arrestors; two ground switches installed on the two new 345-kV circuits, to increase operational safety; six coupling-capacitor voltage transformers installed for supervisory control and data acquisition and protection; high-voltage station-service transformers and associated equipment installed for increased alternating-current load requirements associated with the proposed transmission line; removal of existing station-service voltage transformers due to limited capacity to service the proposed transmission line's load requirements; insulators as required for all equipment and bus work; telecommunication equipment for supervisory control and data acquisition and protection; panels installed in the existing control building for the two circuits, protection and control equipment installed, direct-current load requirements, communication and supervisory control and data acquisition interface, and other necessary

equipment for operation and maintenance of the new transmission circuits installed in the station; new 400 ampere-hours batteries and associated charger installed due to system redundancy needs; one existing 345-kV circuit breaker to be removed and replaced with new 345-kV circuit breaker with closing resistive capabilities, due to the transmission line design; and construction, surveying, engineering cost, and overheads associated with all phases of the four new circuit breakers being added.

19. AEP Texas plans to add new substation equipment necessary to terminate and integrate the two new 345-kV transmission circuits into the future AEP Texas Reforzar 345-kV station including: preparing the footprint of the bay area for construction of the two new 345-kV circuit terminations, which includes cable trays, foundations, drainage, wiring and cable as necessary for power, relaying, supervisory control and data acquisition, and other cables necessary for operations, monitoring, and protection; three 345-kV circuit breakers and associated disconnect switches, new bus infrastructure, and surge arrestors; voltage transformers and high-voltage station-service voltage transformers installed for supervisory control and data acquisition and protection; insulators as required for all equipment and bus work; telecommunication equipment for supervisory control and data acquisition and protection; panels installed in new control building for the two circuits, protection and control equipment installed, communication and supervisory control and data acquisition interface, and other necessary equipment for operation and maintenance of the new transmission circuits installed in the station; and construction, surveying, engineering cost, and overheads associated with all phases of the two new circuit breakers being added.

20. AEP Texas and ETT have agreed to each construct approximately one-half of the proposed transmission line, based on mileage. AEP Texas will construct and own its portion of the transmission line beginning at the future AEP Texas Reforzar 345-kV station and continuing east to the AEP Texas–ETT point of interconnection. ETT will construct and own the east portion of the new transmission line beginning at the AEP Texas–ETT point of interconnection and terminating into the existing ETT Ajo 345-kV station. Station expansion at the ETT Ajo 345-kV station will belong to ETT. Station construction at the AEP Texas Reforzar 345-kV station will belong to AEP Texas. Each applicant will

own 100% of its respective portion of the proposed transmission line and will have no ownership interest in the other applicant's portion of the proposed transmission line. Neither AEP Texas nor ETT will own any part of the proposed transmission line as tenants in common, partners, or any other form of joint ownership.

21. For route M-MOD, AEP Texas will construct and own approximately 13.51 miles between the AEP Texas Reforzar station and the AEP Texas–ETT ownership dividing point, which is a dead-end structure owned by AEP Texas along segment 57Mod, located approximately 0.9 miles northwest of the intersection of US Highway 77 and Gas Plant Road in Kenedy County. ETT will construct and own the remaining approximately 13.38 miles from the AEP Texas–ETT ownership dividing point to the ETT Ajo 345-kV station.

22. The application included 15 alternative routes based on 65 routing segments.

23. Route M-MOD was developed through negotiation of the parties.

24. The alternative routes identified in the application range in length from approximately 24.63 to 30.22 miles. Route M-MOD is 26.89 miles in length.

25. Route M-MOD and the alternative routes presented in the application are viable and constructible.

Schedule

26. AEP Texas and ETT estimated that they would finalize engineering and design by September 2025, acquire all rights-of-way and land by September 2025, procure material and equipment by October 2025, complete construction by December 2026, and energize the transmission facilities approved by this Order by December 2026.

Public Input

27. To develop information on community values for the transmission facilities, AEP Texas and ETT held a public meeting in Hebbronville, Texas on March 9, 2023.

28. On February 7, 2023, AEP Texas and ETT directly mailed individual written notice of the public meeting to landowners who own property located within 500 feet of the preliminary alternative segments' centerlines. The notice included a map of the study area depicting

the preliminary route segments and a document with additional information about the proposed transmission facilities.

29. On February 6, 2023, AEP Texas and ETT sent notice of the public meeting to the Department of Defense Military Aviation and Installation Assurance Siting Clearinghouse.

30. A total of 15 people signed in as attending the public meeting.

31. AEP Texas and ETT received a total of six comment cards and one trifold questionnaire regarding the transmission facilities.

32. Information from the public meeting and from local state, and federal agencies was evaluated and incorporated into the selection of recommended and alternative routes by AEP Texas and ETT.

33. In response to comments and stakeholder input, Burns and McDonnell, AEP Texas, and ETT added, deleted, and modified routing segments to improve the paralleling of apparent property lines or other physical features; improve the paralleling of compatible rights-of-way; avoid or minimize burdens on oil and gas infrastructure; avoid private landing strips; minimize burdens on existing constraints, including habitable structures and pipelines; and cross federal- and state-maintained roads at or near 90 degrees.

34. These modifications of the 55 preliminary alternative segments resulted in 65 primary alternative segments filed with the application.

Notice of Application

35. On October 6, 2023, AEP Texas and ETT sent written notice of the application by first-class mail to the mayor of the City of Falfurrias.

36. On October 6, 2023, AEP Texas and ETT sent written notice of the application by first-class mail to county officials in Brooks, Kenedy, and Kleberg counties.

37. On October 6, 2023, AEP Texas and ETT sent written notice of the application by first-class mail to each neighboring utility providing similar utility service within five miles of the proposed routes.

38. On October 6, 2023, AEP Texas and ETT 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 the transmission facilities on any of the proposed routes.

39. On October 6, 2023, AEP Texas and ETT sent notice of the application by first-class mail to the Office of Public Utility Counsel.

40. On October 6, 2023, AEP Texas and ETT sent written notice of the application by email to the Department of Defense Military Aviation and Installation Assurance Siting Clearinghouse.

41. On October 6, 2023, AEP Texas and ETT sent a copy of the environmental assessment and routing analysis by first-class mail to the Texas Parks and Wildlife Department.

42. On October 27, 2023, AEP Texas and ETT filed the affidavit of Kensley L. Greuter, a regulatory case manager for AEP Texas, attesting to the provision of notice to municipalities within five miles; Brooks, Kenedy, and Kleberg County officials; neighboring utilities; the Office of Public Utility Counsel; the Department of Defense Military Aviation and Installation Assurance Siting Clearinghouse; the Texas Parks and Wildlife Department; and directly affected landowners.

43. On October 12, 2023, AEP Texas and ETT published notice of the application in the *Falfurrias Facts*, which has general circulation in Brooks County, and in the *Kingsville Record*, which has general circulation in Kenedy and Kleberg counties.

44. On October 27, 2023, AEP Texas and ETT filed publishers' affidavits attesting to the publication of notice of the application.

45. In SOAH Order No. 2 filed on November 15, 2023, the SOAH ALJ found the notice of the application sufficient.

Intervenors

46. In SOAH Order No. 2 filed on November 15, 2023, the SOAH ALJ granted, or memorialized granting at the prehearing conference held on October 27, 2023, the motions to intervene filed by the following parties: East Foundation; La Paloma Ranch; John G. and Marie Stella Kenedy Memorial Foundation; Martin Clement, II; James H. Clement,

Jr.; King Ranch, Inc.; Sullivan Mariposa Ranches, LC, and Frost National 17 Bank Tr #7298 Sullivan Qtip Trust #2; Harold Epperson (LJE Ranch, LLC); Thomas Lee Eyler; Big Horns Land and Cattle, LLC; Christopher Michael Trigo; and Mouayad Yazji.

47. In SOAH Order No. 4 filed on December 14, 2023, the SOAH ALJ dismissed the following intervenors who did not file either direct testimony or a statement of position by the deadline for such filings: Harold Epperson (LJE Ranch, LLC); Thomas Lee Eyler; Christopher Michael Trigo; and Mouayad Yazji.

Alignment of Intervenors

48. No parties provided notice of a voluntary alignment, nor was any alignment requested or ordered.

Route Adequacy

49. No party contested whether the application provided an adequate number of reasonably differentiated routes to conduct a proper evaluation.

50. 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 or reasonably differentiated routes to conduct a proper evaluation.

Statements of Position and Testimony

51. On October 6, 2023, AEP Texas and ETT filed the direct testimonies of Wayman L. Smith, the director of west transmission planning for American Electric Power Service Corporation; Curtis E. Brown, a project manager principal in the transmission services department of American Electric Power Service Corporation for the ERCOT region; Jack C. Garvin, a planning and engineering supervisor in the transmission line engineering department of American Electric Power Service Corporation for the ERCOT region; and Thomas J. Ademski, a senior project manager in the environmental division for Burns and McDonnell.

52. On December 8, 2023, the following parties filed direct testimony: La Paloma Ranch; the John G. and Marie Stella Kenedy Memorial Foundation; Big Horns Land and Cattle, LLC; East Foundation; Sullivan Mariposa Ranches, LC; James H. Clement, Jr.; Martin Clement II; and King Ranch, Inc.

53. On January 3, 2024, the following parties filed cross-rebuttal testimony: King Ranch, Inc.; Big Horns Land and Cattle, LLC; East Foundation; and La Paloma Ranch.

54. On January 3, 2024, Commission Staff filed the direct testimony of Gayatri Bitracanti, an engineering specialist in the engineering section of the Commission's infrastructure division.

55. On January 8, 2024, Commission Staff filed an errata to the direct testimony of Gayatri Bitracanti.

Referral to SOAH for Hearing

56. On October 10, 2023, the Commission referred this docket to SOAH and filed a preliminary order specifying issues to be addressed in this proceeding.

57. In SOAH Order No. 2 filed on November 15, 2023, the SOAH ALJ provided notice of a hearing on the merits set for 9:00 a.m. on January 30, 2024 at SOAH's hearing facility in Austin, Texas and accessible by videoconference.

58. On January 26, 2024, the joint applicants, Commission Staff, and all intervenors filed a unanimous agreement supporting construction of the transmission facilities on route M-MOD.

59. In SOAH Order No. 6 filed on January 26, 2024, the SOAH ALJ admitted the following into the evidentiary record:

    a. AEP Texas's and ETT's application, including all attachments to the application, filed October 6, 2023, including errata No. 1 to the application filed November 16, 2023;

    b. direct testimony of Thomas J. Ademski filed October 6, 2023;

    c. direct testimony of Curtis E. Brown filed October 6, 2023;

    d. direct testimony of Jack C. Garvin filed October 6, 2023;

    e. direct testimony of Wayman L. Smith filed October 6, 2023;

    f. AEP Texas's and ETT's proof of notice and publication filed October 27, 2023;

g. direct testimony of Sylvia Whitmore on behalf of the John G. and Marie Stella Kenedy Memorial Foundation filed December 8, 2023;

h. direct testimony of Bart Dupont on behalf of La Paloma Ranch filed December 8, 2023;

i. direct testimony of Zach Naegelin on behalf of Big Horns Land and Cattle, LLC filed December 8, 2023;

j. direct testimony of Brian C. Andrews on behalf of Big Horns Land and Cattle, LLC filed December 8, 2023;

k. direct testimony of Neal Wilkins, PhD, on behalf of the East Foundation filed December 8, 2023;

l. direct testimony of Todd Snelgrove on behalf of the East Foundation filed December 8, 2023;

m. direct testimony of Jimmy Rutledge on behalf of La Paloma Ranch filed December 8, 2023;

n. direct testimony of Robert L. Harris on behalf of the East Foundation filed December 8, 2023;

o. direct testimony of Andrew Boswell on behalf of the East Foundation filed December 8, 2023;

p. direct testimony of Kevin J. Mara, P.E., on behalf of the East Foundation filed December 8, 2023;

q. direct testimony of Vincent P. Sullivan on behalf of Sullivan Mariposa Ranches, LC filed December 8, 2023;

r. direct testimony of Eric Grahmann on behalf of La Paloma Ranch filed December 8, 2023;

s. [confidential] direct testimony of Kevin J. Mara, P.E., on behalf of the East Foundation filed December 8, 2023;

t. direct testimony of Rob Plowes on behalf of La Paloma Ranch filed December 8, 2023;

u. direct testimony of James H. Clement, Jr. filed December 8, 2023;

v. direct testimony of Martin Clement II filed December 8, 2023;

w. direct testimony of Mitchel A. Hutchcraft on behalf of King Ranch, Inc. filed December 8, 2023;

x. direct testimony of Mark Turnbough on behalf of La Paloma Ranch filed December 8, 2023;

y. direct testimony of Jason E. Buntz on behalf of King Ranch, Inc. filed December 8, 2023;

z. direct testimony of Cal Chapman, P.E., on behalf of King Ranch, Inc. filed December 8, 2023;

aa. direct testimony of James W. Daniel on behalf of the East Foundation filed December 8, 2023;

bb. direct testimony of Gayatri Bitracanti, Infrastructure Division, Commission Staff, filed January 3, 2024, including errata to the direct testimony of Gayatri Bitracanti, filed January 8, 2024;

cc. cross-rebuttal testimony of Jason E. Buntz on behalf of King Ranch, Inc. filed January 3, 2024;

dd. cross-rebuttal testimony of Cal Chapman, P.E. on behalf of King Ranch, Inc. filed January 3, 2024;

ee. cross-rebuttal testimony of Brian C. Andrews on behalf of Big Horns Land and Cattle, LLC filed January 3, 2024;

ff. cross-rebuttal testimony of James W. Daniel on behalf of the East Foundation filed January 3, 2024;

gg. cross-rebuttal testimony of Kevin J. Mara, P.E., on behalf of the East Foundation filed January 3, 2024;

hh. cross-rebuttal testimony of Eric Grahmann on behalf of La Paloma Ranch filed January 3, 2024;

ii. cross-rebuttal testimony of Kevin Garrity on behalf of La Paloma Ranch filed January 3, 2024;

jj. joint applicants' intervenor map filed January 4, 2024;

kk. rebuttal testimony of Thomas J. Ademski filed January 10, 2024;

ll. rebuttal testimony of Curtis E. Brown filed January 10, 2024;

mm. rebuttal testimony of Jack C. Garvin filed January 10, 2024;

nn. the agreement filed January 26, 2024;

oo. environmental and cost data for route M-MOD, attached to the motion to cancel hearing and procedural schedule, admit evidence, and remand to the Commission filed January 26, 2024;

pp. consent to routing of electric transmission line filed January 23, 2024;

qq. joint applicants' response to La Paloma Ranch's first request for information (RFI) Nos. 1-15, 1-17, 1-20, 1-21, 1-22;

rr. joint applicants' response to Commission Staff's first RFI Nos. 1-1, 1-2, 1-3, 1-4, 1-7; and

ss. joint applicants' response to La Paloma Ranch's second RFI Nos. 2-3, 2-4, 2-5, 2-6, 2-7, 2-8, 2-9, 2-10.

60. In SOAH Order No. 6 filed on January 26, 2024, the SOAH ALJ dismissed the proceeding from SOAH's docket and remanded it to the Commission.

Return from SOAH

61. In Order No. 2 filed on February 5, 2024, the Commission ALJ admitted into the evidentiary record Commission Staff's memorandum in support of the agreement.

62. In Order No. 3 filed on February 16, 2024, the Commission ALJ admitted into the evidentiary record the applicants' supplemental information regarding station equipment and the ownership dividing point location for route M-MOD filed on February 14, 2024.

Adequacy of Existing Service and Need for Additional Service

63. The Lower Rio Grande Valley area is primarily connected to the ERCOT transmission grid through three long-distance 345-kV circuits. Like other areas close to the Gulf of Mexico, the area is susceptible to high-impact weather conditions such as tropical storms, hurricanes, droughts, and the intermittence of renewable generation. Due to limited local conventional generation and transmission infrastructure, such extreme weather conditions or extended outages of transmission or generation could significantly reduce the load serving capability and reliability in the Lower Rio Grande Valley area under existing system conditions.

64. ERCOT's independent review evaluated two short-listed options to improve system resiliency and provide long-term transmission capability for future load and generation development in the area. ERCOT based its review on a potential transmission-maintenance outage scenario and estimations of load growth up to the year 2040.

65. ERCOT recommended the construction of three new substations, the installation of two new transformers at an existing substation, and the construction of six new double-circuit 345-kV lines. ERCOT's recommendation included the proposed Ajo-to-Reforzar transmission line at issue in this proceeding.

66. The transmission facilities represent ERCOT's recommended solution to reliability issues in the Lower Rio Grande Valley area.

67. No party challenged the need for the transmission line, and Commission Staff recommended that the proposed transmission line is the best option to meet the need identified by ERCOT in its evaluation of options to address reliability needs in the Lower Rio Grande Valley area.

Routing of the Transmission Facilities

68. The agreed route M-MOD consists of the following segments: 1, 3a, 4, 6, 7, 8a, 57Mod, 58Mod, 59, 45b, 54, and 56.

69. Route M-MOD follows segments proposed in the application in this case, except that segments 57 and 58 have been modified with the consent of the affected landowners: King Ranch, Inc., The John G. and Marie Stella Kenedy Memorial Foundation, and non-party The John G. Kenedy, Jr. Charitable Trust (the Kenedy Charitable Trust), which has executed a consent to route M-MOD as it affects the Kenedy Charitable Trust's property.

70. Route M-MOD is depicted on the map attached to the agreement filed on January 26, 2024.

71. The Kenedy Charitable Trust was provided notice of the application but elected not to intervene as a party. In its written consent, the Kenedy Charitable Trust stated that it had reviewed and consented to segment 57Mod.

72. All landowners directly affected by the modifications reflected by segments 57Mod and 58Mod were previously provided notice of the application.

73. All landowners directly affected by the modifications reflected by segments 57Mod and 58Mod consented to the modified segments.

74. The agreed route is 26.89 miles in length.

Effect of Granting the Application on Applicants and Other Utilities and Probable Improvement of Service or Lowering of Cost

75. AEP Texas and ETT are the only electric utilities involved in the construction of the transmission facilities.

76. The agreed route begins at existing Ajo 345-kV station owned by ETT and terminates at future Reforzar 345-kV station owned by AEP Texas.

77. The proposed transmission line will not be directly connected with the facilities owned by another electric utility.

78. It is likely that construction of the transmission facilities will result in a more reliable transmission system.

79. It is unlikely that the construction of the transmission facilities will adversely affect service by other utilities in the area.

Estimated Costs

80. The estimated construction costs of the 15 filed routes range from $111,308,774 to $135,694,241, excluding station costs.

81. The estimated cost to construct the agreed route is $122,594,883, excluding substation costs.

82. The estimated cost of substation work for any route is approximately $2,000,000 for termination equipment at the Reforzar station and $8,745,021 for the termination equipment at the Ajo station.

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 a combination of debt and equity.

Prudent Avoidance

85. Prudent avoidance, as defined in 16 Texas Administrative Code (TAC) § 25.101(a)(6), is the "limiting of exposures to electric and magnetic fields that can be avoided with reasonable investments of money and effort."

86. The number of habitable structures within 500 feet of the application routes' centerlines ranges from zero to six.

87. The agreed route has five habitable structures within 500 feet of its centerline.

88. The construction of transmission facilities along the agreed route complies with the Commission's policy of prudent avoidance.

Community Values

89. The principal concerns expressed in written responses from the public meetings included maximize length along existing transmission lines; maximize length along highways or other roads; maximize length along property boundary lines; minimize visibility of the line; and minimize burdens on archaeological and historic sites.

90. The agreed route adequately addresses the expressed community values.

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

91. When developing routes, AEP Texas and ETT evaluated the use of existing compatible rights-of-way and paralleling of existing compatible rights-of-way and apparent property boundaries.

92. The routes in the application parallel existing transmission-line right-of-way for approximately 4% to 46% of the length of the route, depending on the route selected.

93. The agreed route parallels existing transmission-line right-of-way for approximately 46% of its length.

94. The routes in the application use or parallel existing compatible rights-of-way or parallel apparent property boundaries for approximately 29% to 82% of the length of the route depending on the route selected.

95. The agreed route uses or parallels existing compatible rights-of-way or parallels apparent property boundaries for approximately 65% of its length.

96. The agreed route uses or parallels existing compatible rights-of-way and apparent property boundaries to a reasonable extent.

Engineering Constraints

97. AEP Texas and ETT evaluated engineering and construction constraints when developing routes.

98. AEP Texas and ETT did not identify any engineering constraints that would prevent the construction of transmission facilities along the agreed route.

Land Uses and Land Types

99. The area traversed by the alternative routes for the proposed transmission facilities is predominantly rural rangeland with isolated residences and ranches scattered throughout.

100. The study area is located mostly in the Coastal Prairies Physiographic Province and partly in the Coastal Plains Physiographic Province. Elevations within the study area range between approximately zero and 115 feet above mean sea level.

101. All the routing segments proposed by AEP Texas and ETT in this proceeding and the modified segments used by the agreed route can be safely and reliably constructed and operated without significant adverse effects on uses of property.

Radio Towers and Other Electronic Installations

102. No commercial AM radio transmitters were identified within 10,000 feet of the agreed route's centerline.

103. Four FM radio transmitters, microwave relay stations, or other electronic installations were identified within 2,000 feet of the agreed route's centerline.

104. The agreed route will not have a significant effect on electronic communication facilities or operations in the study area.

Airstrips and Airports

105. There are no airports registered with the Federal Aviation Administration and equipped with runways shorter than or exactly 3,200 feet within 10,000 feet of the agreed route's centerline.

106. There are no airports registered with the Federal Aviation Administration and equipped with at least one runway longer than 3,200 feet within 20,000 feet of the agreed route's centerline.

107. There are no private airstrips within 10,000 feet of the agreed route's centerline.

108. There are no heliports within 5,000 feet of the agreed route's centerline.

109. It is unlikely that the transmission facilities will adversely affect any airports, airstrips, or heliports.

Irrigation Systems

110. The proposed routes cross between zero and 0.2 miles of agricultural lands with known mobile irrigation systems.

111. The agreed route crosses zero miles of agricultural lands with known mobile irrigation systems.

112. It is unlikely that the transmission facilities will adversely affect any agricultural lands with known mobile irrigation systems.

Pipelines

113. The proposed routes cross metallic pipelines transmitting hydrocarbons ranging from 9 to 11 times, and none of them parallel such pipelines within 500 feet of the centerline.

114. The agreed route crosses metallic pipelines transmitting hydrocarbons 11 times and does not parallel any such pipelines within 500 feet of the centerline.

115. It is unlikely that the transmission facilities will adversely affect any crossed or paralleled metallic pipelines that transport hydrocarbons.

Recreational and Park Areas

116. None of the proposed routes cross any recreational or park areas.

117. Two of the proposed routes are within 1,000 feet of one recreational or park area.

118. There are no recreational or park areas crossed by or within 1,000 feet of the agreed route's centerline.

119. It is unlikely that the transmission facilities will adversely affect the use and enjoyment of any recreational or park areas.

Historical and Archaeological Values

120. There is one recorded historical or archaeological site within 1,000 feet of the agreed route's centerline.

121. There are no recorded cemeteries within 1,000 feet of the agreed route's centerline.

122. There is one property listed on or determined eligible for listing on the National Register of Historic Places within 1,000 feet of the agreed route's centerline.

123. The agreed route crosses areas with a high potential for historical or archaeological sites for 14.40 miles.

124. It is unlikely that the transmission facilities will adversely affect historical or archaeological resources.

Aesthetic Values

125. The agreed route is located within the foreground visual zone of United States or state highways for 19.25 miles.

126. The agreed route is located within the foreground visual zone of farm-to-market or county roads for zero miles.

127. The agreed route is within the foreground visual zone of a park or recreational area for 0.66 miles.

128. The study area exhibits a degree of aesthetic quality typical for the region. Most of the landscape within the study area has been altered by land-use practices and infrastructure associated with agriculture, transportation, oil and gas activities, limited residential and commercial development, and existing electric transmission and distribution facilities.

129. Aesthetic values would be affected to a minor extent throughout the study area, and these temporary or permanent negative aesthetic effects may occur on any proposed alternative route.

Environmental Integrity

130. The environmental assessment and routing analysis analyzed the possible effects of the transmission facilities on numerous environmental factors.

131. Burns and McDonnell evaluated the effects of the transmission facilities on the environment, including endangered and threatened species.

132. Burns and McDonnell 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.

133. It is unlikely that there will be significant effects on wetland resources, ecological resources, endangered and threatened species, or land use as a result of constructing the transmission line approved by this Order.

134. The agreed route crosses upland woodlands for 12.45 miles.

135. The agreed route crosses bottomland or riparian woodlands for 0.03 miles.

136. The agreed route crosses wetlands mapped by the National Wetland Inventory for 0.62 miles.

137. The agreed route does not cross the known habitat of a federally listed endangered or threatened species of plant or animal.

138. It is unlikely that there will be any significant adverse consequences for populations of any federally listed endangered or threatened species.

139. AEP Texas and ETT 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 AEP Texas and ETT to minimize the amount of flora and fauna disturbed during construction of the transmission facilities.

141. It is appropriate for AEP Texas and ETT 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 AEP Texas and ETT 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 AEP Texas and ETT to implement erosion-control measures and return each affected landowner's property to its original contours and grades unless the landowners agree otherwise. However, it is not appropriate for AEP Texas and ETT 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 AEP Texas and ETT 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 AEP Texas and ETT 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 Linc 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 AEP Texas and ETT 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 AEP Texas and ETT 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 will adversely affect the environmental integrity of the surrounding landscape.

Texas Parks and Wildlife Department's Written Comments and Recommendations

148. On November 29, 2023, the Texas Parks and Wildlife Department filed a letter making various comments and recommendations regarding the transmission facilities.

149. The Texas Parks and Wildlife Department's 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 G as the route that best minimizes adverse effects on natural resources.

151. Before beginning construction, it is appropriate for AEP Texas and ETT to undertake appropriate measures to identify whether a potential habitat for endangered or threatened species exists and to respond as required.

152. AEP Texas and ETT will comply with all applicable environmental laws and regulations, including those governing threatened and endangered species.

153. AEP Texas and ETT 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, AEP Texas and ETT 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 obtain permitting and perform any required mitigation.

155. Burns and McDonnell 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. AEP Texas and ETT will cooperate with the United States Fish and Wildlife Service and the Texas Parks and Wildlife Department to the extent that field surveys identify threatened or endangered species' habitats.

157. The standard mitigation requirements included in the ordering paragraphs of this Order, coupled with the current practices of AEP Texas and ETT, 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. The Commission does not address the Texas Parks and Wildlife Department's recommendations for which there is not record evidence to provide sufficient justification,

adequate rationale, or an analysis of any benefits or costs associated with the recommendation.

159. This Order addresses only those recommendations by the Texas Parks and Wildlife Department for which there is record evidence.

160. The recommendations and comments made by the Texas Parks and Wildlife Department do not necessitate any modifications to the transmission facilities.

Permits

161. Before beginning construction of the transmission facilities approved by this Order, AEP Texas and ETT will obtain any necessary permits from the Texas Department of Transportation or any other applicable state agency if the facilities cross state-owned or state-maintained properties, roads, or highways.

162. Before beginning construction of the transmission facilities approved by this Order, AEP Texas and ETT will obtain a miscellaneous easement from the General Land Office if the transmission line crosses any state-owned riverbed or navigable stream.

163. Before beginning construction of the transmission facilities approved by this Order, AEP Texas and ETT will obtain any necessary permits or clearances from federal, state, or local authorities.

164. It is appropriate for AEP Texas and ETT, 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 AEP Texas and ETT, 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.

165. It is appropriate for AEP Texas and ETT 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 line. As a result of these assessments, AEP Texas and ETT will identify all necessary permits from Brooks, Kenedy, and Kleberg counties and federal and state agencies. AEP Texas and ETT will comply with the relevant permit conditions during construction and operation of the transmission facilities along the agreed route.

166. After designing and engineering the alignments, structure locations, and structure heights, AEP Texas and ETT will determine the need to notify the Federal Aviation Administration based on the final structure locations and designs. If necessary, AEP Texas and ETT 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

167. Under 16 TAC § 25.102(a), the Commission may grant a certificate for the construction of transmission facilities within the Texas coastal management program boundary only when it finds that the proposed facilities comply with the goals and applicable policies of the coastal management program or that the proposed facilities will not have any direct and significant effect on any of the applicable coastal natural resource areas as defined under Texas Natural Resources Code § 33.203 and 31 TAC § 26.3(b).

168. Due to the location of the existing Ajo Station, a portion of all alternative routes would be located within the coastal management program boundary as defined in 31 TAC § 27.1. The portion of the study area located east of United States Highway 77 is within the coastal management program boundary.

169. The length of each alternative route within the coastal management program boundary included in the application ranges from approximately 1.02 miles for routes D, E, and N to approximately 12.06 miles for routes F and M.

170. The agreed route crosses 12.57 miles of land within the coastal management program boundary.

171. Coastal natural resource areas, as defined under Texas Natural Resources Code § 33.203 and 31 TAC § 26.3(b), include waters of the open Gulf of Mexico, waters under tidal influence, submerged lands, coastal wetlands, submerged aquatic vegetation, tidal sand and

mud flats, oyster reefs, hard substrate reefs, coastal barriers, coastal shore areas, gulf beaches, critical dune areas, special hazard areas (floodplains, etc.), critical erosion areas, coastal historic areas, and coastal preserves.

172. Potential coastal natural resource areas within the study area include special hazard areas (areas within the 100-year floodplain) and coastal wetlands.

173. AEP Texas and ETT propose to implement best management practices as a component of their stormwater-pollution-prevention plan to prevent off-right-of-way sedimentation and degradation of potential coastal natural resource areas. Additionally, burden minimization measures such as using timber matting during construction can reduce negative consequences for coastal natural resource areas.

174. No construction activities are anticipated that would significantly impede the flow of receding flood waters within special hazard areas. Engineering, design methods, and proper structure placement will minimize any flow impedance during a flood or storm surge event. With the use of these avoidance and minimization measures, none of the routes is anticipated to have a significant burden on coastal natural resource areas.

175. AEP Texas and ETT will construct the transmission facilities along the agreed route in accordance with the Texas coastal management program's goals under 31 TAC § 26.12 and policies under 31 TAC § 26.16(a).

176. Construction of the proposed transmission facilities along the proposed route will minimize adverse effects on coastal natural resource areas by routing adjacent and parallel to existing rights of-way and in previously disturbed areas when practicable and by routing according to best management practices.

Limitation of Authority

177. It is not reasonable and appropriate for a CCN order to be valid indefinitely because it is issued based on the facts known at the time of issuance.

178. Seven years is a reasonable and appropriate limit to place on the authority granted in this Order to construct the transmission facilities.

Informal Disposition

179. More than 15 days have passed since the completion of notice provided in this docket.

180. The only parties to this proceeding are AEP Texas; ETT; Commission Staff; East Foundation; La Paloma Ranch; The John G. and Marie Stella Kenedy Memorial Foundation; Martin Clement II; James H. Clement, Jr.; King Ranch, Inc.; Sullivan Mariposa Ranches, LC, and Frost National Bank Tr #7298 Sullivan QTIP Trust #2; and Big Horns Land and Cattle, LLC.

181. All the parties to this proceeding are signatories to the agreement.

182. No hearing is necessary.

183. Commission Staff recommended approval of the application.

184. This decision is not adverse to any party.

II. Conclusions of Law

The Commission makes the following conclusions of law.

1. AEP Texas and ETT are each a public utility as defined in PURA § 11.004 and an electric utility as defined in PURA § 31.002(6).

2. AEP Texas and ETT are required to obtain the Commission's approval to construct the proposed transmission facilities and to provide service to the public using those facilities.

3. The Commission has authority over this matter under PURA §§ 14.001, 32.001, 37.051, 37.053, 37.054, and 37.056.

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. AEP Texas and ETT provided notice of the application in accordance with PURA § 37.054 and 16 TAC § 22.52(a).

7. Additional notice of the agreed route is not required under 16 TAC § 22.52(a)(2) because all municipalities, utilities, or counties affected by the modification to the agreed route previously received notice of the application.

8. Additional notice of the agreed route is not required under 16 TAC § 22.52(a)(3) because all landowners directly affected by the modification to the agreed route previously received notice of the application.

9. AEP Texas and ETT held public meetings and provided notice of the public meetings in compliance with 16 TAC § 22.52(a)(4).

10. 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.

11. The Commission processed this docket in accordance with the requirements of PURA, the Administrative Procedure Act,[2] and Commission rules.

12. 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).

13. The transmission facilities using the agreed route comply with the Texas coastal management program's requirements under 16 TAC § 25.102, goals under 31 TAC § 26.12, and applicable policies under 31 TAC § 26.16(a).

14. The Commission must approve or deny the application not later than the 180th day after it was filed under PURA § 37.057.

15. 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.

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[2] Administrative Procedure Act, Tex. Gov't Code §§ 2001.001–.902.

1. The Commission approves the agreed route and amends AEP Texas's CCN number 30028 and ETT's CCN numbers 30193 and 30194 to the extent provided in this Order.

2. The Commission amends AEP Texas's CCN number 30028 and ETT's CCN numbers 30193 and 30194 to include the construction and operation of their respective transmission facilities, including a 345-kV double-circuit transmission line and associated station termination equipment along route M-MOD (route segments: 1, 3a, 4, 6, 7, 8a, 57Mod, 58Mod, 59, 45b, 54, and 56), with both circuits installed initially. AEP Texas will construct and own approximately 13.51 miles of the line between the AEP Texas Reforzar station and the AEP Texas–ETT ownership dividing point, which is a dead-end structure owned by AEP Texas along segment 57Mod, located approximately 0.9 miles northwest of the intersection of United States Highway 77 and Gas Plant Road in Kenedy County. ETT will construct and own the remaining approximately 13.38 miles of the line from the AEP Texas–ETT ownership dividing point to the ETT Ajo 345-kV station.

3. AEP Texas and ETT 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.

4. AEP Texas and ETT must conduct surveys, if not already completed, to identify metallic pipelines that could be affected by the transmission line 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.

5. AEP Texas and ETT 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 AEP Texas and ETT fail to obtain any such permit, license, plan, or permission, it must notify the Commission immediately.

6. AEP Texas and ETT 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.

7. If AEP Texas and ETT encounter any archaeological artifacts or other cultural resources during construction, work must cease immediately in the vicinity of the artifact or resource, and AEP Texas and ETT must report the discovery to, and act as directed by, the Texas Historical Commission.

8. Before beginning construction, AEP Texas and ETT must undertake appropriate measures to identify whether a potential habitat for endangered or threatened species exists and must respond as required.

9. AEP Texas and ETT must use best management practices to minimize the potential harm to migratory birds and threatened or endangered species that is presented by the approved route.

10. AEP Texas and ETT 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 Linc 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 the United States Fish and Wildlife Service, April 2005. AEP Texas and ETT 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.

11. AEP Texas and ETT 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.

12. AEP Texas and ETT 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, AEP Texas and ETT must re-vegetate using native species and must consider landowner preferences and wildlife needs in doing so. Furthermore, to the maximum extent practicable, AEP Texas and ETT 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.

13. AEP Texas and ETT 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, AEP Texas and ETT 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 AEP Texas and ETT 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.

14. To the maximum extent practicable, AEP Texas and ETT must minimize any potential adverse effects of the construction of the transmission facilities on coastal natural resource areas by designing and constructing the transmission facilities according to best management practices.

15. AEP Texas and ETT 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.

16. The Commission does not permit AEP Texas and ETT 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.

17. If possible, and subject to the other provisions of this Order, AEP Texas and ETT must prudently implement an appropriate final design for the transmission line to avoid being subject to the Federal Aviation Administration's notification requirements. If required by federal law, AEP Texas and ETT must notify and work with the Federal Aviation Administration to ensure compliance with applicable federal laws and regulations. The Commission does not authorize AEP Texas and ETT 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 AEP Texas or ETT, as applicable, must file an application to amend its CCN as necessary.

18. AEP Texas and ETT must include the transmission facilities approved by this Order on their 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, AEP Texas and ETT must provide final construction costs, with any necessary explanation for cost variance, after the completion of construction when AEP Texas and ETT identifies all charges.

19. 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.

20. The Commission limits the authority granted by this Order to a period of seven years from the date this Order is signed unless the transmission line is commercially energized before that time.

21. 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 21st day of March 2024.

PUBLIC UTILITY COMMISSION OF TEXAS

THOMAS J. GLEESON, CHAIRMAN

LORI COBOS, COMMISSIONER

JIMMY GLOTFELTY, COMMISSIONER

KATHLEEN JACKSON, COMMISSIONER

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November 27, 2023

Ms. Marisa Wagley
Public Utility Commission
P.O. Box 13326
Austin, TX 78711-3326

RE: PUC Docket No. 55573: Application of AEP Texas, Inc. and Electric Transmission Texas, LLC to amend their Certificates of Convenience and Necessity for the proposed Ajo to Reforzar 345-kilovolt Double-Circuit Transmission Line, Brooks, Kenedy, and Kleberg Counties, Texas

Dear Ms. Wagley:

The Texas Parks and Wildlife Department (TPWD) has reviewed the Environmental Assessment (EA) and Route Analysis received by our office on October 17, 2023, regarding the above-referenced proposed transmission line project.

TPWD is providing input on this proposed project to facilitate the incorporation of beneficial management practices (BMP) during construction, operation, and maintenance that may assist the project proponent in minimizing impacts to the state's natural resources. For tracking purposes, please refer to TPWD project number 51550 in any return correspondence regarding this project.

Under Texas Parks and Wildlife Code (PWC) §12.0011(b)(2) and (b)(3), TPWD has the authority to provide recommendations and informational comments that will protect fish and wildlife resources to local, state, and federal agencies that approve, license, or construct developmental projects or make decisions affecting those resources. Under PWC §12.0011(c), the Commission has a non-discretionary duty to respond to the recommendations and informational comments filed by TPWD and include any reason it disagrees with or did not act on or incorporate the recommendation or comment.

Now, pursuant to PWC §12.0011(b)(2) and (b)(3), TPWD offers the following comments and recommendations concerning this project.

Project Description

AEP Texas, Incorporated (AEP Texas) and Electric Transmission Texas, LLC (ETT) propose to construct and operate a new double-circuit 345-kilovolt (kV) transmission line. The proposed transmission line would begin at the existing ETT Ajo 345-kV Station located approximately 9 miles south of Sarita and 0.9 miles east of United States Highway 77 (US 77) in Kenedy County. The new line would

extend west to the proposed AEP Texas Reforzar 345-kV Station to be located on the north side of State Highway 285 approximately eight miles northeast of Falfurrias, Brooks County.

The proposed transmission line would be constructed using Breakthrough Overhead Line Design (BOLD) steel lattice double circuit structures with a typical height ranging from 122 to 180 feet and a maximum height of 250 feet. The proposed transmission line would require a 150-foot-wide permanent right-of-way (ROW) and, depending on the alternative route selected, the total length of the proposed project would be between 25 and 30 miles.

AEP Texas and ETT (collectively, Applicants) contracted Burns & McDonnell Engineering Company (Burns & McDonnell) to prepare an EA and Alternative Route Analysis to support the Applicants' joint application to amend their Certificates of Convenience and Necessity (CCNs) for this project. The EA is intended to provide information and address requirements of Section 37.056(c)(4)(A)-(D) of the Texas Utilities Code, Public Utility Commission of Texas (PUC) Procedural Rule §22.52(a)(4), PUC Substantive Rules Section 25.101, and the PUC CCN application form for a proposed transmission line.

Previous Coordination

TPWD provided scoping information and recommendations regarding the preliminary study area for this project to Burns & McDonnell on November 14, 2022. 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

AEP Texas and ETT

According to the EA, Burns & McDonnell evaluated 15 geographically diverse alternative routes that were filed with the Applicants' CCN applications. In addition to reviewing the EA and considering Burns & McDonnell's route ranking, the Applicants considered engineering, design, construction, operations, maintenance, and the estimated cost of the alternative routes. The Applicants selected Route N (Links 1-3a-3b-9-13-27-30-37-43a-60-44-53-55-56) as the route that best meets the requirements of the Texas Utilities Code Section 37.56 (c)(4)(A)-(D) and the PUC Substantive Rule Section 25.101(b)(3)(B).

Table 4-1 of the EA presents the environmental data for the 15 alternative routes filed with the CCN. Table 4-1 indicates that the Applicant's recommended Route N will cross the following land types or ecological resources:

- 13.65 miles of woodlands/brushlands
- 0.32 miles of bottomland/riparian woodlands
- 0.31 miles of potential wetlands
- 4 streams

TPWD's Recommended Route

In addition to reviewing the EA and publicly available 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 ROW parallel and adjacent to existing transmission line ROW
- Length of ROW parallel and adjacent to other existing ROW
- Length of ROW across woodlands/brushlands
- Length of ROW across bottomland/riparian woodlands
- Length of ROW across potential wetlands
- Length of ROW across open water
- Number of stream crossings
- Length of ROW parallel (within 100 feet) to streams or rivers

TPWD did not evaluate the routes using *length of ROW parallel and adjacent to apparent property lines* 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 ROW using existing transmission line ROW, length of ROW across parks/recreational areas, and length of ROW across known critical habitat of federally listed threatened or endangered species.*

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 also minimizing the route length. After careful evaluation of the 15 routes filed with the CCN application, TPWD selected **Route G** (1-3a-4-6-7-8a-8b-18-20-25-28a-28b-59-61-56) as the route having the least potential to impact fish and wildlife resources. The decision to recommend **Route G** was based primarily on the following factors that **Route G:**

- Is the sixth shortest route, at 26.42 miles (All routes: 24.63 miles to 30.22 miles);
- Has the fifth longest length parallel to existing transmission line ROW at 7.75 miles (All routes: 0.89 miles to 11.93 miles);
- Has the third longest length parallel to other existing compatible ROW at 6.27 miles (All routes: 0.0 miles to 12.53 miles);
- Has the shortest length across upland woodlands/brushlands at 10.50 miles (All routes: 10.50 miles to 16.44 miles);
- Is tied with one other route as having the second shortest route length across bottomland/riparian woodlands at 0.04 miles (All routes: 0.02 miles to 0.35 miles);
- Has the second shortest length across potential wetlands at 0.20 miles (All routes: 0.16 miles to 0.62 miles);
- Is tied with one other route as having the third shortest length across open water (ponds, lakes, etc.) at 0.08 miles (All routes: 0.01 miles to 0.25 miles);
- Is tied with five other routes as having the fewest number of stream crossings at 3 (All routes: 3 to 6); and
- Is tied with nine other routes as having the shortest length of ROW parallel to streams at 0.00 (All routes 0.00 to 0.08).

The selection of **Route G** by TPWD was based primarily on the combined length of the route parallel and adjacent to existing transmission line ROW and other compatible ROW (53%), the third highest among all routes. The magnitude of habitat fragmentation is typically minimized by paralleling existing linear features. Specifically, TPWD selected **Route G** based on length of alternative route, length of ROW parallel to existing transmission ROW, length of ROW parallel to other existing ROW, length of ROW across woodlands/brushlands, length of ROW across bottomland/riparian woodlands, and number of stream crossings.

The EA indicates that the extent of the field investigation included reconnaissance surveys of the study area by observations 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 on important, rare, and protected species and their associated habitats. Therefore, TPWD's routing recommendation is based solely on the natural resources 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 G** appears to best minimize adverse impacts to natural resources. TPWD recommends the PUC select a route that would minimize adverse impacts on natural resources, such as **Route G**.

Implementation of Beneficial Management Practices

In general, Burns & McDonnell and the Applicants attempted to design route alternatives to minimize project impacts to waterways, floodplains, riparian corridors, wetlands, woodlands, and recreational areas, and to parallel existing disturbed corridors. The EA identified several BMPs that the Applicants could utilize during clearing, construction, site reclamation, and maintenance to conserve and protect natural resources; however, there were few commitments that those BMPs would be implemented. To more comprehensively avoid or minimize potential impacts on fish and wildlife resources, TPWD encourages the implementation of the BMP recommended in TPWD's November 14, 2022, scoping letter.

Recommendation: TPWD recommends the Applicants and the PUC utilize the following BMP, which are more fully described in TPWD's November 14, 2022, scoping letter, when specifically applicable to the project:

- Avoid vegetation clearing during March 15 – September 15 general bird nesting season.
    - If unable to avoid vegetation clearing during the bird breeding season, survey for active bird nests and avoid disturbance until fledged, in compliance with PWC §64.003.
- Proactively install bird flight diverters where transmission lines cross habitats most attractive to birds, e.g., creeks, drainages, wetlands, and floodplains.
- Conduct surveys of the PUC-approved route for federal and state listed species or potential suitable habitat.
- Educate employees and contractors of state listed species and species of greatest conservation need (SGCN) that are susceptible to project activities and potentially occurring within the area.
- Utilize a biological monitor during construction when required by law or permit.
- Allow wildlife to safely leave the site on their own, without harassment or harm.
- Use wildlife escape ramps in excavated areas, or cover while unattended, and inspect for trapped wildlife prior to backfilling.
- Design the project to minimize the removal of vegetation and retain as much native habitat as possible.
- Avoid the use of erosion control blankets containing polypropylene fixed-intersection mesh. Erosion control measures utilized for the project should be implemented with consideration for potential impacts to wildlife species.
- Avoid impacts to SGCN flora and fauna if encountered during project construction, operation, and maintenance activities.

TPWD appreciates the opportunity to review and comment on this EA. If you have any questions, please do not hesitate to contact Environmental Review Biologist Mr. Russell Hooten by email at russell.hooten@tpwd.texas.gov or by phone at (361) 431-6003. Thank you for your favorable consideration.

Sincerely,

John Silovsky
Wildlife Division Director

JS:RH:bdk

cc: Ms. Meredith Longoria
Ms. Laura Zebehazy
Mr. Russell Hooten
Ms. Theda Strickler
Ms. Kensley L. Greuter, AEP Texas and ETT