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BEFORE THE STATE OFFICE OF ADMINISTRATIVE HEARINGS

**APPLICATION OF ONCOR ELECTRIC DELIVERY COMPANY
LLC TO AMEND ITS CERTIFICATE OF CONVENIENCE AND
NECESSITY FOR THE REITER SWITCH-TESORO-345-KV
TRANSMISSION LINE IN ECTOR AND MIDLAND COUNTIES**

SOAH ORDER NO. 1 PROJECT DESCRIPTION; JURISDICTION; REQUIRING COMMENTS ON SUFFICIENCY; SETTING PREHEARING CONFERENCE; GENERAL PROCEDURES

On July 25, 2024, Oncor Electric Delivery Company LLC (Oncor) filed an application with the Public Utility Commission of Texas (Commission) seeking approval of a new, double-circuit 345-kilovolt transmission line between Oncor's planned Reiter Switch in Ector County and Oncor's existing Tesoro Switch in Midland County (Application). Oncor states its requested transmission facilities are needed to address reliability issues of the ERCOT transmission system.

Oncor proposes 21 alternative routes that range in length from 4.0 miles to 5.2 miles and range in cost from approximately \$23.42 million to \$34.22 million, including the costs for the necessary expansion of the Tesoro Switch.

I. JURISDICTION, DEADLINE FOR DECISION

On July 26, 2024, the Commission issued its Order of Referral and Preliminary Order, referring this matter to the State Office of Administrative Hearings (SOAH) and requesting the assignment of a SOAH Administrative Law Judge (ALJ) to conduct a hearing and issue a proposal for decision (PFD), if necessary. In the Preliminary Order, the Commission also set forth the issues to be addressed in this proceeding.

The Commission has jurisdiction and authority over this matter pursuant to the Public Utility Regulatory Act (PURA)¹ sections 32.001, 37.053, 37.056, and 37.057. SOAH has jurisdiction over all matters relating to the conduct of a hearing in this matter pursuant to Texas Government Code section 2003.049 and PURA section 14.053.

The Commission must issue a decision on the Application by **January 21, 2025.**²

¹ Tex. Util. Code §§ 11.001-66.016.

² The calculation of this deadline assumes, without finding, that Oncor's Application as filed on July 25, 2024, is complete. *See* PURA § 37.057; 16 Tex. Admin. Code § 25.101(b)(3)(D).

II. COMMENTS ON SUFFICIENCY OF APPLICATIONS AND NOTICE

Absent an order finding the Application materially deficient, Oncor's Application shall be deemed sufficient within 35 days after its filing date, or August 29, 2024, per 16 Texas Administrative Code section (Rule) 22.75(d)(2). Therefore, Commission staff (Staff) shall, and any other party may, file its comments on the sufficiency of Oncor's Application for purposes of further review no later than **August 19, 2024**.

Staff shall, and any other party may, file its comments on the sufficiency of Oncor's proposed notice of the Application no later than **August 19, 2024**.

III. SETTING PREHEARING CONFERENCE

A prehearing will convene at **9:00 a.m. (CT) on August 12, 2024**, remotely via Zoom videoconference. The parties may attend the prehearing conference in one of these ways:

Computer or smart device:

Go to <https://soah-texas.zoomgov.com> and enter the following:

Meeting ID: 160 317 5954

Video Passcode: P56799

Telephone (audio only):

Call +1 669 254 5252, and then enter the following:

Meeting ID: 160 317 5954

Telephone Passcode: 021963

The purpose of the prehearing conference, is to discuss the following matters:

- (1) Any pending motions and other preliminary matters related to the proceeding;

- (2) A procedural schedule including the scheduling of the hearing on the merits;
- (3) Procedures to be followed before and during the hearing; and
- (4) Any other matter that may assist in the disposition of these proceedings in a fair and efficient manner.

The prehearing conference is open to the public. **Parties are strongly encouraged to attend to learn about the rules and procedures that will govern this case and to ask questions about the process.**

After the prehearing, the parties may wish to hold an informal technical conference without the participation of the ALJ. Oncor is encouraged to establish and host such a post-prehearing technical conference as either an audioconference or videoconference and to have its engineers and staff available to answer questions about the application. If Oncor decides to hold a post-prehearing technical conference, it should provide the log-in information for that conference to all parties (including potential parties with pending motions to intervene) using the parties' contact information available on the service list.

If the parties determine that a prehearing conference is not necessary, they may file **no later than noon on August 9, 2024**, an agreed motion to cancel the prehearing conference and an agreed procedural schedule.

A. PROCEDURAL SCHEDULE GUIDELINES

In developing a proposed procedural schedule, the parties shall anticipate a record close date³ that:

- ensures the ALJ will have 60 days to write and issue the proposal for decision;
- accounts for two weeks for exceptions and replies after the PFD has been issued; and
- provides the Commission with 35 days to consider and discuss the PFD at an open meeting and issue a final order prior to the expiration of the 180-day deadline.⁴

B. INTERVENTION DEADLINE

As addressed in the Commission ALJ's Order No. 1, the intervention deadline for CCN cases is 30 days from the date the application is filed, as provided under the recently amended PURA section 37.057 and Rule 22.52(a)(1)(A). Accordingly, the intervention deadline for this proceeding is **August 26, 2024**.

C. CAUTION TO INTERESTED PARTIES

In this proceeding, Oncor presented 21 proposed alternative routes for the requested transmission line. It is the duty of the ALJ and, ultimately, the Commission, to determine whether the proposed routes meet the criteria described in the Commission's Preliminary Order. It is the duty of interested parties (such as

³ The record close date is the date the parties' final post-hearing briefs or proposed findings of fact, conclusions of law, and proposed ordering provisions are due, whichever is later. 1 Tex. Admin. Code § 155.425(e).

⁴ Preliminary Order at 4.

landowners) to provide the decision-makers the information needed to reach a just and reasonable decision.

IV. PROCEDURES

All Commission filings are available for viewing and downloading from the Commission's Interchange available at <http://interchange.puc.texas.gov/>, by entering the control numbers 56799 and selecting the "search" tab. A list of documents filed in the applicable docket will appear, which can be accessed by clicking on the document number (with a few exceptions such as confidential documents, if any). The Commission's procedural rules are available on the Commission's website.⁵ The procedural rules will govern the conduct of this proceeding, and the parties are expected to comply with those rules.

Routine procedural and logistical questions may be directed to the ALJ's administrative assistant Tujuana Tate at tujuana.tate@soah.texas.gov. SOAH support personnel may not provide advice or interpret law or orders for the parties.

Except as modified by orders issued in this proceeding or by the Commission or SOAH, the Commission's procedural rules govern. The parties should review the Commission and SOAH websites as needed for updates regarding any such modifications.

⁵ The procedural rules are located at: <http://www.puc.texas.gov/agency/rulesnlaws/procrules/Procedural.aspx>.

A. FILING AND SERVICE

Filing of pleadings is governed by Rule 22.71 and service is governed by Rule 22.74. However, under the Commission's Second Order entered in Docket No. 50664, all parties must file any pleading or document with the Commission solely through the Interchange on the Commission's website (<https://interchange.puc.texas.gov/filer>) and provide notice, by e-mail, to all other parties that the pleading or document has been filed with the Commission, unless otherwise ordered. It will be incumbent upon all other parties to obtain a copy of the pleading or document by accessing the Interchange. **Filings should not be made at SOAH. All filings must contain both the applicable SOAH and PUC docket numbers.**

When a party files a document with the Commission, that party is also required to serve (i.e., provide a copy of that document to) every other party. At this time, service must be accomplished by e-mail. Any party to this proceeding who has not previously provided an e-mail address **SHALL** file a notice informing the parties of the e-mail address to be used for service no later than seven days after the date of this order.

B. MOTIONS

Motions for continuance are governed by Rule 22.79. If a continuance or extension of time is sought, the motion shall propose a range of new dates and state whether the other parties agree. The ALJ will not contact parties to ascertain their position or to negotiate dates. In the absence of a ruling by the ALJ, a contested

motion for continuance or extension is not granted and the existing schedule remains in place.

Unless otherwise specified in the applicable procedural rules, responses to any motion or other pleading shall be filed within five working days from receipt of the motion or pleading. The response shall state the date of receipt of the motion or pleading to which a response is made. If a party does not respond to a motion, the ALJ will assume that the party agrees with the motion or does not oppose the requested relief.

C. DISCOVERY

Discovery may begin immediately. Copies of requests for information (RFIs) and objections and responses to RFIs will not be provided to the ALJ. If a party files a motion to compel responses to discovery, the motion shall include every RFI and objection to which the motion applies. Any affidavits supporting an objection, motion to compel, or response shall be attached to the relevant document. The ALJ will resolve discovery disputes based on the written documents, any sworn affidavits attached thereto, and materials, if any, provided for in camera inspection, unless the ALJ conclude that a prehearing conference on the discovery dispute should be held.

If a party seeks in camera review of documents in accordance with Rule 22.144(g), it will submit the documents to the ALJ at SOAH. Documents submitted for review should not be filed with the Commission filing clerk. If they are filed with the Commission filing clerk, even inadvertently, the documents

may not be physically removed from the Commission. Further, any claim to privilege or exemption may be waived by the filing.

V. RESPONSIBILITY OF ONCOR

Oncor **SHALL** review the service list for this proceeding prior to the filing of Staff's direct testimony, and file a written list of all intervenors who did not file testimony or a statement of position.

VI. STATEMENTS OF POSITION OR PREFILED TESTIMONY

Pursuant to Rule 22.124(a), parties will be required to file either written testimony or a statement of position in this proceeding, as applicable. **A request to intervene is not a statement of position.** A statement of position clarifies a party's position but is not sworn-to, is not evidence, and is not subject to cross-examination. Prefiled direct testimony, on the other hand, is sworn-to, is evidence, and is subject to cross-examination. A deadline for the filing of either a statement of position or testimony will be set in the procedural schedule in a future order. **Failure to timely file either written testimony or a position statement will result in dismissal as a party from this proceeding and prohibition from participating in the hearing on the merits and briefing,** in accordance with Rules 22.124 and 22.161.

Intervenors are encouraged to review the guidance document attached to this Order titled "Information for Unrepresented Parties" that provides an overview of the contested case process.

SIGNED July 29, 2024


Meaghan Bailey
Administrative Law Judge

INFORMATION FOR UNREPRESENTED PARTIES

Overview of Contested Case Process

- This contested case hearing will proceed like a trial – with witnesses testifying under oath, subject to cross-examination.
- The administrative law judge (ALJ) presides over this hearing process. The ALJ works for the State Office of Administrative Hearings (SOAH). SOAH is a state agency that provides impartial judges to preside over contested case hearings. SOAH is separate from all other state agencies, including the Public Utility Commission of Texas (PUC or Commission).
- At the end of the hearing process, the ALJ will make a written recommendation about the transmission line route. This is called a Proposal for Decision (PFD).
- The final decision maker will be the five-member Commission.
- The staff of the PUC (Staff) participates in the hearing as a party. Staff is distinct from the three-member Commission that will ultimately decide this case.

Prehearing Conference

- At the prehearing conference, the judge will rule on motions to intervene and set the schedule for prehearing activities and the hearing itself.
- Following the prehearing conference, parties can remain to ask questions of Staff or the Applicants, exchange information, and engage in settlement talks.

The Prehearing Phase

- Two primary things happen before hearing: (1) discovery, and (2) filing of direct testimony and/or position statements. Deadlines for these activities will be established either at the prehearing conference or shortly thereafter by an order from the ALJ.
- Discovery is the formalized exchange of information among parties.
- Unlike some trials in district court, every witness's direct testimony in this case will be in written form and filed prior to the hearing. At the hearing, each witness will take the stand and be sworn in, and the witness's direct testimony will be admitted if it complies with the rules of evidence. The witness will then be subject to cross-examination by the parties. (Sometimes, parties will waive cross-examination of a witness.)

- Every party in this case must file either testimony or a statement of position according to the schedule that will be established. Parties failing to do so will be dismissed and not allowed to participate further.
- Testimony is evidence and includes assertions of fact (for example, about the location of property, the history and use of property, etc.). A position statement is argument, not evidence. There will be no cross-examination at the hearing of a party who has only filed a position statement. Assertions of fact in a position statement cannot be considered by the ALJ unless they are in some other document or testimony admitted in evidence. A party filing a position statement may ask questions of testifying witnesses.

The Hearing

- The hearing will be convened in Austin or through a videoconference application, such as Zoom.
- All witnesses who prefiled testimony must appear at the hearing unless all parties waive cross examination.
- Prefiled testimony will be admitted (subject to objections based on the rules of evidence), and witnesses will be cross-examined. Testimony not admitted because the witness failed to appear will be treated as a statement of position.

The Post-Hearing Phase

- After the hearing, parties will file written closing arguments (briefs) according to the deadlines that will be established in the schedule.
- The ALJ will issue the PFD recommending an outcome, including a route for the transmission line if the application is granted.
- The ALJ's analysis will be based on the facts (established through evidence introduced in the hearing) and the applicable law (involving a consideration of factors such as community values, number of habitable structures, recreational and park areas, historical and aesthetic values, environmental integrity, and use of compatible rights of way).
- The preferred route carries no special weight in the analysis. Any route consisting of identified links may be recommended and approved.
- Parties who disagree with the ALJ's proposal will be able to file written objections (exceptions) to the PFD.

- The Commission will make a decision at a meeting open to the public. The Commission can adopt or reject the ALJ's proposal. If the Commission rejects the ALJ's proposal, it will likely choose another route.
- The deadline for Commission action in this case is January 21, 2024.

Filing and Serving Documents in the Case

- Whenever any party formally files any document in this case (such as a motion, request for discovery, response to discovery, testimony, or statement of position), it must file the document with the PUC.
- Filings at the Commission shall occur by 3:00 p.m. on the date in question unless otherwise specified.
- The procedures regarding filing are specified in Subchapter E of the Commission's procedural rules and SOAH Order No. 1 and apply in this proceeding. Parties are expected to know those procedures and comply with them fully. All pleadings must contain both the SOAH and PUC Docket numbers to allow for efficient processing. (See the top of the first page of this information sheet.)
- At the same time a party files a motion, testimony, or a statement of position with the PUC, **the party must also serve all other parties in the case by sending them a copy of the document.**
- Discovery requests and responses must be filed with the PUC, but only have to be served on the party to whom the request or response is directed.
- The PUC has an on-line document interchange that is a convenient way of keeping track of documents filed in a case. All PUC filings are available for viewing and downloading from the Commission's website at <http://interchange.puc.texas.gov>. Once there, type in the control number and press "enter." A list of documents filed in this case will appear and you may access those documents by clicking on the document number, provided that the document number is underlined and in blue font.

Receiving Documents from SOAH

- Parties may elect to receive documents from the ALJ via email. To do so, access SOAH's webpage, www.soah.texas.gov, click on SOAH's "E-Services" link at the top of SOAH's webpage, follow the directions for "Email Service" and complete a short form.