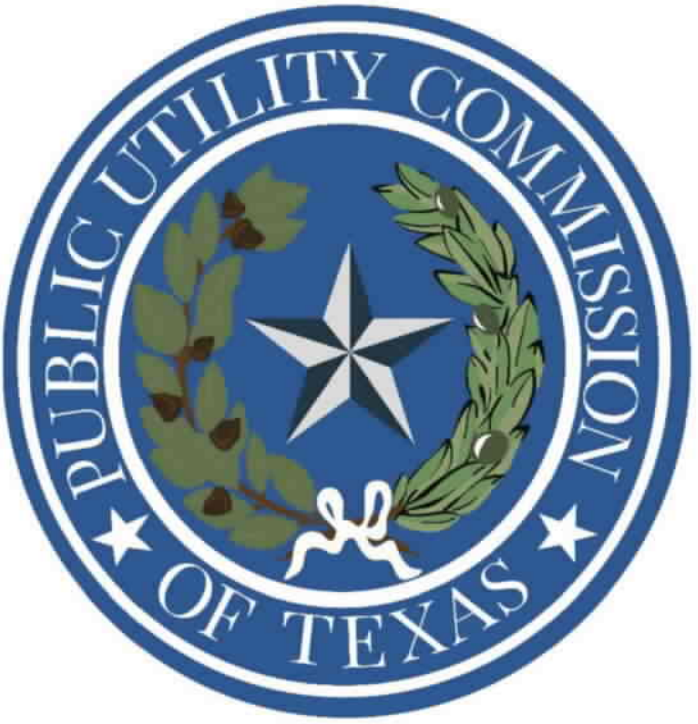

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PUC DOCKET NO. 56799

DIRECT TESTIMONY
OF JODY URBANOVSKY, WITNESS FOR
ONCOR ELECTRIC DELIVERY COMPANY LLC

DIRECT TESTIMONY OF JODY URBANOVSKY

I. POSITION AND QUALIFICATIONS

Q. PLEASE STATE YOUR NAME AND ADDRESS:

A. My name is Jody Urbanovsky. I am employed by Halff Associates, Inc. ("Halff"), an engineering consulting firm, and hold the position of Project Manager. My business address is 1201 North Bowser Road, Richardson, Texas 75081.

Q. PLEASE DESCRIBE YOUR PROFESSIONAL QUALIFICATIONS.

A. I graduated from the University of Texas at Austin in 2004 with a Bachelor of Arts in Geography/Geographic Information Systems ("GIS") and began working at Halff in 2005. I have served in various management and technical support roles, including environmental planner, GIS project manager, lead GIS analyst, and data coordinator. In these roles, I collaborate with a multi-disciplinary team of scientists regarding environmental impact analyses for transmission line and transportation projects throughout Texas. Currently, I am managing the environmental assessment for the Reiter Switch – Tesoro Switch 345 kilovolt ("kV") Transmission Line Project ("Proposed Transmission Line Project"). My educational and professional qualifications are more fully presented in Exhibit JU-1 attached hereto.

Q. HAVE YOU PREVIOUSLY TESTIFIED BEFORE THE COMMISSION?

A. Yes, I previously provided testimony in Commission Docket No. 56220.

II. PURPOSE OF TESTIMONY

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A. The purpose of my testimony is to introduce, support, sponsor, and describe the *Environmental Assessment and Routing Study for the Proposed Reiter Switch—Tesoro Switch 345 kV Transmission Line Project in Ector and Midland Counties, Texas* ("Environmental Assessment") prepared by Halff at the request of Oncor. The Environmental Assessment is included as Attachment No. 1 to Oncor's Standard Application for a Certificate of

Convenience and Necessity ("CCN") for a Proposed Transmission Line (the "Application"). Oncor will offer the Application and its attachments, as may be amended and/or supplemented, into evidence in this proceeding. In addition to the testimony herein, the facts and statements contained in the Environmental Assessment, which I am sponsoring, are true and correct to the best of my knowledge.

III. ENVIRONMENTAL ASSESSMENT

Q. WHY DID HALFF PREPARE THE ENVIRONMENTAL ASSESSMENT?

A. Oncor retained Halff to prepare the Environmental Assessment for the Proposed Transmission Line Project.

Q. WHAT WERE YOUR RESPONSIBILITIES WITH RESPECT TO THE ENVIRONMENTAL ASSESSMENT?

A. My responsibilities included oversight and participation in all elements of the preparation of the Environmental Assessment from baseline data acquisition to development of the alternative routes.

Q. WAS ANYONE OTHER THAN YOU INVOLVED IN THE ENVIRONMENTAL ASSESSMENT PROCESS?

A. Yes. Halff assembled a team of professionals with expertise in different environmental and land use disciplines, including soils, physiography, geology, water resources, fish and wildlife ecology, vegetation ecology, aesthetics, cultural resources, and mapping, among others (the "Halff Project Team"), all of whom were involved in data acquisition, routing analysis, and environmental assessment for the Proposed Transmission Line Project. Section 6.0 of the Environmental Assessment presents a list of the primary preparers of the document.

Q. WHAT DOES THE ENVIRONMENTAL ASSESSMENT ADDRESS?

A. The Environmental Assessment provides a detailed description of the data gathered and analyzed by Halff with respect to the Proposed Transmission Line Project, the project area, and the routing procedures and methodology utilized by Halff to delineate and evaluate alternative routes.

Q. PLEASE DESCRIBE THE OBJECTIVES OF THE ENVIRONMENTAL ASSESSMENT.

A. The objectives of the Environmental Assessment were to identify and evaluate the alternative routes for the Proposed Transmission Line Project. Halff's approach involved a series of tasks designed to address: (1) the requirements of PURA § 37.056(c)(4)(A)-(D); (2) the requirements of 16 Texas Administrative Code ("TAC") § 25.101(b)(3)(B), including the Commission's policy of prudent avoidance; (3) CCN application form requirements (including, but not limited to, Question Nos. 9-10 and 17-29); and (4) Oncor's routing policies. The tasks included scoping and study area delineation, data collection, constraints mapping, preliminary alternative route identification, and alternative route development. True and correct copies of Texas Utilities Code § 37.056 and 16 TAC § 25.101 are attached to my direct testimony as Exhibits JU-2 and JU-3, respectively.

Q. PLEASE EXPLAIN HOW THE STUDY AREA WAS DELINEATED FOR THE PROPOSED TRANSMISSION LINE PROJECT.

A. To identify preliminary alternative routes for the Proposed Transmission Line Project, Halff first delineated a study area, gathered data regarding the study area, and mapped constraints within the study area.

The study area for the Proposed Transmission Line Project must encompass the endpoints for the Proposed Transmission Line Project—the planned Reiter Switch and the existing Tesoro Switch—and include an area large enough that a reasonable number of forward-progressing, geographically diverse routes can be identified. The purpose of the study area is to establish boundaries and limits for the information gathering process (e.g., the identification of environmental and land use constraints). Figure 3-1 (Appendix D) of the Environmental Assessment depicts the study area delineated by Halff.

Halff reviewed United States Geological Survey ("USGS") topographic maps and aerial photography to develop the study area

boundary for the Proposed Transmission Line Project. Halff located and depicted the project endpoints on the maps and identified major features in the study area, such as the Monahans Draw, Interstate Highway ("IH") 20, Loop 338, Farm-to-Market Road ("FM") 3503, City of Odessa, and the boundary between Ector and Midland counties. The study area is roughly square in shape and includes a concentration of existing transmission lines along the north and west boundaries. Monahans Draw forms the southern boundary, with residential road networks along the east and west study area boundaries. The longer axes (i.e., north and south boundaries) traverse approximately 4.3 miles, whereas the shorter axes (i.e., east and west boundaries) traverse approximately 4.1 miles. The public road network in the study area is limited.

Q. HOW DID HALFF IDENTIFY ENVIRONMENTAL AND LAND USE CONSTRAINTS IN THE STUDY AREA?

A. Once the study area boundary was identified, Halff initiated a variety of data collection activities. One of the first such activities was the development of a list of officials to be mailed a consultation letter requesting information on constraints that might impact the Proposed Transmission Line Project. Halff mailed out consultation letters in April 2024. The purpose of the letters was to inform the various officials and agencies about the Proposed Transmission Line Project and to give those officials and agencies the opportunity to provide any information they had regarding the project and/or general project area. In response, Halff and Oncor received information from various public officials and agencies. The consultation letters and related correspondence are included as Appendix A to the Environmental Assessment.

Among other things, data collection activities consisted of a review of: (1) files and records of various regulatory agency databases; (2) published literature; and (3) a variety of maps, including recent aerial photography, seamless topographical maps from the USGS, county

highway maps, and county appraisal district land parcel boundary maps. During the course of the data collection activities, Halff personnel also conducted a reconnaissance survey of the study area on May 6, 2024, to confirm research findings and identify constraints that were not previously noted. The data collection effort began in the early stages of the Proposed Transmission Line Project's planning and continued until the completion of the Environmental Assessment.

Q. HOW DID HALFF USE THE DATA COLLECTED THROUGH THIS PROCESS?

A. Information gathered during data collection was used to develop an environmental and land use constraints map, which is included as Figure 3-1 (Appendix D) of the Environmental Assessment. This map depicts the environmental and land use constraints identified by Halff through the data collection process and field investigation. In this context, constraints are land use or landscape features that may affect or be affected by the location of a transmission line. The goal of this approach is to identify areas where constraints are absent or lesser in impact, or those areas with a lower likelihood of containing existing natural or human resources that could be affected by a transmission line.

Q. WHAT PROCESS DID HALFF UTILIZE TO IDENTIFY THE PRELIMINARY ALTERNATIVE ROUTES FOR THE PROPOSED TRANSMISSION LINE PROJECT?

A. Given that a number of potential routes could be drawn to connect the termination points, the constraints mapping process was used in selecting and refining possible alternative routes. Upon completion of the initial data collection activities and constraints mapping process, the next step in the routing process was to identify preliminary alternative links to connect the endpoints for the Proposed Transmission Line Project. Halff identified numerous preliminary alternative links, which could be combined to create nearly 200 possible routes. As later discussed in my testimony, Halff then

considered any additional information it received and refined the number and location of potential alternative links and routes for the Proposed Transmission Line Project. Ultimately, Halff provided 150 potential alternative routes for Oncor's consideration.

In identifying preliminary alternative links, Halff considered a variety of information, including, among other things: (1) input received from correspondence with agencies, local officials, and the public; (2) results from the visual reconnaissance survey of the study area; (3) reviews of aerial photography; (4) findings of publicly available data collection activities; (5) the environmental and land use constraints map; (6) apparent property boundaries; (7) existing compatible corridors; and (8) locations of existing developments. Section 4.0 of the Environmental Assessment discusses Halff's identification of the preliminary alternative route links for the Proposed Transmission Line Project.

Q. DID HALFF SOLICIT INFORMATION FROM THE TEXAS PARKS AND WILDLIFE DEPARTMENT ("TPWD") AS PRELIMINARY ALTERNATIVE LINKS WERE DEVELOPED?

A. Yes. In identifying and evaluating the preliminary alternative links, one of the agencies from which Halff solicited information was TPWD. Halff requested that TPWD provide environmental and land use constraints data and information regarding threatened/endangered species, wetlands, or other areas of special interest to TPWD within the project study area. Appendix A of the Environmental Assessment includes Halff's letter to TPWD requesting information concerning the Proposed Transmission Line Project.

Q. PLEASE DESCRIBE THE TPWD CORRESPONDENCE RECEIVED BY HALFF IN RESPONSE TO HALFF'S REQUEST FOR INFORMATION.

A. Halff received a letter from TPWD that, among other things, described the Proposed Transmission Line Project, discussed certain state and federal laws and regulations and provided comments and recommendations.

Where new construction is required, TPWD recommended paralleling existing utility corridors (e.g., roads, pipelines, ROW) to minimize habitat fragmentation.

Q. HOW DOES HALFF RESPOND TO TPWD'S RECOMMENDATIONS?

A. Halff appreciates TPWD's input and dedication to its mission to protect the State's parks and wildlife for the citizens of Texas. Many of TPWD's recommendations for the project are already part of Halff's standard practice. To the extent that Halff's standard practice does not fully incorporate TPWD's recommendations, Halff believes that it generally accomplishes TPWD's goals while holistically considering other factors, including, but not limited to, those listed in PURA § 37.056 and the Commission's substantive rules, which TPWD's recommendations do not holistically consider.

IV. EVALUATION OF THE PROPOSED ROUTING ALTERNATIVES

Q. PLEASE DESCRIBE THE PROCESS FOLLOWED BY HALFF TO EVALUATE THE ALTERNATIVE ROUTES.

A. Once the preliminary alternative routes were established, the Halff Project Team evaluated them based upon the requirements set forth in PURA § 37.056(c)(4)(A)-(D), 16 TAC § 25.101(b)(3)(B), the Commission's CCN application form requirements, environmental and land use constraints present along each route, and Oncor's routing policies. Section 5.0 of the Environmental Assessment describes the evaluation of the alternative routes. Each professional on the Halff Project Team independently analyzed the routes defined in Table 5-1 (Appendix B) of the Environmental Assessment to identify the environmental and land use data for the proposed routing alternatives, which is presented in Table 5-2 (Appendix C) of the Environmental Assessment.

Q. HOW DID HALFF IDENTIFY HABITABLE STRUCTURES IN THE STUDY AREA?

A. Halff reviewed and interpreted aerial photography to identify the location of habitable structures within 500 feet of the centerline of each alternative route, then verified those results during a reconnaissance survey where practical. To account for photographic interpretation limitations such as shadows, tree canopies, and horizontal accuracy of the photography, Halff sought to identify all habitable structures within a measured distance of 520 feet of the alternative route centerlines. No habitable structures within 520 measured feet of an alternative route centerline were identified.

Q. BRIEFLY DESCRIBE YOUR UNDERSTANDING OF THE COMMISSION'S POLICY OF PRUDENT AVOIDANCE.

A. Under 16 TAC § 25.101, prudent avoidance is defined as "the limiting of exposures to electric and magnetic fields that can be avoided with reasonable investments of money and effort." My understanding of the Commission's policy of prudent avoidance is that the process of routing a proposed transmission line should include consideration of routing options that will reasonably avoid population centers and other locations where gatherings are held.

Q. DO THE ALTERNATIVE ROUTES HALFF EVALUATED ADHERE TO THE COMMISSION'S POLICY OF PRUDENT AVOIDANCE?

A. Yes, all of the alternative routes evaluated by Halff adhere to the Commission's policy of prudent avoidance.

Q. WHAT ARE THE RESULTS OF HALFF'S INVESTIGATIONS REGARDING THE PROPOSED TRANSMISSION LINE PROJECT?

A. Construction of the Proposed Transmission Line Project should have no measurable impact on the geologic resources or features along any of the alternative routes. Additionally, construction of the Proposed Transmission Line Project should not have a significant impact on existing: (1) prime farmland; (2) water resources; (3) fish and wildlife species or their habitats and ecosystems; (4) natural resources; (5) land use; or (6) cultural resources. The primary impact to vegetation resulting from the site

preparation and construction of the Proposed Transmission Line Project is the potential removal of woody vegetation when required for the transmission line ROW. However, these impacts can be mitigated by minimizing the length of the transmission line through existing wooded areas and by paralleling existing roads or transmission line corridors wherever possible. Moreover, construction within the ROW will be performed in such a manner as to minimize adverse impacts to vegetation and to retain existing ground cover where feasible. Similarly, the major potential impact upon soil from transmission line construction would be erosion and soil compaction, which is mitigated through revegetation and erosion control measures. Section 5.0 of the Environmental Assessment describes in detail the results of the alternative route evaluations and any potential impacts for all routes.

Q. ARE THE ALTERNATIVE ROUTES PROVIDED BY HALFF CONSISTENT WITH THE APPLICABLE PROVISIONS OF THE TEXAS UTILITIES CODE AND THE COMMISSION'S SUBSTANTIVE RULES?

A. Yes. The Halff Project Team, with expertise in different disciplines (e.g., physiography, geology, water resources, soils, vegetation ecology, fish and wildlife ecology, land use/aesthetics, maps/figures/graphics, and cultural resources), delineated and evaluated the potential alternative routes for the Proposed Transmission Line Project based upon environmental and land use conditions present along each potential route, reconnaissance surveys, and the public involvement program. The routes provided to Oncor were evaluated by Halff in accordance with the requirements of PURA § 37.056(c)(4)(A)-(D) and 16 TAC § 25.101. All of the alternative routes provided to Oncor comply with the routing requirements of PURA § 37.056(c)(4)(A)-(D) and 16 TAC § 25.101.

V. CONCLUSION

Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?

A. Yes, it does.

AFFIDAVIT

STATE OF TEXAS §
§
COUNTY OF DALLAS §

BEFORE ME, the undersigned authority, on this day personally appeared Jody Urbanovsky who, having been placed under oath by me, did depose as follows:

My name is Jody Urbanovsky. I am of legal age and a resident of the State of Texas. The foregoing testimony and exhibits offered by me are true and correct, and the opinions stated therein are, to the best of my knowledge and belief, accurate, true and correct.

Jody Urbanovsky
Jody Urbanovsky

SUBSCRIBED AND SWORN TO BEFORE ME on this 24th day of July, 2024.

Terri Watts
Notary Public, State of Texas

My Commission Expires
07-07-2028

TERRI WATTS
Notary Public, State of Texas
Comm. Expires 07-07-2028
Notary ID 1129360-0

Jody Urbanovsky

Project Manager

Halff

Education

B.A. – Geography/Geographic Information Systems (GIS) Minor: Computer Science, University of Texas at Austin, 2004

A.A.S., Drafting and Design Technology GIS/GPS, Texas State Technical College, 2000

Mr. Urbanovsky's professional field of experience has been in the project management and environmental planner roles in the preparation of studies and technical reports that document environmental impacts and mitigation strategies required by the National Environmental Policy Act (NEPA) and/or other state or federal laws and regulations.

Since joining the staff at Halff, Mr. Urbanovsky has been involved in a variety of environmental projects specializing in GIS analysis which include the review of various geospatial data collection activities, spatial analyses, constraints mapping, routing analyses, and data management to support environmental assessment (EA) documents for various state and federal permitting processes. Specific to the electric transmission line routing process, Mr. Urbanovsky has managed the production of exhibits entered as evidence in public hearings and arbitration proceedings for several projects. His representative project experience includes the following:

Las Milpas-to-Stewart Road Cut-in to Lion Substation 138 kV Transmission Line Project, AEP Texas -- GIS Project Manager and lead GIS analyst for EA and Alternative Routing Analysis for a 138 kV transmission line project in Hidalgo County, Texas. Data coordinator and technical support of a multi-disciplinary team of scientists including archeologist, biologist, ecologist, landuse planners, etc. to evaluate the environmental and land use impacts for the proposed transmission line project.

Kilgore Substation 138 kV Transmission Line Project, Centerpoint Energy Houston Electric – GIS Project Manager and lead GIS analyst for EA for a 138 kV transmission line project in Chambers County, Texas. Data coordinator of a multi-disciplinary team of scientists including archeologist, biologist, ecologist, landuse planners, etc. to evaluate the environmental and land use impacts for the proposed transmission line project.

Exchange–Roanoke 138/345 kV Transmission Line Project, Oncor Electric Delivery Company – GIS Project Manager and lead GIS analyst for EA for a 345 kV transmission line re-build project in Tarrant and Denton Counties, Texas. Data coordinator and technical support of a multi-disciplinary team of scientists including archeologist, biologist, ecologist, landuse planners, etc. to evaluate the environmental and land use impacts for the proposed transmission line project.

Exchange–Keller Magnolia 138 kV Transmission Line Project, Oncor Electric Delivery Company – GIS Project Manager and lead GIS analyst for EA and Alternative Routing Analysis for a 138 kV

transmission line project in Tarrant County, Texas. Data coordinator and technical support of a multi-disciplinary team of scientists including archeologist, biologist, ecologist, landuse planners, etc. to evaluate the environmental and land use impacts for the proposed transmission line project.

Ramhorn Hill–Dunham 345 kV Transmission Line Project, Oncor Electric Delivery Company – GIS Project Manager and lead GIS analyst for EA and Alternative Routing Analysis for a 345 kV transmission line project in Denton and Wise Counties, Texas. Data coordinator and technical support of a multi-disciplinary team of scientists including archeologist, biologist, ecologist, landuse planners, etc. to evaluate the environmental and land use impacts for the proposed transmission line project, which included potential crossings of USACE lands.

Keller Wall Price–Keller Magnolia 138 Kv Transmission Line Project and Keller Wall Price–Roanoke 138 kV Rebuild Project, Oncor Electric Delivery Company – GIS Project Manager and lead GIS analyst for EA for a 138 kV transmission line re-build project in Tarrant County, Texas. Data coordinator and technical support of a multi-disciplinary team of scientists including archeologist, biologist, ecologist, landuse planners, etc. to evaluate the environmental and land use impacts for the proposed transmission line project.

Ivy League 138 kV Transmission Line Project, Oncor Electric Delivery Company – GIS Project Manager and lead GIS analyst for EA and Alternative Routing Analysis for a 138 kV transmission line project in Collin County, Texas. Data coordinator and technical support of a multi-disciplinary team of scientists including archeologist, biologist, ecologist, landuse planners, etc. to evaluate the environmental and land use impacts for the proposed transmission line project, which included potential crossings of USACE lands.

New Bethel 345 kV Transmission Line Project, Oncor Electric Delivery Company – GIS Project Manager and lead GIS analyst for EA and Alternative Routing Analysis for a proposed 12-27 mile long 345 kV transmission line project in Navarro, Henderson, Freestone, and Anderson Counties, Texas. Data coordinator and technical support of a multi-disciplinary team of scientists including archeologist, biologist, ecologist, landuse planners, etc. to evaluate the environmental and land use impacts for the proposed transmission line project.

Krum West–Anna 345 kV Transmission Line Project, Oncor Electric Delivery Company – GIS Project Manager and lead GIS analyst for EA and Alternative Routing Analysis for a proposed 40-100 -mile long 345 kV transmission line project in Cooke, Grayson, Collin, and Denton Counties, Texas. Data coordinator and technical support of a multi-disciplinary team of scientists including archeologist, biologist, ecologist, landuse planners, etc. to evaluate the

environmental and land use impacts for the proposed transmission line project.

Riley–Krum West 345 kV Transmission Line Project, Oncor Electric Delivery Company – GIS Project Manager and lead GIS analyst for EA and Alternative Routing Analysis for a proposed 140-mile long 345 kV transmission line project in Wilbarger, Wichita, Archer, Clay, Jack, Montague, Cooke, Wise, and Denton Counties, Texas. Data coordinator and technical support of a multi-disciplinary team of scientists including archeologist, biologist, ecologist, landuse planners, etc. to evaluate the environmental and land use impacts for the proposed transmission line project.

Riley–Bowman 345 kV Transmission Line Project, Oncor Electric Delivery Company – GIS Project Manager and lead GIS analyst for EA and Alternative Routing Analysis for a proposed 38-mile long 345 kV transmission line project in Archer, Wichita, and Wilbarger Counties, Texas. Data coordinator and technical support of a multi-disciplinary team of scientists including archeologist, biologist, ecologist, landuse planners, etc. to evaluate the environmental and land use impacts for the proposed transmission line project.

Venus–Liggett 345 kV Transmission Line Project, TXU Electric Delivery Company – GIS analyst and technical support for EA and Alternative Routing Analysis for a proposed 32-mile long 345 kV transmission line project in Dallas, Tarrant, Johnson, and Ellis Counties, Texas. Data coordinator and technical support of a multidisciplinary team of scientists including archaeologist, biologist, ecologist, landuse planners, etc. to evaluate the environmental and land use impact and select a preferred route for the proposed transmission line project.

345 kV Transmission Line Easement across The Greenbelt below Ray Roberts Lake – GIS analyst and technical support for the preparation of an EA for multiple transmission line alternatives across USACE property pursuant to National Environmental Policy Act (NEPA) requirements under the Federal Non-Recreational Outgrant Policy.

Licenses, Registrations, Seminars

Texas Department of Transportation (TxDOT)
Precertification No. 21474
1.9.1 Geographic Information Systems (GIS) and Data Analysis
2.1.1 Traffic Noise Analysis

Sec. 37.056. GRANT OR DENIAL OF CERTIFICATE. (a) The commission may approve an application and grant a certificate only if the commission finds that the certificate is necessary for the service, accommodation, convenience, or safety of the public.

(b) The commission may:

(1) grant the certificate as requested;

(2) grant the certificate for the construction of a portion of the requested system, facility, or extension or the partial exercise of the requested right or privilege; or

(3) refuse to grant the certificate.

(c) The commission shall grant each certificate on a nondiscriminatory basis after considering:

(1) the adequacy of existing service;

(2) the need for additional service;

(3) the effect of granting the certificate on the recipient of the certificate and any electric utility serving the proximate area; and

(4) other factors, such as:

(A) community values;

(B) recreational and park areas;

(C) historical and aesthetic values;

(D) environmental integrity;

(E) the probable improvement of service or lowering of cost to consumers in the area if the certificate is granted, including any potential economic or reliability benefits associated with dual fuel and fuel storage capabilities in areas outside the ERCOT power region; and

(F) the need for extending transmission service where existing or projected electrical loads will be underserved, including where:

(i) the existing transmission service is unreasonably remote;

(ii) the available capacity is unreasonably limited at transmission or distribution voltage level; or

(iii) the electrical load cannot be interconnected in a timely manner.

(c-1) In considering the need for additional service under Subsection (c)(2) for a reliability transmission project that serves

the ERCOT power region or under Subsection (c)(4)(F), the commission must consider the historical load, forecasted load growth, and additional load currently seeking interconnection, including load for which the electric utility has yet to sign an interconnection agreement, as determined by the electric utility with the responsibility for serving the load.

(d) The commission by rule shall establish criteria, in addition to the criteria described by Subsection (c), for granting a certificate for a transmission project that serves the ERCOT power region and that is not necessary to meet state or federal reliability standards. The criteria must include a comparison of the estimated cost of the transmission project for consumers and the estimated congestion cost savings for consumers that may result from the transmission project, considering both current and future expected congestion levels and the transmission project's ability to reduce those congestion levels. The commission shall include with its decision on an application for a certificate to which this subsection applies findings on the criteria.

(e) A certificate to build, own, or operate a new transmission facility that directly interconnects with an existing electric utility facility or municipally owned utility facility may be granted only to the owner of that existing facility. If a new transmission facility will directly interconnect with facilities owned by different electric utilities or municipally owned utilities, each entity shall be certificated to build, own, or operate the new facility in separate and discrete equal parts unless they agree otherwise.

(f) Notwithstanding Subsection (e), if a new transmission line, whether single or double circuit, will create the first interconnection between a load-serving station and an existing transmission facility, the entity with a load-serving responsibility or an electric cooperative that has a member with a load-serving responsibility at the load-serving station shall be certificated to build, own, or operate the new transmission line and the load-serving station. The owner of the existing transmission facility shall be certificated to build, own, or operate the station or tap at the existing transmission facility to provide the interconnection, unless after a reasonable period of time the owner of the existing transmission facility is unwilling to build, and then the entity with the load-serving responsibility or an electric cooperative that has a

member with a load-serving responsibility may be certificated to build the interconnection facility.

(g) Notwithstanding any other provision of this section, an electric utility or municipally owned utility that is authorized to build, own, or operate a new transmission facility under Subsection (e) or (f) may designate another electric utility that is currently certificated by the commission within the same electric power region, coordinating council, independent system operator, or power pool or a municipally owned utility to build, own, or operate a portion or all of such new transmission facility, subject to any requirements adopted by the commission by rule.

(h) The division of any required certification of facilities described in this section shall apply unless each entity agrees otherwise. Nothing in this section is intended to require a certificate for facilities that the commission has determined by rule do not require certification to build, own, or operate.

(i) Notwithstanding any other provision of this section, an electric cooperative may be certificated to build, own, or operate a new facility in place of any other electric cooperative if both cooperatives agree.

Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 295, Sec. 2, eff. June 18, 2003. Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 949 (H.B. 971), Sec. 2(a), eff. June 17, 2011.

Acts 2019, 86th Leg., R.S., Ch. 44 (S.B. 1938), Sec. 4, eff. May 16, 2019.

Acts 2021, 87th Leg., R.S., Ch. 198 (H.B. 1510), Sec. 3, eff. June 1, 2021.

Acts 2021, 87th Leg., R.S., Ch. 876 (S.B. 1281), Sec. 2, eff. September 1, 2021.

Acts 2023, 88th Leg., R.S., Ch. 410 (H.B. 1500), Sec. 12, eff. September 1, 2023.

Acts 2023, 88th Leg., R.S., Ch. 892 (H.B. 5066), Sec. 1, eff. June 13, 2023.

CHAPTER 25. SUBSTANTIVE RULES APPLICABLE TO ELECTRIC SERVICE PROVIDERS.

Subchapter E. CERTIFICATION, LICENSING AND REGISTRATION.

§25.101. Certification Criteria.

(a) **Definitions.** The following words and terms, when used in this section, have the following meanings unless the context indicates otherwise:

(1) **Construction or extension** -- Does not include the purchase or condemnation of real property for use as facility sites or right-of-way. Acquisition of right-of-way must not be deemed to entitle an electric utility to the grant of a certificate of convenience and necessity without showing that the construction or extension is necessary for the service, accommodation, convenience, or safety of the public.

(2) **Generating unit** -- Any electric generating facility. This section does not apply to any generating unit that is ten megawatts or less and is built for experimental purposes only.

(3) Habitable structures -- Structures normally inhabited by humans or intended to be inhabited by humans on a daily or regular basis. Habitable structures include, but are not limited to: single-family and multi-family dwellings and related structures, mobile homes, apartment buildings, commercial structures, industrial structures, business structures, churches, hospitals, nursing homes, and schools.

(4) Municipal Power Agency (MPA) -- Agency or group created under Texas Utilities Code, Chapter 163 – Joint Powers Agencies.

(5) Municipal Public Entity (MPE) -- A municipally owned utility (MOU) or a municipal power agency.

(6) Prudent avoidance -- The limiting of exposures to electric and magnetic fields that can be avoided with reasonable investments of money and effort.

(7) Tie line -- A facility to be interconnected to the Electric Reliability Council of Texas (ERCOT) transmission grid by a person, including an electric utility or MPE, that would enable additional power to be imported into or exported out of the ERCOT power grid.

(b) **Certificates of convenience and necessity for new service areas and facilities.** Except for certificates granted under subsection (e) of this section, the commission will grant an application and issue a certificate only if it finds that the certificate is necessary for the service, accommodation, convenience, or safety of the public, and complies with the statutory requirements in the Public Utility Regulatory Act (PURA) §37.056. The commission may issue a certificate as applied for, or refuse to issue it, or issue it for the construction of a portion of the contemplated system or facility or extension thereof, or for the partial exercise only of the right or privilege. The commission will render a decision approving or denying an application for a certificate within one year of the date of filing of a complete application for such a certificate, unless good cause is shown for exceeding that period. A certificate, or certificate amendment, is required for the following:

(1) **Change in service area**. Any certificate granted under this section must not be construed to vest exclusive service or property rights in and to the area certificated.

(A) Uncontested applications: An application for a certificate under this paragraph must be approved administratively within 80 days from the date of filing a complete application if:

(i) no motion to intervene has been filed or the application is uncontested;

(ii) all owners of land that is affected by the change in service area and all customers in the service area being changed have been given direct mail notice of the application; and

(iii) commission staff has determined that the application is complete and meets all applicable statutory criteria and filing requirements, including, but not limited to, the provision of proper notice of the application.

(B) Minor boundary changes or service area exceptions: Applications for minor boundary changes or service area exceptions must be approved administratively within 45 days of the filing of the application provided that:

(i) every utility whose certificated service area is affected agrees to the change;

(ii) all customers within the affected area have given prior consent; and

(iii) commission staff has determined that the application is complete and meets all applicable statutory criteria and filing requirements, including, but not limited to, the provision of proper notice of the application.

(2) **Generation facility.**

(A) In a proceeding involving the purchase of an existing electric generating facility by an electric utility that operates solely outside of ERCOT, the commission will issue a final order on a certificate for the facility not later than the 181st day after the date a request for the certificate is filed with the commission under PURA §37.058(b).

(B) In a proceeding involving a newly constructed generating facility by an electric utility that operates solely outside of ERCOT, the commission will issue a final order on a certificate for the facility not later than the 366th day after the date a request for the certificate is filed with the commission under PURA §37.058(b).

(C) An electric utility operating solely outside of the ERCOT region may, but is not required to, obtain a certificate to install, own, or operate a generation facility with a capacity of 10 megawatts or less.

(3) **Electric transmission line.** All new electric transmission lines must be reported to the commission in accordance with §25.83 of this title (relating to Transmission Construction Reports). This reporting requirement is also applicable to new electric transmission lines to be constructed by an MPE seeking to directly or indirectly construct, install, or extend a transmission facility outside of its applicable boundaries. For an MOU, the applicable boundaries are the municipal boundaries of the municipality that owns the MOU. For an MPA, the applicable boundaries are the municipal boundaries of the public entities participating in the MPA.

(A) **Determination of need**:

(i) **Economic projects.** Except as otherwise stated in this subparagraph, the following must be met for a transmission line in the ERCOT region. The applicant must present an economic cost-benefit study that analyzes the transmission project under a congestion cost savings test and a production cost savings test. The commission will give great weight to such a study if it is conducted by the ERCOT independent system operator. Adequately quantifiable and ongoing direct and indirect costs and benefits to the transmission system attributable to the project may be included in the cost-benefit study.

(I) **Congestion cost savings test.** ERCOT, in consultation with commission staff, must develop a congestion cost savings test.

(-a-) The congestion cost savings test must include an analysis of whether the levelized ERCOT-wide annual congestion cost savings attributable to the proposed project are equal to or greater than the average of the first three years annual revenue requirement of the proposed project of which the transmission line is a part.

(-b-) Prior to the effective date of the test developed by ERCOT under this subclause ERCOT may immediately, without updating its current protocols, utilize the generator revenue reduction test, effective Dec. 1, 2011 under

ERCOT Nodal Protocols §3.11.2(6), as the congestion cost benefit test required under this clause. ERCOT may continue to rely upon completed calculations using the generator revenue reduction test to evaluate ongoing applications after the effective date of the test developed under this subclause.

(II) **Production cost savings test.** The production cost savings test must include an analysis of whether the levelized ERCOT-wide annual production cost savings attributable to the proposed project are equal to or greater than the first-year annual revenue requirement of the proposed project of which the transmission line is a part.

(III) Economic cost-benefit analysis must be studied for the projected in-service date of the project using the study case identified in the ERCOT planning guide.

(IV) ERCOT may recommend, and the commission may approve, a transmission line in the ERCOT region that demonstrates a savings under either a congestion cost savings test or a production cost savings test.

(ii) **Reliability projects.**

(I) The requirements of clause (i) of this subparagraph do not apply to an application for a transmission line that is necessary to meet state or federal reliability standards, including: a transmission line needed to interconnect a transmission service customer or end-use customer; or needed due to the requirements of any federal, state, county, or municipal government body or agency for purposes including, but not limited to, highway transportation, airport construction, public safety, or air or water quality.

(II) For a transmission line not addressed by clause (i) of this subparagraph, the commission will consider, among other factors, the needs of the interconnected transmission systems to support a reliable and adequate network and to facilitate robust wholesale competition. When evaluating reliability for a proposed project in the ERCOT region, the commission will consider and any review conducted by ERCOT must incorporate the historical load, forecasted load growth, and additional load currently seeking interconnection. The forecasted load growth and additional load currently seeking interconnection must be substantiated by quantifiable evidence of projected load growth. The commission will give great weight to:

(-a-) the recommendation of an organization that meets the requirement of PURA §39.151; and/or

(-b-) written documentation provided by a transmission service provider to ERCOT that the transmission line is needed to interconnect transmission service or retail customers.

(iii) **Resiliency.** ERCOT may recommend, and the commission may approve, a transmission project that is submitted as an economic or reliability project and does not demonstrate sufficient economic savings or reliability benefits to merit approval on those grounds if ERCOT determines the line would

address a resiliency issue identified in the grid reliability and resiliency assessment required by subparagraph (E) of this paragraph. In determining whether to approve such a project the commission will consider:

(I) the margin by which the transmission project was unable to demonstrate sufficient economic savings or reliability benefits to merit approval on those grounds;

(II) whether the resiliency benefits the transmission project would provide by reducing the impacts to customers of potential outages caused by regional extreme weather scenarios are sufficient to compensate for the project's inability to demonstrate sufficient economic savings or reliability benefits to merit approval on those grounds.

(III) the cost effectiveness of the transmission project's ability to address the resiliency issue identified by ERCOT compared to other possible solutions.

(IV) other factors listed in PURA §37.056(c), as appropriate.

(B) **Routing**: An application for a new transmission line must address the criteria in PURA §37.056(c) and considering those criteria, engineering constraints, and costs, the line must be routed to the extent reasonable to moderate the impact on the affected community and landowners unless grid reliability and security dictate otherwise. The following factors must be considered in the selection of the utility's alternative routes unless a route is agreed to by the utility, the landowners whose property is crossed by the proposed line, and owners of land that contains a habitable structure within 300 feet of the centerline of a transmission project of 230 kV or less, or within 500 feet of the centerline of a transmission project greater than 230 kV, and otherwise conforms to the criteria in PURA §37.056(c):

(i) whether the routes parallel or utilize existing compatible rights-of-way for electric facilities, including the use of vacant positions on existing multiple-circuit transmission lines;

(ii) whether the routes parallel or utilize other existing compatible rights-of-way, including roads, highways, railroads, or telephone utility rights-of-way;

(iii) whether the routes parallel property lines or other natural or cultural features; and

(iv) whether the routes conform with the policy of prudent avoidance.

(C) **Uncontested transmission lines**: An application for a certificate for a transmission line will be approved administratively within 80 days from the date of filing a complete application if:

(i) no motion to intervene has been filed or the application is uncontested; and

(ii) commission staff has determined that the application is complete and meets all applicable statutory criteria and filing requirements, including, but not limited to, the provision of proper notice of the application.

(D) **Projects deemed critical to reliability**. Applications for transmission lines which have been formally designated by a PURA §39.151 organization as critical to the reliability of the system will be considered by the commission on an expedited basis. The commission will render a decision approving or denying an application for a certificate under this subparagraph within 180 days of the date of filing a complete application for such a certificate unless good cause is shown for extending that period.

CHAPTER 25. SUBSTANTIVE RULES APPLICABLE TO ELECTRIC SERVICE PROVIDERS.

Subchapter E. CERTIFICATION, LICENSING AND REGISTRATION.

(E) **Grid reliability and resiliency assessment.** ERCOT must conduct a biennial assessment of the ERCOT power grid's reliability and resiliency in extreme weather scenarios. Each assessment must:

(i) consider the impact of different levels of thermal and renewable generation availability;

(ii) identify areas of the state that face significant grid reliability and resiliency issues, taking into account the impact of potential outages caused by regional extreme weather scenarios on customers, including multiple element outage analysis when appropriate, and

(iii) recommend transmission projects that may increase the grid's reliability or resiliency in extreme weather scenarios.

(4) **Tie line**. An application for a tie line must include a study of the tie line by ERCOT. The study must include, at a minimum, an ERCOT-approved reliability assessment of the proposed tie line. If an independent system operator intends to conduct a study to evaluate a proposed tie line or intends to provide confidential information to another entity to permit the study of a proposed tie line, the independent system operator must file notice with the commission at least 45 days prior to the commencement of such a study or the provision of such information.

(c) **Projects or activities not requiring a certificate**. A certificate, or certificate amendment, is not required for the following:

(1) An extension of facilities as described in PURA §37.052(a) and (b);

(2) A new electric high voltage switching station, or substation;

(3) The repair or reconstruction of a transmission facility due to emergencies. The repair or reconstruction of a transmission facility due to emergencies should proceed without delay or prior approval of the commission and must be reported to the commission in accordance with §25.83 of this title;

(4) The construction or upgrading of distribution facilities within the electric utility's service area;

(5) Routine activities associated with transmission facilities that are conducted by transmission service providers. Nothing contained in the following subparagraphs should be construed as a limitation of the commission's authority as set forth in PURA. Any activity described in the following subparagraphs must be reported to the commission in accordance with §25.83 of this title. The commission may require additional facts or call a public hearing thereon to determine whether a certificate of convenience and necessity is required. Routine activities are defined as follows:

(A) The modification, construction, or extension of a transmission line that connects existing transmission facilities to a substation or metering point provided that:

(i) the transmission line modification, construction, or extension does not exceed:

(I) three miles if the line connects to a load-serving substation or metering point; or

(II) two miles if the line connects to a generation substation or metering point; and

(ii) all rights-of-way necessary for the modification, construction, or extension have been acquired, and

(iii) all landowners whose property is directly affected by the transmission line, as defined in §22.52(a)(3) of this title, have given written consent for the modification, construction, or extension. If the transmission line

modification, construction, or extension does not exceed one mile to provide service to a substation or metering point, written consent is only required by landowners whose property is crossed by the transmission line.

(B) The rebuilding, replacement, or respacing of structures along an existing route of the transmission line; upgrading to a higher voltage not greater than 230 kV; bundling of conductors or reconductoring of an existing transmission facility, provided that:

(i) no additional right-of-way is required; or

(ii) if additional right-of-way is required, all landowners of property crossed by the electric facilities have given prior written consent.

(C) The installation, on an existing transmission line, of an additional circuit not previously certificated, provided that:

(i) the additional circuit is not greater than 230 kV; and

(ii) all landowners whose property is crossed by the transmission facilities have given prior written consent.

(D) The relocation of all or part of an existing transmission facility due to a request for relocation, provided that:

(i) the relocation is to be done at the expense of the requesting party; and

(ii) the relocation is solely on a right-of-way provided by the requesting party.

(E) The relocation or alteration of all or part of an existing transmission facility to avoid or eliminate existing or impending encroachments, provided that all landowners of property crossed by the electric facilities have given prior written consent.

(F) The relocation, alteration, or reconstruction of a transmission facility due to the requirements of any federal, state, county, or municipal governmental body or agency for purposes including, but not limited to, highway transportation, airport construction, public safety, or air and water quality, provided that:

(i) all landowners of property crossed by the electric facilities have given prior written consent; and

(ii) the relocation, alteration, or reconstruction is responsive to the governmental request.

(6) Upgrades to an existing transmission line by an MPE that do not require any additional land, right-of-way, easement, or other property not owned by the MOU;

(7) The construction, installation, or extension of a transmission facility by an MPE that is entirely located not more than 10 miles outside of an MOU's certificated service area that occurs before September 1, 2021; or

(8) A transmission facility by an MOU placed in service after September 1, 2015, that is developed to interconnect a new natural gas generation facility to the ERCOT transmission grid and for which, on or before January 1, 2015, an MOU was contractually obligated to purchase at least 190 megawatts of capacity.

(d) **Standards of construction and operation.** In determining standard practice, the commission will be guided by the provisions of the American National Standards Institute, Incorporated, the National Electrical Safety Code, and such other codes and standards that are generally accepted by the industry, except as modified by this commission or by municipal regulations within their jurisdiction. Each electric utility must construct, install, operate, and maintain its plant, structures, equipment, and lines in accordance with these standards, and in such manner to best accommodate the public, and to prevent interference with service furnished by other public utilities insofar as practical.

(1) The standards of construction apply to, but are not limited to, the construction of any new electric transmission facilities, rebuilding, upgrading, or relocation of existing electric transmission facilities.

(2) For electric transmission line construction requiring the acquisition of new rights-of-way, an electric utility must include in the easement agreement, at a minimum, a provision prohibiting the new construction of any above-ground structures within the right-of-way. For this purpose, new construction of above-ground structures does not include necessary repairs to existing structures, farm or livestock facilities, storage barns, hunting structures, small personal storage sheds, or similar structures. A utility may negotiate appropriate exceptions in instances where the electric utility is subject to a restrictive agreement being granted by a governmental agency or within the constraints of an industrial site. Any exception to this paragraph must meet all applicable requirements of the National Electrical Safety Code.

(3) Measures must be applied when appropriate to mitigate the adverse impacts of the construction of any new electric transmission facilities, and the rebuilding, upgrading, or relocation of existing electric transmission facilities. Mitigation measures must be adapted to the specifics of each project and may include such requirements as:

(A) selective clearing of the right-of-way to minimize the amount of flora and fauna disturbed;

(B) implementation of erosion control measures;

(C) reclamation of construction sites with native species of grasses, forbs, and shrubs; and

(D) returning site to its original contours and grades.

(e) **Certificates of convenience and necessity for existing service areas and facilities.** For purposes of granting these certificates for those facilities and areas in which an electric utility was providing service on September 1, 1975, or was actively engaged in the construction, installation, extension, improvement of, or addition to any facility actually used or to be used in providing electric utility service on September 1, 1975, unless found by the commission to be otherwise, the following provisions prevail for certification purposes:

(1) The electrical generation facilities and service area boundary of an electric utility having such facilities in place or being actively engaged in the construction, installation, extension, improvement of, or addition to such facilities or the electric utility's system as of September 1, 1975, must be limited, unless otherwise provided, to the facilities and real property on which the facilities were actually located, used, or dedicated as of September 1, 1975.

(2) The transmission facilities and service area boundary of an electric utility having such facilities in place or being actively engaged in the construction, installation, extension, improvement of, or addition to such facilities or the electric utility's system as of September 1, 1975, must be, unless otherwise provided, the facilities and a corridor extending 100 feet on either side of said transmission facilities in place, used or dedicated as of September 1, 1975.

(3) The facilities and service area boundary for the following types of electric utilities providing distribution or collection service to any area, or actively engaged in the construction, installation, extension, improvement of, or addition to such facilities or the electric utility's system as of September 1, 1975, must be limited, unless otherwise found by the commission, to the facilities and the area which lie within 200 feet of any point along a distribution line, which is specifically deemed to include service drop lines, for electrical utilities.

(f) **Transferability of certificates.** Any certificate granted under this section is not transferable without approval of the commission and remains in force until further order of the commission.

CHAPTER 25. SUBSTANTIVE RULES APPLICABLE TO ELECTRIC SERVICE PROVIDERS.

Subchapter E. CERTIFICATION, LICENSING AND REGISTRATION.

(g) **Certification forms.** All applications for certificates of convenience and necessity must be filed on commission-prescribed forms so that the granting of certificates, both contested and uncontested, may be expedited. Forms may be obtained from Central Records.

(h) **Commission authority**. Nothing in this section is intended to limit the commission's authority to recommend or direct the construction of transmission under PURA §§35.005, 36.008, or 39.203(e).