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**SOAH DOCKET NO. 473-25-12927
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APPLICATION OF ENTERGY TEXAS, INC. TO AMEND ITS CERTIFICATE OF CONVENIENCE AND NECESSITY FOR THE SETEX AREA RELIABILITY PROJECT IN JASPER, MONTGOMERY, NEWTON, POLK, TYLER AND WALKER COUNTIES	§ § § § § § §	STATE OFFICE OF ADMINISTRATIVE HEARINGS
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**TRINITY RIVER AUTHORITY’S
STATEMENT OF POSITION**

The Trinity River Authority of Texas (“Authority”) files this Statement of Position pursuant to 16 Tex. Admin. Code § 22.124 (TAC). In SOAH Order No. 2, the Administrative Law Judges (“ALJs”) adopted a deadline of April 7, 2025 for intervenors to file direct testimony or statements of position.¹ The Authority filed a motion to intervene in this docket on March 21, 2025.² The ALJs have not issued an order granting or denying the Authority’s motion. Under 16 TAC § 22.104(c), the Authority has all the rights and obligations of a party pending the ALJs’ ruling on the motion to intervene. Therefore, the Authority files this Statement of Position as authorized in SOAH Order No. 2 and required by 16 TAC § 22.124. This filing is timely.

I. BACKGROUND

On February 19, 2025, Entergy Texas, Inc. (“ETI”) filed its Application to Amend Its Certificate of Convenience and Necessity for the Setex Area Reliability Project in Jasper, Montgomery, Newton, Polk, San Jacinto, Trinity, Tyler, and Walker Counties (“Application”) pursuant to 16 TAC § 25.174. The proposed project involves the construction of a new single-circuit 500 kilovolt transmission line between the proposed Babel 500 kV Switching Station to the proposed Running Bear Substation. The Application identifies three locations for the proposed Babel Switching Station in Newton County and four locations for the proposed Running Bear Substation in Montgomery County.

¹ SOAH Order No. 2 Memorializing Prehearing Conference, Addressing Intervenors, Adopting Procedural Schedule, Setting Hearing on the Merits, Court Reporter Requirements, and Establishing Pre- and Post-Hearing Requirements at 3 (Mar. 7, 2025).

² Motion to Intervene by the Trinity River Authority of Texas at 3 (Mar. 21, 2025).

The Authority is a conservation and reclamation district of the State of Texas organized under Article XVI, Section 59 of the Texas Constitution. The Authority owns and operates Lake Livingston in Walker, Trinity, Polk, and San Jacinto Counties, Texas that would be affected by certain segments of the proposed infrastructure. Lake Livingston is the largest single-purpose reservoir in Texas at 83,000 surface acres and 450 miles of shoreline. Lake Livingston was completed in 1971 as the result of a contract between the Authority and the city of Houston. The Authority financed and constructed the lake, along with Lake Livingston Dam, and continues to own and operate both. The water rights permit issued to the Authority by the Texas Commission on Environmental Quality authorizes the Authority to use the water impounded in Lake Livingston for recreation purposes.³ Lake Livingston is a popular recreational resource commonly used for boating, fishing, swimming, and other activities.

II. APPLICABLE LEGAL AUTHORITIES AND ISSUE

Section 37.056(c) of the Public Utility Regulatory Act (“PURA”) requires the Commission to consider various factors in determining whether to grant a certificate of convenience and necessity (“CCN”).⁴ The Authority is solely concerned with the requirement in PURA that the Commission consider recreational areas prior to granting CCN amendments like the one requested in the Application.⁵

III. STATEMENT OF POSITION

The Authority generally supports ETI’s Application because the proposed project will improve overall electric service to Jasper, Montgomery, Newton, Polk, San Jacinto, Trinity, Tyler, and Walker Counties, as well as locations outside of Texas. However, the Authority opposes any route proposed in the Application that would result in the transmission lines crossing across and above Lake Livingston because the additional piers and support structures needed for the proposed project would create obstacles and public safety threats that currently do not exist. ETI recommends in its Application that the Commission approve Route 10 as the primary alternative

³ Certificate of Adjudication No. 08-4248, *available at* <https://gisweb.tccq.texas.gov/WRRetrievalRights/?ID=ADJ4248>.

⁴ Tex. Util. Code § 37.056(c).

⁵ *See id.* § 37.056(c)(4)(B).

route that best addresses the requirements of PURA, followed by Routes 33 and 25.⁶ All of those routes would utilize Segment 82c, which crosses over and above Lake Livingston.⁷

The Commission's application form required ETI to list all recreational areas owned by a governmental body located within 1,000 feet of the center line of the route.⁸ ETI stated in the Application that information pertaining to recreation areas is provided in Sections 3.3 and 4.3 of the Environmental Assessment ("EA").⁹ Neither Section 3.3, nor Section 4.4, identifies recreational uses of Lake Livingston. While Section 3.3 addresses Lake Livingston State Park, there is no discussion of recreational uses of Lake Livingston itself and no discussion of boating or potential public safety hazards that would be created on Lake Livingston if the Commission were to approve a route that crosses Lake Livingston.

ETI witness Gary McClanahan addresses recreational areas in his direct testimony.¹⁰ Similarly to the Application and EA, Mr. McClanahan does not identify Lake Livingston as a recreational area.¹¹ In fact, Mr. McClanahan testifies that Alternative Routes 10 and 33 have zero recreation areas.¹² It appears that ETI did not consider Lake Livingston to be a recreational area and, therefore, did not include any information in the Application for the Commission's consideration of recreational uses. Without considering information relating to recreational use of Lake Livingston, the Commission cannot legally approve any Alternative Route that utilizes either Segment 82c or Segment 90.¹³

Mr. McClanahan further recommended Routes 8 and 9.¹⁴ Neither of those alternative routes would cross Lake Livingston. Therefore, the Commission's issuance of a CCN approving either Route 8 or 9 would not violate PURA insofar as the Application and EA have not omitted

⁶ Direct Testimony of Gary L. McClanahan, Jr. at 42:14-17.

⁷ Application at 49, 56-58 (Feb. 19, 2025).

⁸ Application at 32 (Feb. 19, 2025).

⁹ *Id.*

¹⁰ Direct Testimony of Gary L. McClanahan, Jr. at 6:13-17, 11:7-10.

¹¹ *See id.* at

¹² *Id.* at 33:15-19.

¹³ The Authority recognizes that none of ETI's alternate routes identified in the EA utilizes Segment 90. Application at 55-58 (Feb. 19, 2025).

¹⁴ Direct Testimony of Gary L. McClanahan, Jr. at 42:14-18.

necessary information relating to Lake Livingston as a recreational area relative to those routes. The Authority, therefore, supports ETI's recommendation of Routes 8 and 9.

IV. CONCLUSION

The Authority opposes Alternative Routes 1, 10, 25, 27, and 33. The Authority supports ETI's recommendation that Routes 8 and 9 best meet the requirements in PURA and the Commission's rules for CCN approval. The Authority appreciates this opportunity to provide a statement of position on Entergy's Application and reserves the right to modify its position and address other contested issues based on additional discovery responses made available through this docket and testimony and statements of position filed by other parties to this proceeding.

Respectfully submitted,

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ATTORNEYS FOR

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CERTIFICATE OF SERVICE

I certify that notice of this filing was provided to all parties of record via electronic mail on April 7, 2025 in accordance with the orders issued in Project No. 50664.

/s/ James Aldredge
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