Filing Receipt

Filed Date - 2025-07-28 03:05:24 PM

Control Number - 57648

Item Number - 828

State Office of Administrative Hearings

Kristofer S. Monson
Chief Administrative Law Judge

July 28, 2025

Shelah Cisneros
Commission Counsel
Public Utility Commission of Texas

VIA EFILE TEXAS

RE: SOAH Docket No. 473-25-12927; PUC Docket No. 57648; *Application of Entergy Texas, Inc. 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*

Dear Parties:

Please find attached a Proposal for Decision (PFD) in this case. By copy of this letter, the parties to this proceeding are being served with the PFD.

The Commission will place this case on an open meeting agenda for the Commissioners' consideration. The Commission will notify the Administrative Law Judge(s) and the parties of the open meeting date, as well as the deadlines for filing exceptions to the PFD, replies to the exceptions, and requests for oral argument.

Enclosure
CC: Service List

SOAH Docket No. 473-25-12927 **Suffix: PUC**
PUC Docket No. 57648

BEFORE THE STATE OFFICE OF ADMINISTRATIVE HEARINGS

APPLICATION OF ENTERGY TEXAS, INC. 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

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TABLE OF ACRONYMS AND ABBREVIATIONS

Abbreviation	Term
ALJs	Administrative Law Judges
Application	ETI's February 19, 2025, to amend its CCN to build a new 500 kV transmission line in Jasper, Montgomery, Newton, Polk, San Jacinto, Trinity, Tyler, and Walker Counties, Texas
Babel	Babel Switching Station
BMPs	Best Management Practices
CCN	Certificate of Convenience and Necessity
CFR	Code of Federal Regulations
COH	City of Houston
COL	Conclusion of Law
Commission or PUC	Public Utility Commission of Texas
EA	Environmental Assessment and Alternative Route Analysis
EIS	Environmental Impact Statement
ETI	Entergy Texas, Inc.
FAA	Federal Aviation Administration
FM	Farm-to-Market
Focus Routes	Routes 10, CLD 10 MOD D (CLDSP 25MOD, 10 MOD D), 25, 26, 31, 31 MOD B, 31 MOD C, 31 MOD D, JSN 37, and JSN 37 Mod, collectively
FOF	Finding of Fact
HPA	High Archeological/Historical Site Potential
IH	Interstate Highway
kV	Kilovolt
LSC	Load Serving Capability
MISO	Midcontinent Independent System Operator, Inc.
MTEP23	MISO 2023 Transmission Expansion Plan
NERC	North American Electric Reliability Corporation
NESC	National Electrical Safety Code
NRHP	National Register of Historic Places
NWI	National Wetland Inventory

PFD	Proposal for Decision
POWER	POWER Engineers, Inc.
Project	SETEX Area Reliability Project, a proposed 500 kV transmission line and associated facilities (including the Babel Switching Station and Running Bear Substation) in Jasper, Montgomery, Newton, Polk, San Jacinto, Trinity, Tyler, and Walker Counties, Texas
PURA	Public Utility Regulatory Act
ROW	Right-of-Way
Rule	16 Texas Administrative Code Section
Running Bear	Running Bear Substation
SOAH	State Office of Administrative Hearings
Staff	Staff of the Commission
SWPPP	Stormwater Pollution Prevention Plan
TAC	Texas Administrative Code
TCEQ	Texas Commission on Environmental Quality
TPWC	Texas Parks and Wildlife Code
TPWD	Texas Parks and Wildlife Department
TXDOT	Texas Department of Transportation
USACE	U.S. Army Corps of Engineers
USFWS	U.S. Fish & Wildlife Service

TABLE OF PARTIES

For ease of reference, the parties that appeared at the hearing are listed below with how they will be referred to in the PFD, along with their respective supported routes or positions:[1]

PARTY NAME	ROUTES/POSITIONS[2]
Entergy Texas, Inc. **(ETI)**	Route 10
Commission Staff **(Staff)**	Route 37
Coldspring Alliance[3]	Routes 10 or CLD 10 MOD D (CLDSP 25MOD)
Hawthorne Land, LLC **(Hawthorne Land)**	Routes 10 or CLD 10 MOD D (CLDSP 25MOD)
Clear Fork Creek Alliance **(Clear Fork Creek)**[4]	Routes 10, 25, 31 MOD D, and 31 MOD C

[1] The following parties appeared at the hearing but did not offer evidence or post-hearing briefing: Trinity River Authority of Texas; Texas Land Conservancy; the Young Family Trust (including Nicholas and Julie Young); GarCon, LLC; Byron Roach; and Paradise Cove Property Owners Association (Paradise Cove). During the hearing, Paradise Cove was granted intervenor status and allowed to participate in the hearing and post-hearing briefing. Hearing Transcript (Tr.) Vol. 1 at 28. Texas Industrial Energy Consumers (TIEC) intervened but took no position on selecting a route.

[2] For simplicity, this column only identifies the primary position of the party. Certain parties took alternative positions, which were considered and, if necessary, discussed further below.

[3] The Coldspring Alliance consists of the following intervenors: Jim Cline; W.R. and Sherry Baker; Janet Tallichet; Charles D. McMurrey, Jr.; Toni Cochran Hughes and Scott Hughes; J-T Cochran Family, LP; John R. McMurrey; Brett and Susan Butler; Ann and Johnny Gonzalez; Dale Lutz; Robert and India Penden; James M. McMurrey; Brian and Tammy Adams; Danny and India Adams; Noel Aveton; John A. Few on behalf of Camilla Investments, LLC; Dwayne Vickery; James and Emily Nunnery; Brad and Sarah Parsons; Deborah Somuano; Donald Gardner; and Brian Ard.

[4] Clear Fork Creek consists of the following intervenors: Clear Fork Creek Ranch, LLC; Stoker Real Estate, LP; Cathy D'Entremont; Cindy Dishman; Wayne McDermand, individually and as Trustee of the Amanda L. McDermand Trust; Beverly Jefferson; John C. Jefferson, Sr.; Steve Spurling; Minnie Zimmerman, individually and as Trustee of the Charles M. Zimmerman Family Trust; Merle C. Zimmerman, individually and as Trustee of the Charles M. Zimmerman Family Trust; Michael Gipson; Darlene Gipson; Daphne Perkins; Jeanette Carlton; Margaret Sanford; and Teresa Worley on behalf of the Estate of Tommie R. Sanford.

The Caldwell Companies[5]	Any route using Running Bear Substation D
SE Texas Opportunity Fund, LLC **(SE Texas Opportunity)**[6]	Routes 25, CLD 10 MOD D (CLDSP 25MOD), or 10
Adams Intervenors[7]	Routes 26 or 17 MOD A
Underwood Parties[8]	Routes 26 or 17 MOD A
Barrett's Landing[9]	Route 26
Rock Creek Alliance[10]	Routes 10, 37, or 25
Neskora Parties[11]	Routes 10, CLD 10 MOD D (CLDSP 25MOD), 31, or 31 MOD D
Moran Minerals Company, LP **(Moran Minerals)**	Any route using Running Bear Substation D
The Dunwoody Family **(Dunwoody)**	Any route using Running Bear Substation D
Coldspring Ranch Intervenors[12]	Routes 10, CLD 10 MOD D (CLDSP 25MOD), or 25

[5] The Caldwell Companies consist of Chambers Telge, LLC and CC Shepard Hill 443, LP. The Caldwell Companies were also aligned with the following intervenors: Montgomery County Municipal Utility District No. 170; Chambers Creek Community Association, Inc.; Summit Operations Company, LLC; Calvary Utility Company, LLC; and WellCom Technologies Chambers, LP.

[6] Intervenor H/FW Timber Partners, LP is aligned with SE Texas Opportunity.

[7] The Adams Intervenors consist of the following intervenors: Joseph Adams; Joseph E. Adams III; Heather Adams; Finca De Arboles, LLC; Craig Godwin; Johnny F. Muller; Rebecca A. Muller; and C. Muller Family Partnership LTD.

[8] The Underwood Parties consist of the following intervenors: George Russell on behalf of George and Suzanne Russell; the Ethician Foundation; the Universal Ethician Church; the Russell Ministries; Stephen Tebo, individually and as Authorized Agent of SLT Farms, LLC; Thomas B. McClelland, Jr. as manager of McClelland Ranch, LLC; Margaret Mature and the Estate of James F. Mature; and Sherrie Hartke.

[9] Barrett's Landing consists of the following intervenors: Barrett's Landing Entergy Litigation, LLC; the Gordy Family Companies; Russell Gordy; and Thomas L. Carter on behalf of the Carter Family Trust.

[10] Rock Creek Alliance consists of the following intervenors: Mads Theil for Hay Fever Ranch, LLC; Alexander Champagne; Eddy Ellisor; Brian and Bobbi Snyder; and Benjamin Berardino.

[11] The Neskora Parties include the following intervenors: Teanna West Neskora; Daniel Neskora; Dana Neskora Clary; and Jeff Clary.

[12] The Coldspring Ranch Intervenors include the following intervenors: Lake Livingston Ranch, LLC; Coldspring Ranch, LLC; and North Houston Land & Timber, LLC.

Segment 13 Intervenors[13]	Oppose Segment 13; favor Running Bear Substation D
Marek Intervenors[14]	Oppose Segments 6, 8, 9, 11, 12, and 30
John S. Neal[15]	Route 37
Grant and Amber Darnell **(Darnells)**	Route 10
George Webster	Opposes Segment 38
Clifford M. Rowland III et al. **(Rowland)**[16]	Opposes Segments 82c, 92, and 90
Republic Grand Ranch, LLC **(Republic Grand Ranch)**[17]	Route 25M
Salome Kathlyn Inglet[18]	Opposes Routes 39 and 286

[13] The Segment 13 Intervenors consist of the following intervenors: Herbert Melton; Willie and Teresa Hoffart; Arthur Smalley; Barbara Thornton; Robert Fitz; Patricia Hulbert; Brian and Meridee Rodel; Rodney Jason and Jennifer Laningham; Forrest Tharpe; and Alexis and Matthew Tower.

[14] The Marek Intervenors include the following intervenors: Nicholas Marek; William Albert Marek, Jr.; and William Albert Marek III.

[15] Mr. Neal intervened individually, as trustee of the Frances CC Neal 2023 Trust, and as power of attorney for Frances R.S. Neal.

[16] The Rowland Intervenors include the following intervenors: Clifford M. Rowland III; Julia Renee Mastin; Magnolia Creek Ranch, LLC; MCR Phase One, a series of Magnolia Creek Ranch, LLC; MCR Phase Two, a series of Magnolia Creek Ranch, LLC; and the Rowland-Mastin Family Trust. The Rowland Intervenors did not file post-hearing briefing; however, the direct testimony of their representative, Mr. Rowland, indicates an opposition to the use of segments 82c, 90, and 92. Rowland Ex. 1 (Rowland Dir. (Clifford M. Rowland III on behalf of himself, Julia Renee Mastin, and Rowland-Mastin Trust)) at 7; Rowland Ex. 2 (Rowland Dir. (Clifford M. Rowland III on behalf of himself, Magnolia Creek Ranch, LLC; MCR Phase One and MCR Phase Two, series of Magnolia Creek, LLC)) at 8.

[17] Republic Grand Ranch did not file post-hearing briefing; however, in the direct testimony of Republic Grand Ranch's representative, Renee Howes, Route 25M was favored. Republic Grand Ranch Ex. 1 (Amended Howes Dir.) at 8. Route 25M is not one of the Focus Routes identified by the parties and is not further described in Ms. Howes' direct testimony.

[18] Ms. Inglet did not file post-hearing briefing; however, her direct testimony indicates that she opposes the use of "routes 39 and 286." Inglet Ex. 1 (Inglet Dir.) at 4.

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PROPOSAL FOR DECISION

I. INTRODUCTION

On February 19, 2025, Entergy Texas, Inc. (ETI) filed an application (Application) with the Public Utility Commission of Texas (Commission) to amend its certificate of convenience and necessity (CCN) number 30076 for the proposed SETEX Area Reliability Project to construct, own, and operate a 500 kilovolt (kV) transmission line in Jasper, Montgomery, Newton, Polk, San Jacinto, Trinity, Tyler,

and Walker Counties (Project).[1] The Project consists of a new single-circuit 500 kV transmission line and associated substations along with 138/230 kV transmission line extensions. The proposed 500 kV transmission line will connect the proposed Babel switching station to the proposed Running Bear substation.

The Midcontinent Independent System Operator, Inc. (MISO), a regional transmission organization to which ETI is a member, identified the project as a baseline reliability project needed to comply with federal reliability standards of the North American Electric Reliability Corporation (NERC).[2] According to ETI, the Project is necessary to address reliability challenges and serve existing and projected electricity demand growth in the southeast Texas region.

The proposed Babel switching station (Babel) will be constructed at one of three potential locations (A, B, or C) that will connect into the existing Layfield-to-Hartburg 500 kV transmission line south of Toledo Bend Reservoir in Newton County.[3] The proposed Running Bear substation (Running Bear) will be constructed at one of four locations (A, B, C, or D) that will connect via one or more 138/230 kV transmission line extensions into either (a) ETI's existing Lewis Creek facilities along Longstreet Road between Lake Conroe and Interstate Highway (IH) 45 or (b) ETI's

[1] ETI Ex. 1 (Application). For purposes of this proposal for decision (PFD), all page number citations for the Application will refer to the page number of the PDF document.

[2] ETI Ex. 1 (Application), attach. 1 (Environmental Assessment (EA)) at 66; ETI Initial Brief at 3.

[3] ETI Ex. 1 (Application) at 3.

existing transmission facilities east of Willis between Farm-to-Market (FM) Road 1097 and County Line Road in Montgomery County.[4]

Within the Application, ETI proposed 34 primary alternative routes with 271 potential route segments for the proposed transmission line.[5] The total estimated cost for the proposed transmission line and associated facilities ranges from $1.33 billion to $1.52 billion.[6] The estimated length of the route is approximately 131 to 160 miles.[7]

Over the course of the proceeding, the parties explored an additional 27 routes comprised of the 271 segment options identified in the Application.[8] ETI contends that all 61 alternative routes are viable and meet applicable routing criteria.[9] Staff (Staff) for the Commission supports Route 37.[10] ETI maintains that Route 10[11] best

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[4] ETI Ex. 1 (Application) at 3.

[5] ETI Ex. 1 (Application) at 22.

[6] ETI Ex. 1 (Application), attach. 2 (Route Cost Estimates).

[7] ETI Ex. 3 (Guillot Dir.) at 8.

[8] ETI Initial Brief at 5.

[9] ETI Initial Brief at 5.

[10] Staff Ex. 3 (Second Errata Ghanem Dir.) at 16. Route 37 (also known as JSN 37) utilizes Running Bear D, Babel B, and segments ExD1-ExD2-31-33-35-38-39-40-41-42-43-46-48-59-81-83-89-90-93-119-123-125-132-133-134-136-137-143-147-150-164-167-171-175-177-181-188-200-206-216-226-237-246-255-262-266. Clear Fork Creek Ex. 29 (Focus Routes Table and Route Composition) at 3.

[11] Route 10 utilizes Running Bear B, Babel B, and segments ExB-2-5-7-11-12-14-17-20a-287-19b-28-42-43-46-48-59-81-82c-91-121-128-138-162-179-289-188-201-205-221-223-224-229-231-236-261-266. ETI Ex. 1, attach. 1 (EA) at 91.

meets the routing criteria under PURA and Commission rules but affirmed that it will construct the transmission line along the Commission's approved route.[12]

For the reasons discussed below, the State Office of Administrative Hearings (SOAH) Administrative Law Judges (ALJs) recommend granting the CCN amendment and approving CLD Route 10 MOD D (Route 10 MOD D).[13]

II. JURISDICTION AND PROCEDURAL HISTORY

The Commission has jurisdiction over ETI's Application under Public Utility Regulatory Act (PURA)[14] sections 14.001, 32.001, 37.051, 37.053, and 37.056. SOAH has jurisdiction to conduct a hearing and render a proposal for decision (PFD) on the Application under PURA section 14.053 and Texas Government Code section 2003.049.

ETI filed the Application on February 19, 2025. The following day, the Commission issued an Order of Referral and Preliminary Order referring the matter to SOAH, establishing a decision deadline of August 18, 2025, and setting forth the issues to be addressed in this proceeding.[15]

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[12] ETI Initial Brief at 5.

[13] CLD Route 10 MOD D has also been referred to as CLDSP 25 MOD. For simplicity, the route will be referred to as Route 10 MOD D in this PFD.

[14] Tex Util. Code §§ 11.001-66.016 (PURA).

[15] Order of Referral and Preliminary Order (Feb. 20, 2025).

On May 5, 2025, SOAH ALJs Daniel Wiseman and Michelle Kallas convened a three-day hearing on the merits via the Zoom videoconferencing platform. The parties listed in the Table of Parties above appeared personally or through legal counsel at the hearing.[16]

Certain parties filed initial post-hearing briefs on May 21, 2025, and the record closed on May 28, 2025, on receipt of the parties' reply briefs. To accommodate the procedural schedule, ETI agreed to waive its right to seek a writ of mandamus pursuant to PURA section 37.057 until August 31, 2025.[17] Accounting for 60 days following the record close date for the ALJs to issue the PFD and five weeks (35 days) for the Commission to review the PFD, the deadline for the Commission to issue a final order in this proceeding is **August 31, 2025.**

III. APPLICABLE LAW

After considering a CCN application for new transmission facilities, the Commission may take one of three actions: grant the certificate as requested, grant the certificate for a portion of the facilities, or refuse to grant the certificate.[18]

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[16] There are other remaining intervenors that did not appear and participate in the hearing or present their positions in post-hearing briefing. As such, they are not further discussed in this PFD. *See generally* the requests to intervene filed on the Commission's Interchange and SOAH Order No. 3 issued on April 21, 2025.

[17] *See* ETI's Revised Proposed Procedural Schedule and Miscellaneous Procedures (Mar. 4, 2025).

[18] PURA § 37.056(b).

To be approved, the proposed transmission facilities must be necessary for the service, accommodation, convenience, or safety of the public.[19] Additionally, when reviewing a CCN application, the Commission must consider the following statutory and regulatory factors:[20]

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;

    f. the need for extending transmission service where existing or projected electrical loads will be underserved;

    g. engineering constraints;

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[19] PURA § 37.056(a); *see also* 16 Tex. Admin. Code § 25.101(b).

[20] The various factors are listed in PURA section 37.056(c) and 16 Texas Administrative Code section 25.101(b)(3)(B).

h. costs;

i. to the extent reasonable, whether the impact of the line on the affected community and landowners can be moderated;

j. whether the routes parallel or utilize existing compatible rights-of-way (ROWs) for electric facilities;

k. whether the routes parallel or utilize other existing compatible ROWs, including roads, highways, railroads, or telephone utility ROWs;

l. whether the routes parallel property lines or other natural or cultural features; and

m. whether the routes conform with the policy of prudent avoidance.[21]

Some of the factors are inherently in conflict, and neither PURA nor Commission rules specify the relative weight to be given to each factor. For example, the factors favor the paralleling of roads and maintaining environmental integrity, which could lead to the conclusion that transmission lines should be placed along roadways and avoid bisecting undeveloped land. However, the factors also favor moderating the impact to the community and consideration of community values (which often includes maximizing the distance from the proposed line to residences). Consideration of these factors could lead to the conclusion that the line should be placed as far from residences as possible. The Commission and the ALJ have the

[21] "Prudent avoidance" means "[t]he limiting of exposures to electric and magnetic fields that can be avoided with reasonable investments of money and effort." 16 Tex. Admin. Code § 25.101(a)(6).

difficult task of considering the totality of all factors, even if individual factors, when considered in isolation, could lead to opposite outcomes. The Texas Third Court of Appeals recognized this challenge in *Texland* when it held:

> None of the statutory factors is intended to be absolute in the sense that any one shall prevail in all possible circumstances. In making these sometimes-delicate accommodations, the agency is required to exercise its "expertise" to further the *overall* public interest.[22]

IV. UNCONTESTED ISSUES[23]

The following facts are uncontested and therefore addressed exclusively in the Findings of Fact (FOFs) and Conclusions of Law (COLs): jurisdiction is proper; ETI provided sufficient notice of public meetings and elicited public input on the Project;[24] the Project is necessary for the service, accommodation, convenience, or safety of the public within the meaning of PURA section 37.056(a);[25] and the Project is the better option to meet the need within the study area when compared to using distribution facilities, distributed generation, energy efficiency, or a combination of those solutions.[26]

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[22] *Pub. Util. Comm'n of Tex. v. Texland Elec. Co.*, 701 S.W.2d 261, 267 (Tex. App.—Austin 1985, writ ref'd n.r.e.).

[23] The parties did not file stipulations regarding any uncontested fact; however, no party contested the issues identified below.

[24] *See* Preliminary Order Issue Nos. 3-4.

[25] *See* Preliminary Order Issue Nos. 5-6.

[26] *See* Preliminary Order Issue No. 7.

Additionally, the following issues, as listed in the Commission's Preliminary Order, were uncontested and therefore addressed only in the FOFs and COLs:

Issue No. 11:	Compliance with state/federal reliability standards
Issue No. 12:	Estimated cost of the Project to consumers
Issue No. 13:	Congestion cost savings
Issue No. 14:	Best management practices (BMPs)
Issue No. 18:	Coastal Management Program
Issue No. 19:	Limitation of authority
Issue No. 20:	Impact on generators
Issue No. 21:	Route modification agreements.[27]

From the breadth of the uncontested issues, it is apparent that the main disputes in this proceeding concern the Application's adequacy, ETI's provision of notice of the Application, each route's performance on the routing factors, permitting concerns, and how to address recommendations of the Texas Parks and Wildlife Department (TPWD).

V. APPLICATION ADEQUACY[28]

On March 19, 2025, Staff recommended that ETI's Application be found sufficient.[29] Receiving no challenges to the Application's sufficiency, the ALJs found

[27] *See* Preliminary Order Issue Nos. 11-14, 18-21.

[28] *See* Preliminary Order Issue No. 1.

[29] Commission Staff Recommendation on Sufficiency of the Application and Notice (Mar. 19, 2025).

the Application sufficient.[30] However, as discussed below, parties subsequently contested whether the Application contained an adequate number of route alternatives.

ETI witness Gary McClanahan provided testimony in support of the adequacy of the proposed routes. As described in Mr. McClanahan's direct testimony, given the distance of the Project's endpoints (131 to 160 miles), the amount of area encompassed (approximately 280 square miles), and routing constraints, 34 reasonably differentiated and geographically diverse routes, utilizing 271 proposed segments, were selected for evaluation.[31] Mr. McClanahan further noted that the 271 routing segments noticed in the Application provided the opportunity for the formulation of additional alternative routes.[32]

Commission Staff witness Sherryhan Ghanem confirmed that Staff believes the proposed alternative routes are sufficient in number and geographic diversity to conduct a proper evaluation.[33]

Prior to the hearing on the merits, no party raised a route adequacy challenge to the Application. In post-hearing briefs, intervenors Grant Darnell and George Webster raised concerns regarding the sufficiency in the number of

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[30] SOAH Order No. 3 (Apr. 24, 2025).

[31] ETI Ex. 4 (McClanahan Dir.) at 40-41.

[32] ETI Ex. 4 (McClanahan Dir.) at 41.

[33] Staff Ex. 3 (Second Errata Ghanem Dir.) at 16.

alternative routes.[34] However, these challenges were due by March 24, 2025, and thus, are untimely.[35] Therefore, the ALJs will consider these challenges only in the context of route selection, not route adequacy. Accordingly, the record evidence supports finding that the Application contains an adequate number of reasonably differentiated alternative routes for the Commission to conduct a proper evaluation.

VI. NOTICE OF APPLICATION[36]

Pursuant to 16 Texas Administrative Code section (Rule) 22.52, ETI is required to provide and publish notice of the Application. Staff recommended that ETI's notice be found sufficient.[37] In SOAH Order No. 3, after not receiving any challenges to the Application's notice, the ALJs found notice of the Application sufficient.[38] In her direct testimony, Ms. Ghanem agreed that ETI had met the notice requirements of Rule 22.52(a).[39]

On March 11, 2025, ETI filed its proof of notice containing affidavits from the following individuals regarding service of notice:

- Matt Forest attested to the service of notice, from February 17 through February 19, 2025, to all directly affected landowners as well

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[34] *See* Darnells Initial Brief at 3; Webster Initial Brief at 3.

[35] SOAH Order No. 2 (Mar. 10, 2025) (establishing a procedural schedule, including a deadline for filing challenges to the Application's route adequacy).

[36] *See* Preliminary Order Issue No. 2.

[37] Commission Staff Recommendation on Sufficiency of the Application and Notice (Mar. 19, 2025).

[38] SOAH Order No. 3 (Apr. 24, 2025).

[39] Staff Ex. 3 (Second Errata Ghanem Dir.) at 16.

as landowners within 500 feet of the centerline of the proposed alternate routes.[40]

- Kenny Muhammad attested that notice was served on February 19, 2025, to all municipalities within five miles of the alternative routes and to the county governments in which all the alternative routes are located.[41]
- Kendra James attested that notice was published from February 19 through February 26, 2025, in 10 newspapers of general circulation in the counties in which the CCN amendment is requested. Copies of the publishers affirming the publication of notice were provided as attachments to Ms. James's affidavit.[42]
- Panagiotis Papadakis attested that notice was served on February 19, 2025, to the United States Department of Defense Siting Clearinghouse, Office of Public Utility Counsel, TPWD, and electric utilities within five miles of the alternative routes.[43]

During the hearing and in post-hearing briefs, several intervenors questioned the sufficiency of ETI's notice of the Application, arguing that ETI should have provided notice of the Application to the City of Houston (COH).[44] Specifically, these intervenors assert that, since a number of the alternate routes cross Lake Livingston, ETI should have provided notice to COH, as a water rights holder

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[40] ETI Ex. 2 (Proof of Notice), Appendix A (Affidavit of Matt Forest). Mr. Forest is a project manager for Rampart, Inc., a company that contracted with ETI to provide ROW services.

[41] ETI Ex. 2 (Proof of Notice), Appendix B (Affidavit of Kenny Muhammad). Mr. Muhammad is a customer service regional manager for ETI.

[42] ETI Ex. 2 (Proof of Notice), Appendix C (Affidavit of Kendra James). Ms. James is the communications manager for ETI.

[43] ETI Ex. 2 (Proof of Notice), Appendix D (Affidavit of Panagiotis Papadakis). Mr. Papadakis is a paralegal for ETI.

[44] Barrett's Landing Initial Brief at 3-5; Adams Intervenors Initial Brief at 4-5; Underwood Parties Initial Brief at 4-5; John S. Neal Initial Brief at 6-7.

to the water in Lake Livingston. ETI does not dispute that COH is a water rights holder to the Lake Livingston reservoir.[45] However, ETI counters that the intervenors' challenge to the Application's notice is untimely and that the intervenors failed to provide a basis for why COH should have received notice.[46]

The ALJs agree with ETI concerning notice to COH. First, the challenges to notice on behalf of COH are untimely. Pursuant to SOAH Order No. 2, the parties had until March 24, 2025, to submit challenges to the Application's notice.[47] No such challenges were filed.

Second, these intervenors have failed to establish that, under PURA and Commission rules, ETI must give a non-landowner, who may be a water rights holder in Lake Livingston, notice. Rule 22.25(a)(2) provides that notice of an application must be given to municipalities located within five miles of the requested facilities. There is no dispute that COH, a municipality, is more than five miles from any proposed alternate route, segment, or substation. No party has presented any authority or precedent to support the extension of Rule 22.25(a)(2) to require service of notice to COH as a water rights holding municipality.

Additionally, the parties have not provided any authority for extending Rule 22.25(a)(3) to COH. This rule provides "[a]pplicant must, on the date it files an

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[45] ETI Reply Brief at 10.

[46] ETI Reply Brief at 10-11.

[47] SOAH Order No. 2 (Mar. 10, 2025).

application, mail notice of its application to the *owners of the land* [emphasis added], as stated on the current county tax rolls, who would be directly affected by the requested certificate." COH is a water rights holder, not a landowner, and no party has presented any authority for the proposition that a water rights holder should be treated as a landowner for purposes of PURA and the Commission's rules. Therefore, for these reasons, the ALJs find that COH was not entitled to notice of the Application.

Finally, the Darnells assert that they did not receive notice of the Application.[48] ETI argues that this objection is untimely and incorrect.[49] The ALJs agree with ETI. The Darnells did not object to notice of the Application until after the required deadline. Also, the evidence establishes that notice of the Application was mailed to the Darnells as evidenced by their inclusion in the list of homeowners noticed by Mr. Forest.[50] It is also clear, by their full participation in this proceeding, that the Darnells were not harmed by any alleged lack of notice.

Therefore, for the reasons stated above, the ALJs find that ETI complied with the notice requirements of Rule 22.25(a)(1)-(3).

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[48] Darnells Initial Brief at 4.

[49] ETI Reply Brief at 11-12.

[50] ETI Ex. 2 (Proof of Notice), Appendix A (Affidavit of Matt Forest), attach. 1 at 9.

VII. ROUTING CRITERIA

A. DESCRIPTION OF PROPOSED ROUTES

ETI contracted with POWER Engineers, Inc. (POWER) to perform a routing study and prepare the Environmental Assessment and Alternative Route Analysis (EA) for the Project.[51] Based on that analysis, ETI identified 34 primary alternative routes for the Project consisting of 271 different route segments.[52] Over the course of the proceeding, the parties developed 27 additional alternative routes using the various route segments. During the hearing, the parties presented the ALJs with 10 focus routes (Focus Routes). Though all potential routes were considered, the PFD centers on these Focus Routes, as identified in the following table.[53]

Route	Options and Segments	Length (miles)
10	Running Bear B; ExB-2-5-7-11-12-14-17-20a-287-19b-28-42-43-46-48-59-81-82a-291-82c-91-121-128-138-162-179-289-188-201-205-221-223-224-229-231-236-261-266; Babel B	144.9
10 MOD D	Running Bear D; ExD1-ExD2-33-34-38-39-40-41-42-43-46-48-59-81-82a-291-82c-91-121-128-138-162-179-289-188-201-205-221-223-224-229-231-236-261-266; Babel B	141.85

[51] ETI Ex. 4 (McClanahan Dir.) at 6.

[52] ETI Ex. 1 (Application) at 22.

[53] Clear Fork Creek Ex. 29 (Focus Routes Table and Route Composition); Neskora Ex. 11 (Substitute SETEX Area Reliability-Updated Focus Routes Map).

25	Running Bear D; ExD1-ExD2-31-33-35-38-39-40-41-42-43-46-48-59-81-82a-291-82c-91-121-128-138-162-179-289-188-201-205-221-223-224-229-231-236-261-266; Babel B	142.02
26	Running Bear D; ExD1-ExD2-31-32-36-41-44-50-55-56-61-62-65-69-74-77a-77b-97a-97b-99a-99b-116-117-126-133-135-149-155-157-160-168-171-175-178-185-208-211-215-216-226-237-246-255-262-266; Babel B	141.85
31	Running Bear D; ExD1-ExD2-31-32-36-41-42-43-46-48-59-81-83-89-90-93-118-121-128-138-163a-163b-169-172-179-289-188-201-205-221-223-225-237-246-255-262-266; Babel B	134.57
31 Mod B	Running Bear D; ExD1-ExD2-31-33-35-38-39-40-41-42-43-46-48-59-81-83-89-90-93-118-121-128-138-162-179-289-188-201-205-221-223-224-229-231-236-261-266; Babel B	136.34
31 Mod C	Running Bear D; ExD1-ExD2-31-32-36-41-42-43-46-48-59-81-83-89-90-93-118-121-128-138-162-179-289-188-201-205-221-223-225-237-246-255-262-266; Babel B	134.78
31 Mod D	Running Bear D; ExD1-ExD2-31-33-35-38-39-40-41-42-43-46-48-59-81-83-89-90-93-118-121-128-138-162-179-289-188-201-205-221-223-225-237-246-255-262-266; Babel B	135.2
37	Running Bear D; ExD1-ExD2-31-33-35-38-39-40-41-42-43-46-48-59-81-83-89-90-93-119-123-125-132-133-134-136-137-143-147-150-164-167-171-175-177-181-188-200-206-216-226-237-246-255-262-266; Babel B	136.88
JSN 37 MOD	Running Bear D; ExD1-ExD2-31-33-35-38-39-40-41-42-43-46-48-59-81-83-89-90-93-119-123-125-132-133-134-136-137-143-147-151-165-168-171-175-177-181-188-200-206-216-226-237-246-255-262-266; Babel B	138.39

B. ANALYSIS AND CONSIDERATIONS APPLICABLE TO ALL ROUTES AND MODIFICATIONS[54]

1. Community Values

PURA section 37.056(c)(4)(A) requires consideration of impacts of proposed transmission facilities on community values. While "community values" is not defined in statute or rule, the Commission has previously defined community values as "a shared appreciation of an area or other mutual resource by a national, regional, or local community."[55]

As set forth in the EA, the Commission's CCN application form requires information concerning the following items related to community values: the location of habitable structures; AM, FM, microwave, and other electronic installations in the study area, Federal Aviation Administration (FAA)-registered airstrips, private airstrips, and heliports located in the study area; irrigated pasture or croplands utilizing center pivot or other traveling irrigation systems; public input; and permits required from other governmental agencies.[56] Community resources can include recreational areas, historical/archeological sites, and the aesthetic environment of the area.[57]

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[54] *See* Preliminary Order Issue No. 8.

[55] *Joint Application of Electric Transmission Texas, LLC and Sharyland Utilities to Amend Their Certificates of Convenience and Necessity for the North Edinburg to Loma Alta Double-Circuit 345-kV Transmission Line in Hidalgo and Cameron Counties, Texas*, Docket No. 41606, Order at 8-9, FOF No. 51 (Apr. 11, 2014).

[56] ETI Ex. 1 (Application), attach. 1 (EA) at 148.

[57] ETI Ex. 1 (Application), attach. 1 (EA) at 149.

Adverse effects on community values include aspects of a project that would significantly and negatively alter the use, enjoyment, or intrinsic value attached to an important area or resource by a community.[58] Potential impacts can be classified into direct and indirect effects.[59] Direct effects are those that would occur if the location and construction of a transmission line and substation result in the removal or loss of public access to a valued resource.[60] Indirect effects are those that would result from a loss in the enjoyment or use of a resource due to the characteristics (primarily aesthetic) of the proposed transmission line, structures, or ROW.[61]

As part of the route analysis process, POWER mailed consultation letters to local elected and appointed officials and assisted ETI in hosting multiple public open-house meetings to collect information on community values and resources.[62] ETI developed a website to provide information for the Project and allow members of the public to provide comments on or ask questions about the Project in preparation for the ETI-hosted public meetings.[63] At the four public meetings, a total of 559 individuals attended and 269 questionnaires were received.[64] The community

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[58] ETI Ex. 1 (Application), attach. 1 (EA) at 233.

[59] ETI Ex. 1 (Application), attach. 1 (EA) at 233.

[60] ETI Ex. 1 (Application), attach. 1 (EA) at 233.

[61] ETI Ex. 1 (Application), attach. 1 (EA) at 233.

[62] ETI Ex. 1 (Application), attach. 1 (EA) at 149.

[63] ETI Ex. 1 (Application), attach. 1 (EA) at 254.

[64] ETI Ex. 1 (Application), attach. 1 (EA) at 254.

values expressed in the responses to the questionnaires included preferences for maximizing the distance of the Project from residences, paralleling existing utility facilities and compatible ROWs, and minimizing environmental impacts.[65]

Not surprisingly, landowners do not want a transmission line on or near their property. As noted by Mr. McClanahan, the landowner intervenors raised concerns over the Project's impact on their property including the decreased property values, health and safety concerns, current and future use of their property, aesthetic concerns, and environmental concerns.[66] Here, the habitable structure[67] count for all the alternative routes ranges from 48 to 204.[68] For the 10 Focus Routes, the count ranges from 48 to 149.[69] Route 10 MOD D, with 54 habitable structures within 500/300 feet[70] of the centerline of a transmission facility, ranks third of the Focus Routes for the lowest number of habitable structures within 500/300 feet of the centerline of a transmission facility proposed for this Project.

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[65] ETI Ex. 1 (Application), attach. 1 (EA), Table 6-5 at 271.

[66] ETI Ex. 8 (McClanahan Reb.) at 8.

[67] "Habitable structures" are defined as "[s]tructures 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." 16 Tex. Admin. Code § 25.101(a)(3).

[68] ETI Ex. 1C (Application Attachment 1 EA Tables 4-1, 4-2, and 4-3 Errata No. 2). Habitable structure count is discussed in more detail later in this PFD when the ALJs address prudent avoidance.

[69] Neskora Ex. 10 (SETEX Area Reliability-Tables 4-1-20250502 Focus Routes_wCost.xlsx).

[70] The Project involves the construction of 500 kV, 230 kV, and 138 kV transmission lines. The Application requires ETI to identify habitable structures within 300 feet of the centerline if the proposed project would be operated at 230 kV or less, or within 500 feet of the proposed project if operated at greater than 230 kV.

The other issues that pertain to community values, such as aesthetics, environmental integrity, use of existing corridors, and parks are evaluated in greater detail below. Based on consideration of community values, the ALJs find that Route 10 MOD D is among the routes that best address the public's concerns.

2. Recreational and Park Areas

To identify parks and recreational areas within the study area, POWER reviewed federal and state databases, including the Texas Outdoor Recreation Plan (TPWD 2018) and the Land and Water Resources Conservation and Recreation Plan and web viewer (TPWD 2015); spatial data from the Sam Houston National Forest, Angelina National Forest, and Sabine National Forest; and county/local maps.[71] Reconnaissance surveys were also conducted to identify any additional park or recreational areas.[72]

According to ETI, with the exception of the Lone Star Hiking Trail, none of the alternative routes in the Application have segments crossing a park or recreational area.[73] On this trail, hikers follow a public road ROW that is approximately 50 feet wide at the crossing. The proposed facilities would span the roadway and not interfere with the public's use of the trail or public roadways.[74] Twenty-eight of the alternative routes have additional parks or recreational areas within 1,000 feet of the

[71] ETI Ex. 1 (Application), attach. 1 (EA) at 166.

[72] ETI Ex. 1 (Application), attach. 1 (EA) at 166.

[73] ETI Ex. 1 (Application), attach. 1 (EA) at 239.

[74] ETI Ex. 1 (Application), attach. 1 (EA) at 239; ETI Ex. 4 (McClanahan Dir.) at 35.

route centerline.[75] The number of additional parks or recreational areas within 1,000 feet ranges from zero each for routes 10, 11, 25, 30, 31, and 33, to two each for routes 1, 4, 5, 6, 7, 8, 9, 13, 17, 19, 21, 24, 26, and 28.[76] All of the identified Focus Routes cross a park/recreational area for a length of 0.01 mile,[77] and only two of the Focus Routes, 26 and JSN 37 Mod, have additional parks and recreational areas within 1,000 feet of the route centerline.[78]

Certain intervenors raise concerns regarding the proposed transmission line crossing Lake Livingston. For purposes of background, the transmission line must cross the Trinity River either at the north end of Lake Livingston or south of the lake.[79] Nine of the 10 Focus Routes utilize either Segments 82c or 90, resulting in the transmission line crossing the north end of Lake Livingston; while the remaining Focus Route, Route 26, does not use those segments and, therefore, does not cross Lake Livingston, instead crossing the Trinity River south of the lake.[80] These intervenors assert that POWER should have designated Lake Livingston as a recreational area in the EA, as it is regularly used for recreation by the general public. These intervenors who oppose crossings over Lake Livingston opine that Texas Parks

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[75] ETI Ex. 1 (Application), attach. 1 (EA) at 239; ETI Ex. 4 (McClanahan Dir.) at 35.

[76] ETI Ex. 1 (Application), attach. 1 (EA) at 239.

[77] The ALJs presume this refers to each route's crossing of the Lone Star Hiking Trail.

[78] Clear Fork Creek Ex. 29 (Focus Routes Table and Route Composition) at 2; Neskora Ex. 10 (SETEX Area Reliability-Tables 4-1-20250502 Focus Routes_wCost.xlsx).

[79] ETI Ex. 8 (McClanahan Reb.) at 8. This does not account for the other numerous river and stream crossings the transmission line must make.

[80] *See* Neskora Ex. 11 (Substitute SETEX Area Reliability-Updated Focus Routes Map).

and Wildlife Code (TPWC) chapter 26[81] prohibits ETI from constructing the transmission line over Lake Livingston and that any transmission line over Lake Livingston will negatively affect recreational activities (i.e., boating, fishing, and swimming) taking place on the lake.

ETI counters that Lake Livingston is not "designated" as a recreational area for purposes of TPWC chapter 26 and that the assertion that recreational activities occur on the lake does not render it a park or recreational area.[82] ETI does not deny that recreational activities occur on Lake Livingston. According to Mr. McClanahan, although three designated parks are located on the land along the banks of the lake,[83] the lake was created as a water supply source and itself is not a designated park or recreational area.[84] He noted that neither the Land and Water Resources Conservation and Recreation Plan nor the U.S. Geological Service Protected Areas Data Explorer designate Lake Livingston proper as a park or recreational area.[85] He further noted that TPWD did not designate Lake Livingston as a park or recreational

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[81] Texas Parks and Wildlife Code section 26.001(a) provides "[a] department, agency, political subdivision, county, or municipality of this state may not approve any program or project that requires the use or taking of any public land *designated and used* prior to the arrangement of the program or project as a park, recreation area, scientific area, wildlife refuge, or historic site, unless the department, agency, political subdivision, county, or municipality, acting through its duly authorized governing body or officer, determines that: (1) there is no feasible and prudent alternative to the use or taking of such land; and (2) the program or project includes all reasonable planning to minimize harm to the land, as a park, recreation area, scientific area, wildlife refuge, or historic site, resulting from the use or taking." (Emphasis added). Subsection c provides ". . . the provisions of this chapter do not constitute a mandatory prohibition against the use of the area if the findings are made that justify the approval of a program or project."

[82] ETI Reply Brief 14-15.

[83] Mr. McClanahan stated that these designated parks are 10-20 miles away from Segments 82c and 90. Tr. Vol. 2 at 220-21.

[84] ETI Ex. 8 (McClanahan Reb.) at 106.

[85] ETI Ex. 8 (McClanahan Reb.) at 107.

area in any of its comment letters.[86] Additionally, as pointed out by ETI and other intervenors not opposed to a lake crossing, ETI already owns and operates two transmission circuits that currently cross Lake Livingston in the general vicinity of where the new proposed transmission line would be constructed should the Commission approve a route utilizing Segments 82c or 90, and these current transmission facilities do not interfere with the recreational activities taking place on the lake to this day.[87] Finally, ETI further suggests that even if Lake Livingston were deemed "designated" for purposes of TPWC chapter 26, the Commission has previously concluded that TPWC chapter 26 does not apply unless use of the area will be changed to something other than that of a park or recreational area.[88]

The ALJs find that, while home to recreational activities, Lake Livingston proper has not been identified as a recreational area; therefore, POWER was not required to include it as such in the EA. Recreational activities, such as boating, fishing, and swimming can occur on just about any body of water in the State of Texas. Opponents of Segments 82c and 90 provided no authority to support the suggestion that the mere presence of recreational activities on a body of water render that body of water a park or recreational area for purposes of route analysis.

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[86] Tr. Vol. 2 at 157.

[87] *See* ETI Ex. 8 (McClanahan Reb.) at 29.

[88] *See Determinations Under Chapter 26 of the Texas Parks and Wildlife Code Related to Docket No. 53053 (Application of Oncor Electric Delivery Company LLC to Amend Its Certificate of Convenience and Necessity for the Ivy League 138-kV Line in Collin County)* Order at 4-5 (Dec. 15, 2022).

The ALJs further find that TPWC chapter 26 does not preclude the crossing of Lake Livingston. First, there is no mandatory prohibition within TPWC chapter 26 against a project traversing a designated recreational area.[89] Second, as presented by ETI, the Commission has addressed the application of TPWC chapter 26 in prior proceedings and determined that unless the use of the designated recreational area is changed from recreational use, TPWC chapter 26 would not apply. Here, no evidence has been presented that the transmission line crossing the north end of Lake Livingston would prohibit recreational activities from continuing on the lake. The ALJs therefore conclude that ETI is not prohibited from constructing a route that utilizes Segments 82c or 90, thereby crossing Lake Livingston.

3. Cultural, Aesthetic, and Historical Values

PURA section 37.056(c)(4)(C) requires consideration of the impacts of proposed transmission facilities on cultural, aesthetic, and historical values.

a) Aesthetic Values

Aesthetic impacts, or impacts to visual resources, occur when the ROW, transmission lines, and/or other structures of utility facilities intrude on or substantially alter the character of the existing view.[90] Aesthetic impacts can be temporary or permanent.[91] All of the proposed alternative routes have a negative

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[89] *See* Tex. Parks & Wildlife Code § 26.001(c).

[90] ETI Ex. 1 (Application), attach. 1 (EA) at 239.

[91] ETI Ex. 4 (McClanahan Dir.) at 33.

impact on the aesthetic values of the area, both temporarily and permanently.[92] Some routes will have a more negative effect than other routes depending on the visibility from homes, public roadways, and parks/recreational areas.[93] None of the alternative routes cross rare, unique, pristine, very high-quality landscapes or landscapes protected from forms of development that would preclude construction of a transmission line or stations.[94]

In the EA, POWER evaluated potential visibility impacts as they would fall within the foreground visual zones[95] of major highways, FM roads, and park/recreational areas.[96] Mr. McClanahan testified that developments in the study area, including existing transmission lines, already impact the aesthetic qualities within the region from public viewpoints, and construction of any of the proposed routes is unlikely to significantly impact the aesthetic quality of the landscape.[97] The table below illustrates how each of the Focus Routes performed regarding potential visibility impacts.[98]

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[92] Staff Ex. 3 (Second Errata Ghanem Dir.) at 31.

[93] Staff Ex. 3 (Second Errata Ghanem Dir.) at 31.

[94] ETI Ex. 1 (Application), attach. 1 (EA) at 239.

[95] POWER defined a "foreground visual zone" as a one-half mile unobstructed view.

[96] ETI Ex. 1 (Application), attach. 1 (EA) at 239.

[97] ETI Ex. 4 (McClanahan Dir.) at 39.

[98] Neskora Ex. 10 (SETEX Area Reliability-Tables 4-1-20250502 Focus Routes_wCost.xlsx). All lengths are designated in miles.

Route	Est. Length within foreground visual zone of major highways	Est. Length within foreground visual zone of FM roads	Est. Length within foreground visual zone of park/recreational areas
10	11.30	19.30	0.94
10 MOD D	9.92	23.15	0.94
25	9.92	22.67	0.94
26	13.22	32.01	9.27
31	9.06	19.55	0.94
31 Mod B	10.01	20.02	0.94
31 Mod C	10.01	19.55	0.94
31 Mod D	10.01	20.33	0.94
37	8.83	16.32	0.94
JSN 37 Mod	8.83	16.32	3.82

The ALJs acknowledge that several intervenors expressed concern over negative aesthetic impacts the Project could have on their properties. However, concerns about aesthetic degradation are shared by all landowners across all of the alternative routes and not limited to a select few. As such, the ALJs find that, from a purely aesthetic impact, Route 37 performs the best of the Focus Routes given that it has the shortest length affecting each category of aesthetics.

b) Cultural/Historical Values

POWER evaluated the historical value and cultural resource impact of the alternative routes by considering the number of cemeteries within 1,000 feet of the route's centerline; recorded cultural resources crossed by a route or within 1,000 feet of the centerline; cultural resources listed on or determined eligible for the National Register of Historic Places (NRHP) crossed by a route; and the length of

transmission line across high archeological/historical potential areas (HPA).[99] According to POWER, none of the alternative routes have been surveyed in their entirety for cultural resources, therefore, there remains the potential for the existence of undiscovered cultural resources along all alternative routes.[100] To assess this potential, a review of geological, soils, and topographical maps was undertaken by a professional archeologist to identify areas along the alternative routes where unrecorded prehistoric archeological resources have a higher probability to occur.[101]

All of the Focus Routes had cemeteries within 1,000 feet of the route centerline, with a range of three to eight.[102] None of the Focus Routes cross any cultural resources listed on or determined eligible for the NRHP. With the exception of Route 26, all of the Focus Routes have one cultural resource listed on or determined eligible for the NRHP within 1,000 feet of the route's centerline. The number of recorded cultural resources crossed by the Focus Routes ranges from zero to two. All of the Focus Routes have cultural resources within 1,000 feet of the route's centerline. The length of route across HPAs ranges from 109.02 to 122.57 miles.

Some intervenors contend that land in the northern section of the Project's study area, around Segments 82b and 90, is abundant with historical and

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[99] *See* ETI Ex. 1C (Application Attachment 1 EA Tables 4-1, 4-2, and 4-3 Errata No. 2).

[100] ETI Ex. 1 (Application), attach. 1 (EA) at 246.

[101] ETI Ex. 1 (Application), attach. 1 (EA) at 246.

[102] Neskora Ex. 10 (SETEX Area Reliability-Tables 4-1-20250502 Focus Routes_wCost.xlsx).

archeological sites. Regarding property owned by George Russell, Dr. Sergio Ayala testified that two designated historical sites, 41SJ105 and 41SJ142, are located on Segments 82b and 90.[103] Additionally, Mr. Russell testified that his property contains five additional registered historical sites.[104] As such, Dr. Ayala recommended that these segments not be used so as not to disturb these historical sites.[105] Dr. Ayala further confirmed that his concerns are not limited to Segments 82b and 90, but apply to the general area.[106] He continued that if given a choice between implementing mitigation practices in these areas or avoiding them altogether, he would choose avoidance.[107]

ETI counters that neither 41SJ105 nor 41SJ142, according to the mapping information obtained from the Texas Archeological Research Laboratory, is located with 1000 feet of Segments 82b or 90.[108] Additionally, Mr. McClanahan confirmed that the additional sites Dr. Ayala referenced as being located on Mr. Russell's property are not recorded and depicted on the Texas Historical Commission's Texas Archeological Sites Atlas at the locations indicated on the maps Dr. Ayala provided.[109] ETI notes that Dr. Ayala testified that ". . . due diligence would be

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[103] Underwood Parties Ex. 7 (Ayala Dir.) at 4.

[104] Underwood Parties Ex. 1 (Russell Dir.) at 10.

[105] Underwood Parties Ex. 7 (Ayala Dir.) at 4.

[106] Tr. Vol. 3 at 216-17.

[107] Tr. Vol. 3 at 218-19.

[108] *See* ETI Ex. 8 (McClanahan Reb.) at 81.

[109] ETI Ex. 8 (McClanahan Reb.) at 80.

necessary for such an archeological rich area."[110] ETI asserts that it will conduct the due diligence necessary for the archeological sites in the area, including pre-construction archeological investigation and mitigation as needed,[111] and that it will comply with Staff witness Ghanem's mitigation measure.[112]

The ALJs find that the identified cultural resources in the Project's study area, specifically those in the northern corridor, do not preclude construction of a transmission line along any of the Focus Routes. No one Focus Route stands out as performing substantially better or worse than other Focus Routes. All known and unknown cultural resources can be properly preserved through ETI's mitigation practices in dealing with these sites.

4. Environmental Integrity

PURA section 37.056(c)(4)(D) directs the Commission to consider whether a proposed transmission line will impact environmental integrity. In assessing potential transmission line routes, ETI and POWER conducted a comprehensive evaluation of natural resource impacts, including effects on federally and state-listed endangered and threatened species.[113] The EA identified five endangered plant species and eight federally listed animal species within the study area, along with

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[110] Tr. Vol. 3 at 211.

[111] ETI Ex. 8 (McClanahan Reb.) at 82.

[112] Staff Ex. 3 (Second Errata Ghanem Dir.) at 31. Specifically, Ms. Ghanem recommended that if, during construction, ETI finds a previously unknown cultural resource, it should immediately cease work in the area and notify the Texas Historical Commission.

[113] ETI Ex. 1 (Application), attach. 1 (EA) at Sections 3.1 and 4.1; ETI Ex. 4 (McClanahan Dir.) at 37.

18 state-listed animal species. All primary alternative routes would cross short segments of proposed critical habitat, ranging from 0.07 to 0.11 mile.[114] ETI anticipates only short-term, minimal impacts to ecological resources such as soil and water. Prior to construction, the approved route will be surveyed to identify any habitat for listed species. If found, ETI states that it will consult with relevant agencies to determine appropriate avoidance or mitigation strategies.[115]

Barrett's Landing and several other intervenors expressed concerns regarding habitat fragmentation and other ecological impacts, particularly focusing on Route 10 and its associated segments.[116] In support of its position, Barrett's Landing cited the testimony of Dr. Mark Turnbough, who holds a Ph.D. in Systems Theory and Environmental Policy and has nearly 40 years of experience in land use and regulatory consulting. He described habitat fragmentation as one of the most significant yet often overlooked consequences of transmission line development. He characterized Route 10 as having some of the most severe fragmentation metrics he had ever evaluated.[117]

The ALJs find that these concerns were appropriately addressed by ETI and its consultant, POWER. As discussed in Mr. McClanahan's rebuttal testimony, POWER and ETI made significant efforts to design alternative segments that parallel

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[114] ETI Ex. 1C (Application Attachment 1 EA Tables 4-1, 4-2, and 4-3 Errata No. 2).

[115] ETI Initial Brief at 35.

[116] Barrett's Landing Initial Brief at 13-14.

[117] Barrett's Landing Initial Brief at 13 *et seq.*; Barrett's Landing Ex.17 (Turnbough Dir.) at 5-8.

existing compatible ROWs, such as electric transmission lines, roads, and fence lines, to minimize fragmentation wherever feasible. The use of such parallel corridors reduces the creation of entirely new habitat edges, even if it results in a wider cleared area.[118]

The ALJs also note that some degree of vegetation clearing is inevitable for transmission line ROW construction. However, the evidence demonstrates that such clearing can, when properly managed, benefit native wildlife species. ETI witness McClanahan explained that cleared ROWs may increase native forb and grass growth and provide habitat enhancements for edge-adapted species like deer and quail.[119]

Barrett's Landing also highlighted the testimony of Dr. Brad Kubecka and Garrett Gordy regarding Rock Creek Ranch, an actively managed ecological restoration site used for quail translocation and longleaf pine savanna restoration.[120] While the ALJs commend these efforts, ETI witness McClanahan persuasively explained that transmission line construction and wildlife management practices can coexist. In fact, properly managed ROWs can benefit certain species, including those being reintroduced at the ranch. ETI has committed to revegetating cleared areas with native forbs and grasses in consultation with landowners and consistent with the Commission's standard CCN mitigation conditions.[121]

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[118] ETI Ex. 8 (McClanahan Reb.) at 20-21 and 45-49.

[119] ETI Ex. 8 (McClanahan Reb.) at 50.

[120] Barrett's Landing Ex. 15 (Kubecka Dir.) at 7; Barrett's Landing Ex. 14 (Gordy Dir.) at 13-17.

[121] ETI Ex. 8 (McClanahan Reb.) at 49-52.

The ALJs agree with ETI that differences in land management philosophy or investment do not provide a legal or factual basis to reject routes. As long as the utility follows appropriate environmental practices and coordinates with affected landowners, routing through properties used for wildlife management is permissible.

Barrett's Landing also relied on testimony from ornithologist Clifford Shackelford regarding potential bird strikes associated with transmission structures over Lake Livingston.[122] While Mr. Shackelford is a respected expert, his testimony did not represent the official position of the TPWD. Moreover, Mr. Shackelford focused solely on Segments 82c and 90 without analyzing other high-use avian habitats such as rivers or wetlands elsewhere in the study area.

The ALJs find that ETI adequately addressed avian collision risks in the EA and committed to installing bird flight diverters in high-use areas. Additionally, higher voltage lines such as the one proposed here use larger, more visible conductors, which can reduce bird collision risk.[123] ETI will also follow best practices outlined in Avian Power Line Interaction Committee publications and coordinate with the U.S. Fish and Wildlife Service (USFWS) and TPWD as appropriate.

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[122] Barrett's Landing Ex. 12 (Shackelford Dir.) at 6-9.

[123] ETI Ex. 8 (McClanahan Reb.) at 43.

Intervenors, including the Underwood Parties and Adams Parties, raised concerns about the potential presence of red wolves or red-cockaded woodpeckers.[124] However, the ALJs note that neither the USFWS nor TPWD list the red wolf as currently present in Texas. With respect to the red-cockaded woodpecker, no documented occupied habitat was entered into the record. As Mr. McClanahan explained, potential habitat does not equate to occupied habitat, and anecdotal reports are not a sufficient basis to exclude a route.[125]

Intervenors also raised objections to routing through land under conservation easements.[126] The ALJs find that conservation easements were properly considered in the EA and were avoided where possible. Conservation easements do not legally preclude the siting of public infrastructure and are not entitled to priority over other environmental or land use criteria.

In their initial brief, the Neskora Parties point out that POWER, in its analysis of the study area environmental conditions, did not distinguish between upland forests and pine plantations but that doing so would have weighed even more heavily in favor of northern-corridor routes.[127] The ALJs find no fault in POWER's classification of pine silviculture within the upland forest category. This approach is consistent with long-standing agency practice, and it would be neither feasible nor

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[124] Underwood Parties Initial Brief at 10; Adams Parties Initial Brief at 10.

[125] ETI Ex. 8 (McClanahan Reb.) at 73.

[126] *See* Barrett's Landing Initial Brief at 10-13.

[127] Neskora Parties Initial Brief at 23 *et seq.*

meaningful to distinguish between plantations used for timber harvesting and those used for habitat restoration on an individual basis.[128]

With respect to specific environmental factors, Route 10 MOD D performs well in comparison with competing routes:[129]

Category	Route 10	Route 10 MOD D	Route 25	Route 26	Route 31	Route 31 MOD B	Route 31 MOD C	Route 31 MOD D	Route 37	JSN 37 MOD
Length of route across conservation easements	0	0	0	0	0.99	0.99	0.99	0.99	0.99	0.99
Length of route across bottomland/riparian forest	36.71	34.92	34.92	34.61	33.98	36.54	34.64	34.74	33.67	33.69
Length of route across upland forest	88.77	88.83	88.77	84.19	84.16	83.05	83.91	83.76	85.09	87.14
Acreage of route across National Wetland Inventory (NWI) mapped forested or scrub/shrub wetlands	35.99	23.09	23.09	112.52	38.36	27.10	32.85	31.83	56.90	70.28
Acreage of route across NWI mapped emergent wetlands	10.80	6.18	6.18	35.71	5.73	5.79	5.73	5.79	6.04	5.80
Length of route across open water (lakes, ponds, etc.)	1.67	1.62	1.62	1.60	1.85	1.85	1.85	1.85	1.75	1.65
Number of stream/river/canal crossings	273	260	260	257	254	258	261	257	257	259

[128] Tr. Vol. 2 at 196-97 (McClanahan Re-Direct).

[129] *See* Neskora Parties Reply Brief at 11. All lengths are designated in miles.

Length of route parallel (within 100 feet) to natural streams or rivers	8.38	7.32	7.32	6.07	6.88	7.57	7.51	7.30	5.89	5.42
Length of route across FEMA mapped 100-year floodplains	14.71	13.28	13.28	15.43	13.86	14.20	13.88	14.42	13.92	13.52

5. Costs

The Commission is required to consider cost as a factor when evaluating proposed alternative routes.[130] ETI prepared cost estimates for the proposed routes included in the Application and that are under consideration in this proceeding.[131] The estimated costs include engineering costs, costs for acquiring ROW, material and supply costs, construction costs, and other costs such as administrative and management costs.[132]

For the proposed routes in the Application, the estimated costs range from $1.33 billion to $1.52 billion, including substation costs.[133] Six of the proposed alternative routes have estimated costs above ETI's approved funding level for the Project, and therefore, ETI would need to request corporate approval to proceed with

[130] 16 Tex. Admin. Code § 25.101(b)(3)(B).

[131] ETI Ex. 3 (Guillot Dir.) at 24-26.

[132] ETI Ex. 3 (Guillot Dir.) at 25.

[133] ETI Ex. 1 (Application), attach. 2 at 636, 645.

constructing those routes.[134] Route 26 is one of the routes exceeding the Project's funding level. The following table reflects the estimated costs for the Focus Routes:[135]

Route	Estimated Cost
10	$1,358,899,433
10 MOD D	$1,401,341,355
25	$1,410,740,097
26	$1,458,428,423
31	$1,372,150,579
31 Mod B	$1,380,821,431
31 Mod C	$1,370,244,431
31 Mod D	$1,374,082,358
37	$1,376,428,460
JSN 37 Mod	$1,416,414,474

Witnesses for ETI and Staff stated that the estimated costs are reasonable estimates.[136] However, some intervenors raised concerns over ETI's cost estimates and whether they reflect a true picture of what a project of this scale would cost. One concern was the cost of using Running Bear D over Running Bear A, B, or C. There is overwhelming intervenor support for the use of Running Bear D, which costs approximately $49 million more to construct than Running Bear A, B, or C since it requires an additional scope of work and construction.[137] Some intervenors point out that Running Bear D, while costing more, may ultimately provide more resiliency for

[134] ETI Ex. 1 (Application) at 25.

[135] Clear Fork Creek Ex. 29 (Focus Routes Table and Route Composition) at 2; Neskora Ex. 10 (SETEX Area Reliability-Tables 4-1-20250502 Focus Routes_wCost.xlsx).

[136] ETI Ex. 3 (Guillot Dir.) at 27; Staff Ex. 3 (Second Errata Ghanem Dir.) at 39.

[137] ETI Ex. 7 (Guillot Reb.) at 4.

the Project, justifying the increased cost.[138] Other intervenors suggest that the cost estimates for Running Bear A, B, and C do not adequately reflect the cost to ETI for acquiring ROWs to cross IH 45 and through highly developed or due-to-be-developed areas[139] or that ETI could incur additional costs because Running Bear A, B, and C are not MISO-approved locations.[140] Another concern is the additional cost for constructing a transmission line across Lake Livingston. Mr. Guillot addressed this issue in his rebuttal testimony when he indicated that ETI has already factored in additional costs for crossing the lake in the estimated costs for those routes.[141]

The ALJs find that, from a purely cost perspective, any of the Focus Routes, with the exclusion of Route 26, are within ETI's funding limit and viable options for the Commission to approve for the Project, with Route 10 being the lowest in cost. However, the ALJs and the Commission are tasked with selecting a route that best meets all the factors, not just cost. In some cases, increases in cost may be justified if the end result is the selection of a better overall route.

6. Paralleling

Rule 25.101(b)(3)(B)(i)-(iii) requires consideration of the extent to which a new transmission line parallels existing compatible ROW, which includes existing

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[138] Dunwoody Reply Brief at 14.

[139] At the hearing, Mr. Guillot conceded that land acquisition costs exceed ETI's estimates for land costs associated with each alternative route. Tr. Vol. 1 at 225-29.

[140] Dunwoody Reply Brief at 14-15; Moran Minerals Initial Brief at 8; Caldwell Initial Brief at 28-35.

[141] ETI Ex. 7 (Guillot Reb.) at 12-13.

transmission facilities, road, highway, railroad, telephone utility ROW, and property lines or other natural or cultural features. The benefit being that there is less impact on land use.[142] All of the routes parallel some length of existing transmission line ROW and property boundaries.[143] Routing along existing ROW for the proposed alternative routes in the Application ranges from 11% for Route 30 to 31% for Route 26.[144] The ROW percentages for the Focus Routes are represented below:[145]

Route	Length	Length Parallel to ROW	Percentage
10	144.9	23.18	16%
10 MOD D	141.85	24.05	17%
25	142.02	24.25	17%
26	140.0	42.75	31%
31	134.57	21.59	16%
31 Mod B	136.34	21.52	16%
31 Mod C	134.78	24.64	18%
31 Mod D	135.20	24.48	18%
37	136.88	27.33	20%
JSN 37 Mod	138.39	26.10	19%

All of the parties acknowledge that none of the 34 alternative routes in the Application nor the six additionally developed Focus Routes perform very well

[142] ETI Ex. 1 (Application), attach. 1 (EA) at 235.

[143] ETI Ex. 1C (Application Attachment 1 EA Tables 4-1, 4-2, and 4-3 Errata No. 2).

[144] ETI Ex. 1C (Application Attachment 1 EA Tables 4-1, 4-2, and 4-3 Errata No. 2).

[145] Clear Fork Creek Ex. 29 (Focus Routes Table and Route Composition) at 2; Neskora Ex. 10 (SETEX Area Reliability-Tables 4-1-20250502 Focus Routes_wCost.xlsx). All lengths are designated in miles.

regarding paralleling.[146] According to Mr. McClanahan, the size and constraints of the Project and the layout and shape of the study area made it more difficult to follow other existing compatible ROWs or property lines for the entirety of any route.[147]

7. Impact on Community and Landowners

Per Rule 25.101(b)(3)(B), a new transmission 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 parties' contentions regarding prudent avoidance, community values, aesthetics, historical resources, and the environment incorporate their positions on the best way to moderate the impact.

ETI suggests that, by seeking public comment and reaching out to regulatory agencies, county and municipal officials, and other organizations, it was able to use the comments received and make adjustments to alternative segments to address areas of concern and moderate the impact on the community.[148] All of the intervenors participating in this proceeding presented suggestions on how to moderate the impact on the community, generally to the betterment of their individual property. These suggestions essentially divided into two groups, those in favor of a route to the north of Lake Livingston versus those in favor of a route to the south of the lake. The one thing that everyone appears to agree on is the use of Running Bear D. Since

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[146] *See* Caldwell Ex. 1 (Andrews Dir.) at 31; Tr. Vol. 3 at 78.

[147] ETI Ex. 8 (McClanahan Reb.) at 17.

[148] ETI Initial Brief at 48-49.

everyone seems to agree over the use of this substation, its use may be one way of moderating the impact to the community.

The ALJs acknowledge that all transmission line routes will have a negative impact on individual landowners, and the selection of one route over another simply shifts that negative impact from one landowner to another. That said, the ALJs recommend that the best routes for moderating the impact on landowners and the community would be Routes 10 MOD D or 25. Both of these routes utilize Running Bear D; have the second and third lowest number of habitable structures within 300/500 feet of the centerline for the Focus Routes, respectively; have comparable aesthetics and cultural resource impacts with other Focus Routes; and generally perform better ecologically.[149]

8. Engineering Constraints

ETI and Staff did not identify any engineering constraints that would prevent construction of any of the alternative routes, proposed segments, or substations.[150] According to Ms. Ghanem, any engineering constraint that may arise can be adequately addressed by design and construction practices that are standard in the utility industry.[151] Over the course of the proceeding, various intervenors raised

[149] *See* Clear Fork Creek Ex. 29 (Focus Routes Table and Route Composition) at 2; Neskora Ex. 10 (SETEX Area Reliability-Tables 4-1-20250502 Focus Routes_wCost.xlsx).

[150] Tr. Vol. 1 at 189; Staff Ex. 3 (Second Errata Ghanem Dir.) at 36.

[151] Staff Ex. 3 (Second Errata Ghanem Dir.) at 36.

concerns over possible engineering constraints that could affect construction of the Project. The following is a discussion of those concerns.

a) General Safety Concerns

Several intervenors raised general safety concerns regarding the 500 kV transmission line.[152] In response to these concerns, Mr. Guillot asserted that safety is a top priority for ETI and that ETI understands the importance of constructing and operating transmission facilities in a safe manner.[153] According to Mr. Guillot, the chosen route will be designed by professional engineers who are obligated to design the line in a manner to protect the health, safety, and general welfare of the public and within the standards of the National Electrical Safety Code (NESC).[154]

The ALJs find that there are no unusual engineering constraints due to general safety issues. No transmission line can be constructed or operated without risks to the health and safety of the public. All that can be done is to make sure that the appropriate standards and requirements are complied with, as ETI has indicated it will do.

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[152] *See, e.g.*, Barrett's Landing Ex. 2 (Peppercorn Dir.) at 18; Clear Fork Creek Ex. 2 (D'Entremont Dir.) at 18; H/FW Ex. 1 (Lydick Dir.) at 5.

[153] ETI Ex. 7 (Guillot Reb.) at 6.

[154] ETI Ex. 7 (Guillot Reb.) at 6.

b) Highway Crossings

The Dunwoody Family raises concerns regarding highway crossings if Running Bear A, B, or C are utilized. Any route that uses one of these substations will have to cross IH 45 and Highway 75.[155] According to Mark Anderson, who testified on behalf of the Dunwoody Family, crossing these highways could raise technical concerns for ETI including overhead clearance issues, meeting Texas Department of Transportation (TXDOT) requirements, and dealing with highway expansions.[156] Mr. Anderson stated that these issues can be avoided by selecting a route that utilizes Running Bear D.[157]

ETI counters that transmission lines routinely cross highways.[158] All of the highway crossings involved in this proceeding were reviewed by ETI's and POWER's engineering and management teams and are able to be constructed.[159] Mr. Guillot explained that ETI currently owns and operates multiple transmission lines that cross IH 45 within the study area and confirmed that ETI will meet or exceed the requirements of NESC and TXDOT.[160]

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[155] *See* Neskora Ex. 11 (Substitute SETEX Area Reliability-Updated Focus Routes Map).

[156] Dunwoody-Moran Ex. 2 (Anderson Dir.) at 13-14.

[157] Dunwoody-Moran Ex. 2 (Anderson Dir.) at 14.

[158] ETI Ex. 8 (McClanahan Reb.) at 90.

[159] ETI Ex. 8 (McClanahan Reb.) at 90.

[160] ETI Ex. 7 (Guillot Reb.) at 16.

The ALJs acknowledge the Dunwoody Family's concern about the crossing of IH 45 and Highway 75. However, the ALJs agree with ETI that this concern is overstated. ETI is aware of the technicalities of constructing a transmission line over a major highway, and the Dunwoody Family has not presented evidence to the contrary. Therefore, the ALJs find that there is no basis for ruling out any available route simply because it crosses IH 45 or Highway 75.

c) Lake Crossings

Some intervenors assert that crossing Lake Livingston creates "unnecessary complexities and the potential for unforeseen constraints" and significant safety risks.[161] For context, the Focus Routes traversing the north end of the lake utilize Segments 82c or 90.[162] Segment 82c crosses the lake one mile north of ETI's current 183 kV transmission line circuits crossing the lake, while Segment 90 crosses about two miles south of the circuits.[163] According to Mr. Guillot, both of these segments would be north of the Highway 190 bridge and the main area of the lake.[164] James Orosz, testifying on behalf of the Underwood Parties regarding Segments 82c and 90, identified several safety concerns over constructing a 500 kV transmission line across Lake Livingston, including lines falling into the water, electrocution

[161] John S. Neal Initial Brief at 17; Underwood Parties Initial Brief at 11.

[162] Underwood Parties Ex. 6 (Orosz Dir.) at 4.

[163] ETI Ex. 7 (Guillot Reb.) at 9.

[164] ETI Ex. 7 (Guillot Reb.) at 9.

hazards, hazards to aircraft, hazards to boats, and attractive nuisance.[165] In his opinion, the safer option would be to construct the transmission line over land.[166]

ETI counters that it has extensive experience in constructing and maintaining transmission lines of various voltages, including 500 kV, across lakes, rivers, and other waterbodies in Texas and other states, including nearby Lake Conroe.[167] According to Mr. Guillot, consistent with PURA section 38.004(b), the transmission line will be designed and constructed in accordance with ETI's design standards and meet or exceed NESC requirements, including increased clearance and with structures in shallow waters to avoid the deeper main channel.[168]

In addressing Mr. Orosz's contentions, ETI asserts that his concerns are general in nature and were not based on an examination of any particular design plan.[169] Mr. Guillot stated that many of Mr. Orosz's concerns also apply to land crossings.[170] Mr. Guillot acknowledged that ETI cannot eliminate all risks associated with constructing the transmission line over Lake Livingston but that risks could be mitigated with standard protection and control systems.[171]

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[165] Underwood Parties Ex. 6 (Orosz Dir.) at 5.

[166] Underwood Parties Ex. 6 (Orosz Dir.) at 5.

[167] ETI Ex. 8 (McClanahan Reb.) at 29, 37.

[168] ETI Ex. 7 (Guillot Reb.) at 9-10.

[169] ETI Ex. 7 (Guillot Reb.) at 10.

[170] ETI Ex. 7 (Guillot Reb.) at 10.

[171] ETI Ex. 7 (Guillot Reb.) at 10.

The ALJs find that there are no unusual engineering constraints with constructing a 500 kV transmission line over the north end of Lake Livingston. ETI, which already successfully owns and operates transmission lines traversing the lake, is familiar with the complexities of such a task. Nothing in the record suggests that ETI would not be able to navigate any issues that may arise.

d) Earthen Dams

Certain intervenors raise concerns over the Project's potential impact on two earthen dams in the study area, Carter Lake Dam and Dunwoody Lake Dam.[172]

Regarding the Carter Lake Dam, Thomas Carter, Jr. expressed concern regarding the impact of Segment 128 on the dam.[173] According to Mr. Carter, the dam is anchored by massive pine trees, and Project construction in the area requiring removal of the trees could affect the dam's structural integrity.[174] Mr. Guillot explained that ETI does not expect there to be any impacts on the integrity of the dam as Segment 128 is more than 400 feet from the base of the dam.[175] ETI would take steps to conduct a geotechnical evaluation of the dam and use methods to mitigate any concerns during the foundation and line installations.[176] He further

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[172] *See* Barrett's Landing Ex. 16 (Carter Dir.) at 8; Dunwoody Family Initial Brief at 16.

[173] Barrett's Landing Ex. 16 (Carter Dir.) at 8.

[174] Barrett's Landing Ex. 16 (Carter Dir.) at 8.

[175] ETI Ex. 7 (Guillot Reb.) at 8.

[176] ETI Ex. 7 (Guillot Reb.) at 8.

explained that steps would also be taken to address water runoff during construction.[177]

Mr. Anderson explained that the Dunwoody Lake Dam—potentially impacted by the use of Segments 19b, 21, or 24—is identified by the Texas Commission on Environmental Quality (TCEQ) as a "significant hazard dam" and, therefore, should be avoided.[178] According to David Dunwoody, Sr., the dam is classified as a "significant hazard dam" because of a critical rail line behind Dunwoody Lake.[179] Mr. Guillot explained that the same steps ETI plans to take with the Carter Lake Dam would be utilized in dealing with the Dunwoody Lake Dam and that there would be sufficient clearance for any equipment to traverse the dam should it require repairs.[180]

The ALJs find that, regarding construction in the areas of these earthen dams, there are no unusual engineering constraints. ETI asserts that it will evaluate and take all necessary steps to mitigate any issues that could impact the structural integrity to either dam.

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[177] ETI Ex. 7 (Guillot Reb.) at 8.

[178] Dunwoody-Moran Ex. 2 (Anderson Dir.) at 16.

[179] Dunwoody-Moran Ex. 1 (Dunwoody Dir.) at 21.

[180] ETI Ex. 7 (Guillot Reb.) at 15.

9. Prudent Avoidance

Commission rules define "prudent avoidance" as "[t]he limiting of exposures to electric and magnetic fields that can be avoided with reasonable investments of money and effort."[181] Limiting exposure to electric and magnetic fields can be accomplished by choosing a route that avoids population centers and other locations where people gather and that minimizes, to the extent reasonable, the number of habitable structures in close proximity to the proposed routes.[182] Prudent avoidance does not mean that a proposed transmission line must avoid habitable structures at all costs, but that reasonable alternatives must be considered.[183]

Mr. McClanahan stated that all of the routes considered in the EA conform to the Commission's policy of prudent avoidance as they reflect reasonable investments of money and effort to limit exposure to electric and magnetic fields.[184] All of the proposed alternative routes, including the identified Focus Routes, have habitable structures located within 500 feet of the centerline of the proposed 500 kV facilities and/or 300 feet of the proposed 230 or 138 kV transmission facilities.[185] As indicated in the chart below, of the identified Focus Routes, Route 10 has the least number of

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[181] 16 Tex. Admin. Code § 25.101(a)(6).

[182] ETI Ex. 4 (McClanahan Dir.) at 42-43; Staff Ex. 3 (Second Errata Ghanem Dir.) at 42-43.

[183] ETI Ex. 4 (McClanahan Dir.) at 43.

[184] ETI Ex. 4 (McClanahan Dir.) at 43.

[185] ETI Ex. 1C (Application Attachment 1 EA Tables 4-1, 4-2, and 4-3 Errata No. 2); Neskora Ex. 10 (SETEX Area Reliability-Tables 4-1-20250502 Focus Routes_wCost.xlsx).

habitable structures within 500/300 feet of the centerline, at 48; while Route 26 has the most with 149.[186]

Route	Number of Habitable Structures
10	48
10 MOD D	54
25	52
26	149
31	91
31 Mod B	66
31 Mod C	81
31 Mod D	70
37	76
JSN 37 Mod	67

Several intervenors presented arguments in favor of certain routes over other identified routes regarding prudent avoidance. These arguments generally focused on Route 26 versus other proposed routes. Of note, Barrett's Landing, in arguing in favor of Route 26, asserts that many of the other proposed routes used excessive fragmentation in order to reduce the habitable structure count.[187] Specifically, Barrett's Landing notes that Route 10 includes 121.72 miles of new disturbance, whereas Route 26 paralleled more existing ROWs resulting in less fragmentation.[188] According to Dr. Turnbough, 78 of the 149 habitable structures identified in Route 26 are already within 500 feet of paralleling compatible ROWs, with 34 of those

[186] Neskora Ex. 10 (SETEX Area Reliability-Tables 4-1-20250502 Focus Routes_wCost.xlsx).

[187] Barrett's Landing Initial Brief at 27.

[188] *See* Barrett's Landing Ex. 17 (Turnbough Dir.) at 17, 27.

within existing electric ROWs, thus, they are already impacted.[189] However, other intervenors,[190] in arguing against Route 26, counter that, even with the removal of 78 habitable structures from the 149 identified habitable structures, there remain 71 previously unexposed habitable structures, more than some of the other identified Focus Routes, and for a significantly greater cost.

The ALJs find that Routes 10, 10 MOD D, and 25 perform best to conform to the Commission's policy of prudent avoidance.

10. Additional Routing Concerns

a) Electronic Communication Facilities

None of the alternative routes or Focus Routes have any AM radio transmitters within 10,000 feet of the centerlines of the routes; however, all of the alternative routes and Focus Routes have FM radio transmitters within 2,000 feet of their centerlines, with a range of three to 16 and five to 14, respectively.[191] There is nothing in the evidentiary record that any electronic communication facilities will be impacted by any of the proposed routes.

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[189] Tr. Vol. 3 at 92-94.

[190] Clear Fork Creek Alliance's Reply Brief at 33-34; Neskora Reply Brief at 25.

[191] ETI Ex. 1C (Application Attachment 1 EA Tables 4-1, 4-2, and 4-3 Errata No. 2); Neskora Ex. 10 (SETEX Area Reliability-Tables 4-1-20250502 Focus Routes_wCost.xlsx).

b) Aviation Facilities

There are no FAA-registered public-use or military airports having at least one runway over 3,200 feet in length within 20,000 feet of any of the proposed routes; no FAA-registered public-use airports having runways under 3,200 feet in length within 10,000 feet of the proposed routes; and no public or private-use heliports within 5,000 feet of any of the proposed routes.[192] Pursuant to 14 Code of Federal Regulations (CFR) section 77.9(d), private-use airports are not subject to 14 CFR section 77.9 notification requirements unless they are listed in the Airport Facility Directory. The number of private-use airstrips within 10,000 feet of the alternative routes ranges from zero to five.[193] All of the Focus Routes have at least one private-use airstrip within 10,000 feet of the line.[194] None of the identified private-use airstrips are in the Airport Facility Directory and, therefore, they are not subject to notification requirements under 14 CFR section 77.9. No evidence was presented to refute these facts.

c) MISO Scope of Approval for Running Bear A, B, C, or D

As previously noted, the Project entails the use of one Running Bear substation, which has four designated potential site locations identified as A, B, C, or D. There appears to be universal consensus among the intervenors that

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[192] ETI Ex. 1C (Application Attachment 1 EA Tables 4-1, 4-2, and 4-3 Errata No. 2); Neskora Ex. 10 (SETEX Area Reliability-Tables 4-1-20250502 Focus Routes_wCost.xlsx).

[193] ETI Ex. 1C (Application Attachment 1 EA Tables 4-1, 4-2, and 4-3 Errata No. 2).

[194] Neskora Ex. 10 (SETEX Area Reliability-Tables 4-1-20250502 Focus Routes_wCost.xlsx).

Running Bear D is the optimal choice, with individuals advocating for the use of different route segments connecting to the substation.[195]

One of the issues raised by intervenors is that only Running Bear D is included in the Project description presented to MISO and reflected in the 2023 MISO Transmission Expansion Plan.[196] Chad Ladner, testifying on behalf of ETI, admitted that sites A, B, and C were not submitted to or evaluated and approved by MISO.[197] Therefore, should the Commission select a route using any substation site other than Running Bear D (i.e., only Route 10 of the Focus Routes), ETI would be required to return to MISO for approval of that site location.[198]

ETI counters that the intervenor concerns regarding MISO's Running Bear site approval is not a solid reason for excluding Running Bear A, B, or C from the Commission's consideration. Mr. Ladner opined that there would be no issue getting MISO approval for the use of Running Bear A, B, or C, as coordinating such changes is not uncommon and is "part of ETI's standard practice."[199]

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[195] ETI Reply Brief at 3.

[196] *See, e.g.*, Caldwell Companies Initial Brief at 7, 11-14; Dunwoody Family Initial Brief at 3, 5-11; Moran Minerals Initial Brief at 1, 3-4; Darnells Initial Brief at 3, 8-9; Underwood Parties Initial Brief at 14.

[197] Tr. Vol. 2 at 67; Tr. Vol. 3 at 184.

[198] Tr. Vol. 3 at 184-85.

[199] ETI Ex. 6 (Ladner Reb.) at 6.

d) Land Use

The Caldwell Companies advocate for the use of Running Bear D as it does not impact their land use plan, specifically with regard to the development of the Chambers Creek community.[200] ETI suggests that it has given appropriate consideration to the development plans for Chambers Creek, which it considers to be future land use.[201] During the hearing, Mr. McClanahan would not agree that Chambers Creek was an ongoing development.[202] Further, ETI asserts that transmission lines and residential development can coexist.[203]

The Caldwell Companies assert that Chambers Creek is not a future development, but a current ongoing development. According to Fred Caldwell, Chambers Creek would be affected by Segments 1, 2, 3, 4, 5, and 6.[204] He testified that Chambers Creek, located at the western edge of the study area, has 3,000 planned home sites, 400 occupied homes, a high-end golf course, and an amenities center for resident use.[205] Caldwell Companies witness Evin Wilkerson noted that currently homes are being built within 300 and 500 feet of Segment 6.[206]

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[200] Caldwell Companies Initial Brief at 40-41; Caldwell Companies Reply Brief at 16-19.

[201] ETI Reply Brief at 7.

[202] Tr. Vol. 3 at 191.

[203] ETI Initial Brief at 57.

[204] Caldwell Companies Ex. 4 (Caldwell Dir.) at 18.

[205] Caldwell Companies Ex. 4 (Caldwell Dir.) at 16-18.

[206] Caldwell Companies Ex. 5 (Wilkerson Dir.) at 19.

The question here is whether the development of Chambers Creek should be considered future land use, which is not typically a factor the Commission considers when making a route selection. Based on the evidence presented, the ALJs find that Chambers Creek is not future land use, but a current and ongoing development. The ALJs agree with ETI that transmission lines and residential development can coexist. However, as argued by the Caldwell Companies, this is not a case of a developer acquiring land near already constructed utility facilities. In this instance, Caldwell Companies is actively developing the community and ETI seeks to construct utility facilities that will directly impact that community. Therefore, the ALJs find that the Commission should give due consideration to the Chambers Creek ongoing development.

11. Summary of Routing Recommendation

Based on the routing factors as addressed above, the ALJs recommend that the Commission approve Route 10 MOD D. This route utilizes Running Bear D, thereby avoiding any issues with MISO approval. Running Bear D is also the preference of nearly every party to this proceeding. Additionally, this route will avoid any of the ongoing land development issues involving the Chambers Creek community and utilizes Segment 82c, which moves the line further north from the main channel of Lake Livingston.

Ultimately, all the Focus Routes are feasible and constructible. For many of the routing factors, each Focus Route performs comparably with the other Focus Routes. During this proceeding, parties generally aligned based on how the

transmission line would traverse the Trinity River. Of the 10 Focus Routes, nine, including Route 10 MOD D, cross the Trinity River at the north end of Lake Livingston. While Route 10 MOD D has a longer length and higher estimated cost than many of the other northern routes, it ranks third best for the number of habitable structures within 300/500 feet of the centerline, at 54; and performs comparably to the other eight northern routes regarding other land use factors, aesthetic factors, cultural factors, and most of the ecological factors.[207] Route 10 MOD D is also tied for first for least acreage of NWI mapped forested scrub/shrub wetlands crossed by the routes.

Advocates for Route 26, which crosses the Trinity River south of Lake Livingston, cite the engineering complexities along with the environmental impacts of crossing the river at the north end of the lake. However, when looking at all the relevant factors, the ALJs find that Route 10 MOD D performs better than Route 26. First and foremost, the most important factor for the general public was proximity to habitable structures. For 10 MOD D, 54 habitable structures were identified within 300/500 feet of the route centerline, compared to 149 for Route 26. The ALJs acknowledge that Route 26 performs better than Route 10 MOD D in terms of paralleling ROWs; however, this is the only factor where it significantly does so. Route 10 MOD D is superior to Route 26 with an estimated lower cost by more than $48 million; better performance across all aesthetic factors identified on the EA; and better performance on many of the ecological factors identified on the EA.[208]

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[207] *See* Neskora Ex. 10 (SETEX Area Reliability-Tables 4-1-20250502 Focus Routes_wCost.xlsx).

[208] *See* Neskora Ex. 10 (SETEX Area Reliability-Tables 4-1-20250502 Focus Routes_wCost.xlsx).

Accordingly, the ALJs conclude that Route 10 MOD D is the best performing route to meet the criteria set forth in PURA and Commission Rules.

VIII. OTHER PRELIMINARY ORDER ISSUES

A. PERMITTING CONCERNS[209]

ETI states that it anticipates the need to obtain various permits and approvals associated with construction and operation of the proposed transmission line.[210] These include, but are not limited to, the following:

- **TXDOT Permits:** ETI will obtain permits from TXDOT for any crossings of, or access to, state-maintained roads or highways.
- **Local Permits:** Following route approval by the Commission, ETI will identify and secure any necessary permits or clearances from affected counties and municipalities.
- **Floodplain Permits:** For any segments traversing designated floodplains, ETI will obtain permits from the appropriate county floodplain administrators prior to construction.
- **Stormwater Compliance:** ETI will prepare a Stormwater Pollution Prevention Plan and implement erosion controls and Best Management Practices (BMPs) to mitigate soil erosion and off-site sedimentation. ETI will file a Notice of Intent with the TCEQ and will regularly monitor and maintain erosion control measures throughout construction.
- **Federal and State Regulatory Approvals:** ETI will evaluate the final, Commission-approved route to determine the need for

[209] *See* Preliminary Order Issue No. 17.

[210] ETI Initial Brief at 66-67.

approvals from the U.S. Army Corps of Engineers (USACE), the Texas Historical Commission/State Historic Preservation Officer, and USFWS.

- **Construction Reporting:** ETI will report the Project's status in its Monthly Construction Progress Reports.
- **General Land Office Easements:** If the approved route crosses state-owned riverbeds or tidally influenced waters, ETI will obtain a miscellaneous easement from the Texas General Land Office.
- **River Authority Coordination:** ETI will coordinate with, and obtain any required easements or permits from, the Trinity River Authority of Texas and the Angelina & Neches River Authority for crossings of the Trinity, Angelina, and Neches Rivers.

Barrett's Landing argues that ETI would be unable to timely obtain environmental permits to construct transmission lines across Lake Livingston using Segments 82c or 90.[211] ETI responds that these claims rest on the mistaken premise that installing transmission foundations in the lake would constitute a "discharge of dredged or fill material," thereby triggering a lengthy permitting process under Section 404 of the Clean Water Act and potentially requiring a full Environmental Impact Statement (EIS).[212]

Barrett's Landing's assumptions, according to ETI, are contrary to applicable law, agency practice, and uncontroverted record evidence. ETI intends to use vibratory caisson foundations, which do not discharge or have the effect of discharging fill material into waters of the United States and are expressly exempt

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[211] Barrett's Landing Initial Brief at 34-41.

[212] ETI Reply Brief at 45.

from Section 404 permitting under 33 C.F.R. section 323.3(c)(2). Further, USACE Nationwide Permit 57 specifically authorizes transmission line construction activities in waters of the United States provided that minimal thresholds are met, which ETI anticipates satisfying.

Moreover, according to ETI, there is no evidentiary support for Barrett's Landing's claim that vibratory caisson installation would disturb toxic sediments, release PCBs[213] or dioxins, or otherwise degrade water quality. Nor is there any basis for the assertion that an EIS would be required, even if an Individual Permit were pursued with the USACE. ETI emphasized that ETI and its affiliates have decades of experience constructing transmission lines across major water bodies throughout the region without ever being required to prepare an EIS.[214]

The ALJs find that ETI has accounted for permitting and mitigation in its cost estimates, and that permitting a route across Lake Livingston via Segment 82c or 90, such as Route 10 MOD D, is feasible and does not present a bar to timely project completion. Barrett's Landing's contrary assertions are unsupported by the evidentiary record.

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[213] PCBs refers to polychlorinated biphenyls.

[214] *See* ETI Reply Brief at 49-51.

B. TPWD RECOMMENDATIONS[215]

TPWD provided information and recommendations regarding the Project's study area to POWER on September 28, 2023, including a list of regulations pertaining to the Project and a number of recommendations for the Project to comply with these regulations.[216] On April 17, 2025, TPWD filed, in this docket, a letter containing its comments and recommendations regarding the Project and the proposed alternative routes in the Application.[217] TPWD is not a party to the proceeding but made its recommendations pursuant to TPWC § 12.0011(b)(2)-(3).

Utilizing 19 of the 47 factors included in Table 4-1 of the EA attached to the Application, TPWD identified Route 10 as having the least potential impact to fish and wildlife resources.[218] As part of the analysis, TPWD excluded any of the 34 routes that made use of Running Bear D and Babel A on the basis that these station locations would have a higher level of impact on bottomland/riparian forest and upland forest habitats.[219] Of the remaining routes, TPWD recommends Route 10 because it is seventh for longest length of the route parallel to other existing compatible ROWs, at 4.15 miles; tied with five other routes for shortest length within foreground visual zone of park/recreational areas, at 0.94 miles; fourth for shortest

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[215] *See* Preliminary Order Issue No. 16.

[216] ETI Ex. 1 (Application), attach. 1 (EA), Appendix A at 357-69.

[217] Clear Fork Creek Alliance Ex. 17 (Corrected TPWD Letter PUC Docket 57648 (Apr. 17, 2025)).

[218] Clear Fork Creek Alliance Ex. 17 (Corrected TPWD Letter PUC Docket 57648 (Apr. 17, 2025)) at 6.

[219] Clear Fork Creek Alliance Ex. 17 (Corrected TPWD Letter PUC Docket 57648 (Apr. 17, 2025)) at 5. TPWD excluded consideration of Routes 1, 2, 8, 9, 15, 16, 21, 22, 23, 24, 25, 26, 27, 28, 31, and 34.

length across NWI mapped forested or scrub/shrub wetlands, at 35.99 acres; tied with one route for tenth least amount of NWI mapped emergent wetlands crossed, at 10.80 acres; tied with four other routes for the shortest length through USFWS proposed critical habitats; and does not cross any conservation easements.[220]

The purpose of TPWD's recommendation and comments is to facilitate incorporation of BMPs[221] during construction, operation, and maintenance of the Project to assist ETI in minimizing impacts to natural resources.[222] TPWD set forth 14 BMPs that it recommends ETI implement "when specifically applicable to the Project."[223] TPWD's BMPs are intended to be implemented in addition to the Commission's standard management practices for constructing and operating transmission facilities.[224] ETI contends the comments and recommendations expressed by TPWD will be sufficiently addressed by the implementation of the mitigation measures and BMPs set forth in the EA, which are those typically included in the Commission's final orders.[225] ETI further contends that, when needed, it will consult with TPWD as the Project progresses.[226]

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[220] Clear Fork Creek Alliance Ex. 17 (Corrected TPWD Letter PUC Docket 57648 (Apr. 17, 2025)) at 6.

[221] In its letter of April 17, 2025, TPWD uses the term "beneficial management practices."

[222] Clear Fork Creek Alliance Ex. 17 (Corrected TPWD Letter PUC Docket 57648 (Apr. 17, 2025)) at 1.

[223] Clear Fork Creek Alliance Ex. 17 (Corrected TPWD Letter PUC Docket 57648 (Apr. 17, 2025)) at 7-8.

[224] *See* Clear Fork Creek Alliance Ex. 17 (Corrected TPWD Letter PUC Docket 57648 (Apr. 17, 2025)) at 7-8.

[225] ETI Ex. 8 (McClanahan Reb.) at 108.

[226] ETI Ex. 1 (Application), attach. 1 (EA) at 72; ETI Ex. 8 (McClanahan Reb.) at 29.

Several intervenors took issue with TPWD's recommendation of Route 10.[227] Specifically, these intervenors note that TPWD excluded from consideration 16 of the 34 proposed alternative routes on the basis that they utilized Running Bear D or Babel A and that TPWD did not evaluate any of the identified Focus Routes that were developed during the course of this proceeding and not originally part of the Application.[228] As several of these intervenors point out, the omitted Focus Routes (utilizing Running Bear D and/or Babel A), in some instances, performed the same as or better than Route 10 on the factors TPWD used in choosing Route 10.[229] Additionally, these intervenors note that TPWD's reason for excluding Running Bear D and Babel A was due to the effects these stations would have on bottomland/riparian forest and upland forest habitats, yet some of the omitted Focus Routes were less in length across these areas than Route 10. As such, these intervenors contend that TPWD erroneously excluded routes from consideration resulting in a flawed analysis and that the Commission should not adopt TPWD's recommendations.

The ALJs note that TPWD's comments and recommendations are not binding, and environmental integrity is only one of an array of routing factors for the Commission to consider. The ALJs recommend that the Commission not adopt the recommendations of TPWD, as there is no justification in the record for the need or

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[227] *See* Barrett's Landing Initial and Reply Briefs; the Caldwell Companies Initial and Reply Briefs; Dunwoody Initial and Reply Briefs; John S. Neal Initial Brief; and SE Texas Opportunity Initial Brief.

[228] Of the identified Focus Routes, only Routes 10, 25, 26, and 31 were part of the 34 proposed alternative routes provided in the Application.

[229] *See* Neskora Ex. 10 (SETEX Area Reliability-Tables 4-1-20250502 Focus Routes_wCost.xlsx).

potential benefit of implementing the additional BMPs. The Commission's standard management practices address many of the measures proposed by TPWD and will be adequate for the Project. Accordingly, the ALJs recommend the Commission order ETI to implement the Commission's standard management practices.

IX. CONCLUSION

Based on the foregoing, the ALJs recommend that the Commission approve Route 10 MOD D for the Project. They further find that the Commission's proposed seven-year limit is sufficient to safely and reliably construct and energize the Project in accordance with the Commission's standard BMPs.

In support of these recommendations, the ALJs provide the following findings of fact, conclusions of law, and proposed ordering paragraphs.

X. FINDINGS OF FACT

Applicant

1. Entergy Texas, Inc. (ETI) is a Texas corporation registered with the Texas Secretary of State under filing number 800911623.

2. ETI owns and operates, for compensation, facilities and equipment to generate, transmit, distribute, and sell electricity in Texas.

3. ETI holds Certificate of Convenience and Necessity (CCN) number 30076 to provide electric service to the public.

Application

4. On February 19, 2025, ETI filed an application (Application) with the Public Utility Commission of Texas (Commission) to amend its CCN for the proposed SETEX Area Reliability Project to construct, own, and operate a 500 kilovolt (kV) transmission line in Jasper, Montgomery, Newton, Polk, San Jacinto, Trinity, Tyler, and Walker Counties (Project).

5. ETI hired POWER Engineers, Inc. (POWER) to prepare an Environmental Assessment and Alternative Route Analysis (EA) for the Project, which was included as part of the Application.

6. On March 19, 2025, staff (Staff) for the Commission recommended that the Application be found sufficient.

7. In State Office of Administrative Hearings (SOAH) Order No. 3, issued April 24, 2025, the administrative law judges (ALJs) found the Application sufficient.

Project Description

8. ETI proposes to construct a new single-circuit 500 kV transmission line and related 138 kV and 230 kV facilities in Jasper, Montgomery, Newton, Polk, San Jacinto, Trinity, Tyler, and Walker Counties. The proposed new 500 kV transmission line will connect the proposed Babel 500 kV Switching Station (Babel) to the proposed Running Bear Substation (Running Bear).

9. On the east side of the Project, the proposed Babel station will be constructed at one of three potential locations (A, B, or C) that will connect into the existing Layfield to Hartburg 500 kV transmission line south of the Toledo Bend Reservoir in Newton County.

10. On the west side of the Project, the proposed Running Bear substation will be constructed at one of four potential locations (A, B, C, or D) that will connect via 138 kV and 230 kV transmission line extensions, as needed, into either (a) ETI's existing Lewis Creek facilities along Longstreet Road between Lake Conroe and Interstate Highway 45 or (b) ETI's existing transmission

facilities east of Willis between Farm-to-Market (FM) Road 1097 and County Line Road in Montgomery County.

11. The new transmission line will be between approximately 131.2 to 159.8 miles in length, depending on the route selected, and will typically require a 225-foot-wide right-of-way (ROW) for the areas where ETI will construct a 500 kV transmission line and a 125-foot-wide ROW in the areas where ETI will construct 230 kV or 138 kV extensions.

12. ETI plans to construct the transmission line on steel single-circuit structures, either tubular steel H-frames or self-supporting or guyed lattice towers as typical structures. The 138/230 kV extensions that will interconnect substation yards or substation facilities to the existing transmission lines will likely be constructed using steel monopole structures.

13. The typical structures will be between 75 and 170 feet above grade. The typical width of the 500 kV ROW will be 225 feet wide. The typical width of the 138 kV and 230 kV ROW will be 125- to 250-feet-wide, depending on the voltage, location, and number of circuits in the ROW.

14. Depending on clearance circumstances, the estimated maximum height of structures is 195 feet. However, there could be structures that exceed this height at certain locations with longer spans or additional clearance requirements, such as highways or major waterways.

15. ETI plans to use 954-kilocircular-mil aluminum-conductor-steel-reinforced conductors, with three wires per phase, having a continuous summer static current rating of 3,000 amperes and a continuous summer static line capacity of 2,598 megavolt amperes at 500 kV.

16. ETI will own 100% of the proposed transmission facilities.

17. ETI estimated that it would acquire all ROWs and land needed by March 2027, finalize engineering and design by December 2027, procure material and equipment by October 2027, complete construction of facilities by August 2029, and energize the transmission facilities approved by this Order by December 2029.

Public Notice and Input

18. To develop information on community values for the proposed transmission facilities, ETI and POWER hosted four public meetings. The first three meetings were held on May 7, 8, and 9, 2024, at the Polk County Commerce Center in Livingston, the Willis Community Center in Willis, and the Lone Star Community Center in Jasper, respectively. ETI and POWER held the fourth public meeting at the Polk County Commerce Center in Livingston on June 18, 2024.

19. A public meeting notice was provided to landowners who own property located within 510 feet of the preliminary alternative link centerlines. In total, 8,050 invitation letters to landowners were sent in advance of the open house meetings.

20. The open house invitation letters included a map of the study area depicting the preliminary alternative route segments, a brochure, a list of frequently asked questions, and a questionnaire.

21. On April 17 and May 30, 2024, notice regarding the public meetings was provided to the United States Department of Defense Siting Clearinghouse.

22. A total of 558 individuals attended the public open house meetings, with 93 questionnaire responses submitted upon conclusion of the public meetings. An additional 265 questionnaires were received from landowners after the public meetings. A total of 358 questionnaires were received including 89 duplicate submittals. In total, 269 questionnaires were reviewed and analyzed.

23. POWER contacted federal, state, and local regulatory agencies, elected officials, and organizations regarding the proposed transmission facilities. Copies of correspondence with the various state and federal regulatory agencies and local and county officials and departments are included in appendix A of the EA.

24. Information from landowners and from local, state, and federal agencies was considered and incorporated into the selection of recommended and alternative routes by ETI.

25. In response to comments and stakeholder input, several segments were modified.

Notice of the Application

26. On February 17 through 19, 2025, ETI sent written notice of its Application by first-class mail to each landowner, as stated on the current county tax rolls, in Jasper, Montgomery, Newton, Polk, San Jacinto, Trinity, Tyler, and Walker Counties, who could be directly affected by the transmission facilities on any of the routes.

27. On February 19, 2025, ETI sent written notice of its Application by first-class mail to: (a) each neighboring utility providing similar service within five miles of the routes; (b) county officials in Jasper, Montgomery, Newton, Polk, San Jacinto, Trinity, Tyler, and Walker Counties; (c) municipalities located within five miles of the routing options; and (d) the Office of Public Utility Counsel.

28. On February 19, 2025, ETI sent written notice of its Application by email and first-class mail to the United States Department of Defense Siting Clearinghouse.

29. On February 19, 2025, ETI sent a copy of its Application, including a copy of the environmental assessment, by first-class mail to the Texas Parks and Wildlife Department (TPWD).

30. On March 11, 2025, ETI filed the affidavit of Matt Forest, a project manager for Rampart, Inc., attesting to the provision of notice to the directly affected landowners.

31. On March 11, 2025, ETI filed the affidavit of Kenny Muhammad, Manager, West Region Customer Service for ETI, attesting to the provision of notice to the counties in which the proposed transmission facilities may be located and to the municipalities within five miles of the proposed transmission facilities.

32. On March 11, 2025, ETI filed the affidavit of Panagiotis Papadakis, a paralegal for ETI, attesting to the provision of notice to utilities providing similar service within five miles of the proposed transmission facilities; the United States

Department of Defense Siting Clearinghouse, the Office of Public Utility Counsel, and TPWD.

33. ETI published notice of the Application in newspapers as follows:

a. On February 19, 2025, in the *Montgomery County News*, which has general circulation in Montgomery County;

b. On February 20, 2025, in the *San Jacinto News Times*, which has general circulation in San Jacinto County;

c. On February 20, 2025, in the *Huntsville Item*, which has general circulation in Walker County;

d. On February 20, 2025, in the *Trinity County News Standard*, which has general circulation in Trinity County;

e. On February 20, 2025, in the *Tyler County Booster*, which has general circulation in Tyler County;;

f. On February 20, 2025, in the *Polk County Enterprise*, which has general circulation in Polk County;

g. On February 26, 2025, in the *East Montgomery County Observer* (Observer Group), which has general circulation in Montgomery, Polk, Trinity, San Jacinto, and Walker Counties;

h. On February 26, 2025, in the *Conroe Courier* (North Group), which has general circulation in Montgomery, Polk, Trinity, San Jacinto, and Walker Counties;

i. On February 26, 2025, in the *Jasper Newsboy*, which has general circulation in Jasper, Newton, and Tyler Counties; and

j. On February 26, 2025, in *The Woodlands Villager* (North Group), which has general circulation in San Jacinto, Montgomery, Polk, Trinity, and Walker Counties.

34. On March 11, 2025, ETI filed the affidavit of Kendra James, communications manager for ETI, attesting to the publication of notice.

35. On March 11, 2025, ETI filed publishers' affidavits attesting to the publication of notice of the Application.

36. In SOAH Order No. 3 filed on April 24, 2025, the ALJs found notice of the Application sufficient.

Referral to SOAH for Hearing

37. On February 20, 2025, the Commission referred this docket to SOAH and issued a preliminary order establishing a decision deadline and specifying issues to be addressed in this proceeding.

38. In SOAH Order No. 2 filed on March 10, 2025, the SOAH ALJs set the hearing on the merits for 9:00 a.m. on May 5, 2025, by videoconference.

39. The hearing convened by videoconference on May 5, 2025, and concluded on May 7, 2025.

40. Post-hearing initial briefs and reply briefs were filed on May 21 and May 28, 2025, respectively, after which the record closed.

Intervenors

41. In SOAH Order No. 3, filed on April 24, 2025, the ALJs granted the motions to intervene filed by: Caldwell Companies; Gordy Family Companies; Stoker Real Estate LP, and Clear Fork Creek Ranch, LLC; Blackhorse Farm, LLC; The Young Family Trust c/o Nicholas and Julie Young; R. Byron Roach; Jim Cline; W.R. and Sherry Baker; Janet L. Tallichet; Charles D. McMurrey, Jr.; John A. Few; Toni Cochran Hughes and Scott Hughes; J-T Cochran Family LP; John McMurrey; Brent and Susan Butler; Ann and Johnny Gonzalez; Dale Lutz - Log Creek Farms LLC; India and Robert Peden; James M. McMurrey; Brian and Tammy Adams; Danny and India Adams; Noel Aveton; Moran Minerals Company LP; SE Texas Opportunity Fund, LLC; Barrett's Landing; John S. Neal, individually, as Trustee of the Frances CC

Neal 2023 Trust, and as Power of Attorney for Frances R S Neal; The Dunwoody Family; The Neskora Parties; Russell Gordy; The Carter Family; Hawthorne Land, LLC; Republic Grand Ranch LLC; Texas Industrial Energy Consumers; SLT Farms, LLC and Stephen Tebo; Dwayne Vickery; Arthur Smalley; Authorized Representative Renee Howes for Republic Grand Ranch LLC; GarGon LLC and/or Richard or Nan Garcia; James and Emily Nunnery; Rock Creek Alliance; Hay Fever Ranch, LLC; Brian and Bobbi Snyder; Alexander Champagne; Benjamin Beradino; Eddy Ellisor; Lake Livingston Ranch, LLC, Coldspring Ranch LLC, and North Houston Land & Timber LLC; Sherrie Hartke; John Benestante; Debora Somuano; George Russell; The Ethician Foundation; The Universal Ethician Church; Russell Ministries; Herbert Melton; Nicholas W. Marek; Grant and Amber Darnell; Don Gardner and Patricia Murfin; Thomas B. McClelland, Jr.; Margaret Mature and the Estate of James Mature; Willie and Teressa Hoffart; Barbara and Robert Thornton; Trey and Christi Hall; William Marek; Billy Marek; Clifford M. Rowland III, Julia Renee Mastin, Magnolia Creek Ranch, LLC, MCR-Phase One, a Series of Magnolia Creek Ranch, LLC, MCR-Phase Two, a series of Magnolia Creek Ranch, LLC and the Rowland-Mastin Family Trust; Forrest and Lorelei Tharpe; Robert Fitz and Patricia Hulbert; Brian and Merridee Rodel; Matthew and Alexis Tower; Salome Kathleen Inglet; George Webster; Montgomery County Municipal Utility District No. 170 and Chambers Creek Community Association Inc., H/FW Timbers Partners; Brad and Sarah Parsons; Deborah Somuano; Texas Land Conservancy; Robbie Sherman; Sherley Partners Ltd.; Native Prairies Association of Texas; Cathy D'Entremont; Jeanette Carlton; Cindy Dishman; Beverly Jefferson; John C. Jefferson, Sr.; Steve Spurling; Minnie Zimmerman, Individually and as Co-Trustee of the Charles M. Zimmerman Family Trust; Merle C. Zimmerman, Individually and as Co-Trustee of the Charles M. Zimmerman Family Trust; Jason and Jennifer Laningham; Darlene Gipson; Michael Gipson; Margaret Sanford; Teresa Worley, on behalf of the estate of Tommie R. Sanford, Deceased; Daphne Perkins; Craig Godwin; Joseph E. Adams III; Joseph Adams; Heather Adams; Finca de Arboles, LLC; Joseph Adams III; Summit Operations Company, LLC, Calvary Utility Company, LLC, and WellCom Technologies Chambers, LP; Wayne McDermand, Individually and as Trustee of the Amanda L. McDermand Trust; Trinity River Authority of Texas; Craig

Godwin, Johnny F. Muller, Rebecca A. Muller, C. Muller Family Partnership LTD; Alexis Cartwright Tower; Brian Ard; and Barbara Thornton.

42. In SOAH Order No. 3, filed on April 24, 2025, the ALJs granted ETI's motion to dismiss the following intervenors for failing to show standing to intervene: Nicholas Brunson; Sheri and Gary Mitchell; Roxanne and Rodney Burns; Frank and Dawn Davis; Sy and Kim Yasa; Mary and Patricia Novark; Janet Joyce; James Beaird; Sane Yasa and Somsanuck Luangkhot; Jim and Christina Butz; and Faddis Bennett.

43. In SOAH Order No. 3, filed on April 24, 2025, the ALJs denied the motions to intervene for the following parties who did not file either direct testimony or a statement of position by the deadline for such filings: Christopher Robertson, for Met Farms, LLC; Johnny Vickery; Brandy Vickery; Jeff Cherry; Tim Tindell; David Davis Family Properties LLC, Davis Farm & Ranch LLC, and David Davis; Jose Cavazos; Brian and Stacy Fitzgerald; Corby Skiles; Trey Whitley; Jel and Marilyn Palma; Steven Denman; Joel and Marilyn Palma; Mariah Shelton; Jacob Skinner; John Barnett; Robert and/or Terry Wright; Virginia Marsh Thagard; Jane Minnich; Mariah Shelton; Christopher Boom; Karen Garcia; Steven Gill; Phil Wisiackas; Chris Thomas; Stephen and Rebecca Cohn; Timothy McMillin; Allen Davis; Karen Garcia; Michael Lyons; Portia K. Brown; Voyager Group Ltd. - Damon Burris; Guy and Barbara Worsham; Mark Hammond; Glenn Ellisor; Jeanette Bissonnet; Robert and Vivian Sutter; Shannon Marsh; Pam Cooper; Jerry Cooper; Robert and Vivian Sutter; Victor and Martha Schindler; Christine Elliott; Kathlene and Donny Tomkivits; Jim and Darlene Wiens; Roxanne and Rodney Burns; Frank and Dawn Davis; John Navarro; Sy and Kim Yasa; Arthur Records; Barry Sadler - Trustee; Mary and Patricia Novark; Janet Joyce; Tony Knepper; James Beaird; Jim and Christina Butz; Tony and Mary Cook; Sane Yasa and Somsanuck Luangkhot; Wayne and Lori Davis; BroJohn (BJ) Tomkivits; Dalva Keener; Jeremy LaPoint; Steven Smith; Garret Chong; DPW Ranches, LP; The Knight Management Trust; Catherine Dunwoody; Kimberlie Hughes; Kaleb and Kimberlie Hughes; Eleby Yarnelle; Darren Jennings; Emmanuel Mojica; Jared Morris; Patrick Kelly; Gregory Parker; Floyd and Theresa Houser; Mary E. Shiflet; John Ard; Jeromy Francis; Richard Hlavacka; Tina and Jason Gilstrap;

Shiela Goodney; Mary Buice, Edward Gomez; William Zimmerman; Spikes-Ransom Family Residence; Spikes-Ransom Residence; Darren Jennings; Eleby Yarnelle; Starlett Curry, William Fielding Smith, Jr., Candace White, Stuart Scott; P. Karl Muench; Robert Denny Clark; Rhoda Alvarez; Faddis Bennett; Guy and Kelly Bentsen; Matthew Brown; Blake and Chelsea Hardy; Avon J. Bartee; Julie Bergman; Blake Hardy; Christopher Nicholas (Trustee); Guoshun Wang; Tim and/or Lecia Prince; Joseph Looke; Andrew Sherman; Michael Manners; John and Alexandra Kazmierczak; Druscilla Miller; Clint Garig; Kay Ellisor Hopkins; Aimee Andrade; Faddis Bennett; Nicholas Brunson; Sheri and Gary Mitchell; Charles D. Ganz; Donnie Franklin; John Jordan; Andrew Sherman; Guadalupe Villasenor; Mark and Melinda Allen; Rhonda Alvarez; James Dockery; Debra B. Rips; Dan Morrow; Paradise Cove Property Owners' Association (Paradise Cove); Robert Fivecoat; and Darla Fivecoat.

44. At the hearing, Paradise Cove moved for the ALJs to reconsider their motion to intervene, and the ALJs granted their request to intervene. The ALJs also denied the request to intervene of David D. Wickens Family Partnership, Ltd., Kendall Homes of Texas, LLC, Rose Road Company, and SILCO Inc.; denied the second request to intervene of Robert and Darla Fivecoat; and denied the request of William Zimmerman and Lisa Latour to reconsider their dismissal as intervenors.

45. The following individuals were voluntarily aligned as the Segment 13 Intervenors: Willie and Teresa Hoffart, Arthur Smalley, Barbara Thornton, Robert Fitz, Patricia Hulbert, Brian and Merridee Rodel, Jason and Jennifer Laningham, Forrest Tharpe, Herbert Melton, and Alexis & Matthew Tower.

Route Adequacy

46. No party timely contested whether the Application provided an adequate number of reasonably differentiated routes to conduct a proper evaluation.

47. 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 of reasonably differentiated routes to conduct a proper evaluation.

Need for the Project and Adequacy of Existing Service

48. The new transmission line will help ETI meet the requirements of its load-serving capability criteria in the ETI Local Planning Criteria for constrained regions of the system, including existing load pockets such as ETI's Western Region.

49. The new transmission line will increase operational flexibility, help meet the growing power demands of Southeast Texas throughout ETI's Western Region and broader service territory, and increase reliability and resiliency during extreme events such as hurricanes and winter storms.

50. The need for the proposed transmission facilities was confirmed by both the Midcontinent Independent System Operator, Inc. (MISO) and ETI's own Local Planning Criteria.

51. With regard to MISO, during the 2023 MISO Transmission Expansion Plan (MTEP23) process, MISO identified the proposed Project as a Baseline Reliability Project that is needed to comply with Electric Reliability Organization (i.e., the North American Electric Reliability Corporation (NERC)) reliability requirements for transmission planning. As a result of the analysis during MTEP23, the project was included as an Appendix A project for MTEP23 and was approved by the MISO Board of Directors in December 2023. More recently, in the MTEP24 process, P1 and P2 (N-1) contingencies resulting in undervoltage violations were identified that are also mitigated by the Project.

52. ETI considered numerous transmission and generation alternatives to the proposed transmission facilities but determined that the proposed transmission facilities are the most cost-effective and electrically efficient solution to address the needs identified.

53. MISO evaluated transmission alternatives to the proposed transmission facilities but determined that the proposed transmission facilities are the optimal solution to address the needs identified.

54. There are no practical distribution-only alternatives or a better transmission solution to address the identified need.

55. There is no feasible or cost-effective level of distributed generation or energy efficiency that would enable the existing transmission and distribution infrastructure to reliably accommodate and serve the expected load in the area.

56. No party presented evidence that challenged the need for the transmission line, and Staff recommended that the proposed transmission facilities are necessary and the best way to address reliability issues in ETI's historically constrained Western Region load pocket.

Effect of Granting the Application on Other Utilities in the Proximate Area and Probable Improvement of Service or Lowering Cost

57. ETI is the only electric utility involved in the construction of the Project's transmission facilities.

58. The proposed transmission line will not be directly connected to any other electric utility.

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

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

Routing Criteria

Overview

61. The POWER project team included professionals with expertise in different environmental and land-use disciplines who were involved in data acquisition, routing analysis, and environmental assessment for the transmission facilities.

62. To identify alternative routes for the transmission facilities, POWER delineated a study area, sought public and public official and agency input, gathered data regarding the study area, performed constraints mapping, identified preliminary alternative route segments, and reviewed and adjusted the preliminary alternative route segments following field reconnaissance and review of public and public official and agency input finalizing them into primary route segments.

63. Using the primary alternative route segments, POWER and ETI identified 34 routes based on 271 routing segments.

64. In identifying routes and route segments, POWER considered a variety of information, including input from the public and public officials and agencies, geographic diversity within the study area, and an inventory and tabulation of a number of environmental and land-use criteria.

65. The routes identified in the Application range in length from approximately 131 to 160 miles.

66. Over the course of the proceeding, parties requested cost estimates and environmental data regarding 27 additional routes, all of which utilize route segments that were among the 271 segment options identified in the Application and for which notice was provided at the time the Application was filed. In sum, 61 alternative routes have been explored in this docket.

67. Each of the 61 alternative routes satisfies the need for the proposed transmission facilities and is viable and constructible.

68. During the hearing, the parties narrowed consideration to 10 focus routes (Focus Routes) identified as Routes 10, CLD 10 MOD D (10 MOD D), 25, 26, 31, 31 Mod B, 31 Mod C, 31 Mod D, 37, and JSN 37 MOD.

69. ETI considered the recommendation of POWER as well as other routing criteria, including cost, and identified Route 10 as the route that best addresses the requirements of the Public Utility Regulatory Act (PURA) and the Commission's rules. Route 10 consists of the following options and segments: Running Bear B, ExB-2-5-7-11-12-14-17-20a-287-19b-28-42-43-46-48-59-81-82a-291-82c-91-121-128-138-162-179-289-188-201-205-221-223-224-229-231-236-261-266, Babel B.

70. Staff recommended Route 37, which is comprised of Running Bear D, ExD1-ExD2-31-33-35-38-39-40-41-42-43-46-48-59-81-83-89-90-93-119-123-125-132-133-134-136-137-143-147-150-164-167-171-175-177-181-188-200-206-216-226-237-246-255-262-266, Babel B.

71. Route 10 MOD D is comprised of Running Bear D, ExD1-ExD2-33-34-38-39-40-41-42-43-46-48-59-81-82a-291-82c-91-121-128-138-162-179-289-188-201-205-221-223-224-229-231-236-261-266, Babel B.

72. Route 10 MOD D crosses the Trinity River at the north end of Lake Livingston, one mile north of ETI's transmission circuits that already traverse the lake.

73. Route 26 is the only Focus Route that crosses the Trinity River south of Lake Livingston and consists of Running Bear D, ExD1-ExD2-31-32-36-41-44-50-55-56-61-62-65-69-74-77a-77b-97a-97b-99a-99b-116-117-126-133-135-149-155-157-160-168-171-175-178-185-208-211-215-216-226-237-246-255-262-266, Babel B.

Costs

74. The estimated costs for all primary alternative routes in the Application range from approximately $1.33 billion (Route 29) to approximately $1.52 billion (Route 1), including station facility costs.

75. Route 10 MOD D has an estimated total cost of $1,410,740,097.

76. Routes 10 and 37 have estimated total costs of $1,358,899,433 and $1,376,428,460, respectively.

77. Route 26 is the most expensive of the Focus Routes, at $1,458,428,423, and is more than ETI's approved funding level for the Project.

78. The estimated transmission line cost includes the costs of engineering, acquiring ROW, procuring materials and supplies, site preparation, construction labor and transportation, and administration. The costs do not include additional land costs for damages due to impact on development.

79. The cost of the transmission facilities using Route 10 MOD D is reasonable considering the range of the cost estimates for the proposed routes.

80. The transmission facilities will be financed through a combination of debt and equity.

Prudent Avoidance

81. All of the routes presented in the Application conform to the Commission's policy of prudent avoidance in that they reflect reasonable investments of money and effort to limit exposure to electric and magnetic fields.

82. All of the proposed alternative routes, including the identified Focus Routes, have habitable structures located within 500 feet of the centerline of the proposed 500 kV facilities and/or 300 feet of the proposed 230 or 138 kV transmission facilities.

83. Of the identified Focus Routes, Route 10 has the least number of habitable structures within 500/300 feet of the centerline, at 48; while Route 26 has the most with 149. Route 37 has 76.

84. Route 10 MOD D has 54 habitable structures located within 500 feet of the centerline of the proposed 500 kV facilities and/or 300 feet of the proposed 230 or 138 kV transmission facilities.

85. The construction of the transmission facilities along Route 10 MOD D complies with the Commission's policies of prudent avoidance.

Community Values

86. The principal concerns expressed in the questionnaire responses from the public meetings included: maintain distance from residences, businesses, and schools; maintain reliable electric service; maximize length along property boundary lines; maximize distance from parks and recreational facilities; minimize environmental impact; minimize visibility of the line; minimize impacts to archeological and historic sites; and maximize length along existing transmission line and existing compatible ROW where possible.

87. A summary of the comments provided by federal, state, and local officials and other stakeholders was provided in the EA, including comments from Big Thicket National Preserve, the Federal Emergency Management Agency, United States Department of Defense Siting Clearinghouse, U.S. Army Corps of Engineers (USACE)-Fort Worth District, USACE Galveston District, U.S. Department of Agriculture-Natural Resources Conservation Service, U.S.

Forest Service, U.S. Fish and Wildlife Service-Texas Coastal Ecological Services Field Office, Texas General Land Office, Texas Historical Commission, TPWD, Texas Department of Transportation (TXDOT)-Lufkin Division, San Jacinto River Authority, and the City of Coldspring.

88. POWER and ETI evaluated information such as public meeting input and agency coordination and input in developing and evaluating the proposed routes and segments.

89. Route 10 MOD D adequately addresses the expressed community values.

Recreational and Park Areas

90. POWER performed searches of federal and state databases, including a review of the Texas Outdoor Recreation Plan and the Land and Water Resources Conservation and Recreation Plan and web viewer; spatial data from the Sam Houston National Forest, Angelina National Forest, and Sabine National Forest; and county/local maps to identify any parks and/or recreational areas within the study area. Reconnaissance surveys were also conducted to identify any additional park or recreational areas.

91. In its searches of relevant databases, POWER identified several park and recreational areas along the shores of Lake Livingston (namely, Lake Livingston State Park and the Trinity River Authority of Texas's Wolf Creek Park and Tigerville Park), but each of these parks is 10-20 miles south of the proposed lake-crossing segments, Segments 82c and 90. Lake Livingston, taken as a whole, is not identified as a park or recreational area in these databases.

92. None of the Focus Routes cross any recreational or park areas except for the Lone Star Hiking Trail.

93. The number of additional parks or recreational areas located within 1,000 feet of the centerline of the Focus Routes ranges from zero each to two each. Route 10 MOD D has no additional parks or recreational areas located within 1,000 feet of their centerlines.

94. It is unlikely that the transmission facilities along Route 10 MOD D will adversely affect the use or enjoyment of any park or recreational areas.

Historical and Archeological Values

95. All of the Focus Routes have some recorded cultural resource sites or National Register of Historic Places-listed or -determined eligible properties within 1,000 feet of the centerline.

96. The length of the Focus Routes presented in the Application across areas of high archeological/historical site potential ranges from 109.02 to 122.57 miles, with Route 10 MOD D at 119.81 miles.

97. Route 10 MOD D crosses no recorded historical or archeological resources.

98. It is unlikely that the transmission facilities along Route 10 MOD D will adversely affect historical or archeological resources.

Aesthetic Values

99. Overall, 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 residential and commercial developments, oil and gas production, roadways, and existing transmission facilities.

100. The Focus Routes are within the foreground visual zone of U.S. or state highways from approximately 8.83 to 13.22 miles, within the foreground visual zone of FM roads from approximately 16.32 to 32.01 miles, and within the foreground visual zone of park/recreational areas from 0.94 to 9.27 miles.

101. Route 10 MOD D is within the foreground visual zone of U.S. or state highways for 9.92 miles, within the foreground visual zone of FM roads for 23.15 miles, and within the foreground visual zone of recreational or park areas for 0.94 mile.

102. Construction of the proposed transmission line could have both temporary and permanent aesthetic effects, and these impacts may occur on any of the Focus Routes.

103. It is unlikely the transmission facilities along Route 10 MOD D will adversely impact the aesthetic quality of the surrounding landscape.

Environmental Integrity

104. The EA analyzed the possible effects of the transmission facilities on numerous environmental factors.

105. POWER evaluated potential consequences for physiography and geology, soil and water resources, the ecosystem (including endangered and threatened vegetation and fish and wildlife), and land use within the study area.

106. Construction of the proposed transmission facilities is not anticipated to have any significant adverse effects on the physiographic or geological features and resources of the area.

107. Prior to construction, ETI will develop a stormwater pollution prevention plan (SWPPP) to minimize potential impacts associated with soil erosion, compaction, and off ROW sedimentation. Potential impacts to soils, primarily erosion and compaction, would be minimized with the development and implementation of a SWPPP and use of matting in sensitive areas.

108. Route 10 MOD D crosses upland woodlands, including pine plantations, for 88.83 miles.

109. Route 10 MOD D crosses bottomland or riparian woodlands for 34.92 miles.

110. Route 10 MOD D crosses 23.09 acres of wetlands mapped by the National Wetland Inventory.

111. The proposed routes cross no currently USFWS-designated critical habitat for federally listed threatened or endangered species. The proposed routes cross proposed USFWS-designated critical habitat for federally listed threatened or endangered species for 0.07 to 0.10 mile.

112. Route 10 MOD D crosses proposed USFWS-designated critical habitat for federally listed threatened or endangered species for 0.07 miles.

113. ETI 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.

114. It is appropriate for ETI to minimize the amount of flora and fauna disturbed during construction of the transmission facilities.

115. It is appropriate for ETI to re-vegetate cleared and disturbed areas using native species and consider landowner preferences and wildlife needs in doing so.

116. It is appropriate for ETI to avoid, to the maximum extent reasonably possible, causing adverse environmental effects on sensitive plant and animal species and their habitats as identified by TPWD and USFWS.

117. It is appropriate for ETI 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 ETI 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.

118. It is appropriate for ETI to exercise extreme care to avoid affecting non-targeted vegetation or animal life when using chemical herbicides to control vegetation within ROWs. The use of chemical herbicides to control vegetation within ROWs is required to comply with the rules and guidelines established in the Federal Insecticide, Fungicide, and Rodenticide Act and within Texas Department of Agriculture regulations.

119. It is appropriate for ETI 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: 771e State of the Art in 2006*, Edison Electric Institute, Avian Power Line Interaction Committee, and California Energy Commission, Washington, D.C. and Sacramento, CA 2006; and *Avian Protection Plan Guidelines*, Avian Power Line Interaction Committee and USFWS, April 2005.

120. It is appropriate for ETI 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.

121. It is appropriate for ETI to use best management practices to minimize any potential harm that Route 10 MOD D presents to migratory birds and threatened or endangered species.

122. It is unlikely that the transmission facilities along Route 10 MOD D will adversely affect the environmental integrity of the surrounding landscape.

123. 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 facilities approved by this Order.

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

Engineering Constraints

125. ETI evaluated engineering and construction constraints when developing routes.

126. ETI did not identify any engineering constraints that would prevent the construction of transmission facilities along any proposed route.

127. There are no significant engineering constraints along any of the Focus Routes that cannot be adequately addressed by using design and construction practices and techniques usual and customary in the electric utility industry.

128. All segments proposed by ETI in this proceeding can be safely and reliably constructed and operated without significant adverse effects on uses of property.

129. All routes are viable, feasible, and reasonable from an engineering perspective.

Paralleling

130. When developing routes, POWER evaluated the use of existing compatible ROWs and paralleling of existing compatible ROWs and apparent property boundaries.

131. The alternative routes parallel existing transmission line ROWs, other existing compatible ROWs, or apparent property boundaries for approximately 11% to 31% of their length depending on the route selected. For the Focus Routes, the range is 16% to 31% of their length depending on the route selected.

132. Because of the size and constraints of the Project and the layout and shape of the study area, none of the proposed routes perform particularly well regarding the paralleling of existing compatible ROWs and apparent property boundaries.

133. Route 10 MOD D is 141.85 miles long and parallels existing compatible ROWs and apparent property boundaries for 24.05 miles. Route 10 MOD D parallels existing compatible ROWs for approximately 17% of its length.

134. Route 10 is 144.90 miles long and parallels existing compatible ROWs and apparent property boundaries for 23.18 miles. Route 10 parallels existing compatible ROWs for approximately 16% of its length.

135. Route 37 is 136.88 miles long and parallels existing compatible ROWs and apparent property boundaries for 27.33 miles. Route 37 parallels existing compatible ROWs for approximately 20% of its length.

136. Route 26 is 140 miles long and parallels existing compatible ROWs and apparent property boundaries for 42.75 miles. Route 26 parallels existing compatible ROWs for approximately 31% of its length. Of the Focus Routes, this route performs best with regard to paralleling.

137. Route 10 MOD D uses or parallels existing compatible ROWs or apparent property boundaries to a reasonable extent.

Moderation of Impact

138. The selection of Route 10 MOD D will best moderate the Project's impact on the affected community and landowners as this route utilizes Running Bear D, has the third lowest number of habitable structures within 300/500 feet of the centerline for the Focus Routes, has comparable aesthetics and cultural resource impacts with other Focus Routes, and generally performs better ecologically.

Other Comparisons of Land Uses and Land Types

139. The study area is generally comprised of rural residential development, commercial development, and forested areas with residential developments scattered throughout close to the communities.

140. The study area is located within the Interior Coastal Plains and Coastal Prairies sub-provinces of the Gulf Coastal Plains Physiographic Region of Texas. Elevations within the study area range between approximately 50 and 550 feet above mean sea level.

141. With the exclusion of the proposed segments impacting the Chambers Creek community, all the segments proposed by ETI in this proceeding can be safely and reliably constructed and operated without significant adverse effects on uses of property.

142. The area traversed by the study area is predominantly forest.

143. No commercial AM radio transmitters were identified within 10,000 feet of the Focus Routes.

144. The number of FM radio transmitters and other electronic communication facilities located within 2,000 feet of the Focus Routes range from 5 to 14.

145. There are 11 FM radio transmitters and other electronic communication facilities located within 2,000 feet of Route 10 MOD D.

146. The proposed transmission facilities will not have a significant effect on electronic communication facilities or operations in the study area.

147. There are no airports registered with the Federal Aviation Administration (FAA) and equipped with runways shorter than or exactly 3,200 feet within 10,000 feet of the centerline of any of the proposed routes.

148. There are no airports registered with the FAA and equipped with at least one runway longer than 3,200 feet within 20,000 feet of the centerline of any of the proposed routes.

149. For the Focus Routes, the number of private airstrips within 10,000 feet of a route centerline ranges from one to three, including two along Route 10 MOD D.

150. There are no heliports identified by ETI within 5,000 feet of the centerline of any of the proposed routes.

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

152. None of the proposed routes cross agricultural lands with known mobile irrigation systems.

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

154. The Focus Routes cross pipelines ranging from 80 to 94 times with Route 10 MOD D crossing 88 times.

155. The Focus Routes parallel pipeline ROWs ranging from 11.28 to 21.58 miles with Route 10 MOD D paralleling at 11.28 miles.

156. It is unlikely that the transmission facilities will adversely impact any crossed or parallelled pipelines.

TPWD Comments and Recommendations

157. TPWD provided information and recommendations regarding the preliminary study area for the proposed transmission facilities to POWER on September 28, 2023.

158. On April 17, 2025, TPWD filed a letter making various comments and recommendations regarding the proposed transmission facilities.

159. TPWD'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.

160. TPWD identified Route 10 as the route that best minimizes adverse effects on natural resources.

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

162. ETI must comply with all environmental laws and regulations, including those governing threatened and endangered species.

163. ETI must comply with all applicable regulatory requirements in constructing the transmission facilities, including any applicable requirements under section 404 of the Clean Water Act.

164. If construction affects federally listed species or their habitat or affects water under the jurisdiction of the USACE or the Texas Commission on Environmental Quality (TCEQ), ETI must cooperate with said agencies as appropriate to coordinate permitting and perform any required mitigation.

165. POWER relied on habitat descriptions from various sources, including the Texas Natural Diversity Database, other sources provided by TPWD, and observations from field reconnaissance to determine whether habitats for some species are present in the area surrounding the transmission facilities.

166. ETI must cooperate with the USFWS and TPWD to the extent that field surveys identify threatened or endangered species' habitats.

167. The standard mitigation requirements included in the ordering paragraphs in this Order, coupled with ETI's standard practices, are reasonable measures for a transmission service provider to undertake when constructing a transmission line and are sufficient to address TPWD's comments and recommendations.

168. The Commission does not address TPWD's recommendations for which there is no record evidence to provide sufficient justification, adequate rationale, or an analysis of any benefits or costs associated with the recommendation.

169. This Order addresses only those recommendations by TPWD for which there is record evidence.

170. The recommendations and comments made by TPWD do not necessitate any modifications to the proposed transmission facilities.

Permitting

171. Before beginning construction of the transmission facilities approved by this Order, ETI must obtain any necessary permits from TXDOT or any other applicable state agency if the facilities cross state-owned or maintained properties, roads, or highways.

172. Before beginning construction of the transmission facilities approved by this Order, ETI must obtain a miscellaneous easement from the General Land Office if the transmission line crosses any state-owned riverbed or navigable stream.

173. Before beginning construction of the transmission facilities approved by this Order, ETI must obtain any necessary permits or clearances from federal, state, or local authorities.

174. It is appropriate for ETI, 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 TCEQ. In addition, because more than five acres will be disturbed during construction of the transmission facilities, it is appropriate for ETI, before commencing construction, to prepare the necessary stormwater pollution prevention plan, to submit a notice of intent to the TCEQ, and to comply with all other applicable requirements of the general permit.

175. It is appropriate for ETI to conduct a field assessment of the approved 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, ETI must identify all necessary permits from Jasper, Montgomery, Newton, Polk, San Jacinto, Trinity, Tyler, and Walker Counties and federal and state agencies. ETI must comply with the relevant permit conditions during construction and operation of the transmission facilities along the approved route.

176. After designing and engineering the alignments, structure locations, and structure heights, ETI must determine the need to notify the FAA based on the final structure locations and designs. If necessary, ETI must use lower-than-typical structure heights, line marking, or line lighting on certain structures to avoid or accommodate requirements of the FAA.

Coastal Management Program

177. None of the proposed 34 alternative routes identified in the Application for the Project or the 10 Focus Routes are located within the Texas Coastal Management Program boundary, as defined by 31 Texas Administrative Code section 27.1.

Limitation of Authority

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

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

Other Issues

180. There is no expectation that any generator will be precluded or limited from generating or delivering power during the construction process.

181. The parties have not reached a complete or partial agreement on a route that relies on modifications to the route segments as noticed in ETI's Application.

XI. CONCLUSIONS OF LAW

1. ETI is a public utility as defined in PURA section 11.004 and an electric utility as defined in PURA section 31.002(6).

2. The Commission has jurisdiction over this matter under PURA sections 14.001, 32.001, 37.051, 37.053, and 37.056.

3. ETI is required to obtain the Commission's approval to construct the proposed transmission facilities and provide service to the public using those facilities. PURA §§ 37.051, .053.

4. SOAH exercised jurisdiction over the proceeding under PURA section 14.053 and Texas Government Code sections 2003.021 and .049.

5. The Application is sufficient under 16 Texas Administrative Code section 22.75(d).

6. The Commission processed this docket in accordance with the requirements of PURA; the Administrative Procedure Act;[230] and the Commission's rules.

7. ETI provided notice of the Application in compliance with PURA section 37.054 and 16 Texas Administrative Code section 22.52(a).

8. Additional notice of the approved route is not required under 16 Texas Administrative Code section 22.52(a)(2) because it consists of properly noticed links contained in the Application and, for the modifications identified, all affected municipalities, utilities, or counties previously received notice.

9. Additional notice of the approved route is not required under 16 Texas Administrative Code section 22.52(a)(3)(C) because it consists of properly noticed links contained in the Application and, for the modifications identified, all directly affected landowners previously received notice.

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[230] Tex. Gov't Code §§ 2001.001-.903.

10. ETI held public meetings and provided proper notice of those public meetings in compliance with 16 Texas Administrative Code section 22.52(a)(4).

11. The hearing on the merits was set, and notice of the hearing was provided, in compliance with PURA section 37.054 and Texas Government Code sections 2001.051 and .052.

12. The Texas Coastal Management Program does not apply to the transmission facilities, and the requirements of 16 Texas Administrative Code section 25.102 do not apply to the Application.

13. Route 10 MOD D best meets the routing criteria set forth in PURA section 37.056 and 16 Texas Administrative Code section 25.101.

14. The transmission facilities using Route 10 MOD D are necessary for the service, accommodation, convenience, or safety of the public within the meaning of PURA section 37.056 and 16 Texas Administrative Code section 25.101.

15. The Commission must approve or deny the Application not later than the 180th day after the Application was filed under PURA section 37.057.

XII. PROPOSED ORDERING PARAGRAPHS

1. The Commission adopts the proposal for decision, including findings of fact and conclusions of law, to the extent provided in this Order.

2. The Commission amends ETI's CCN No. 30076 to include the construction and operation of the Project, including a new single-circuit 500 kV transmission line and related 138 kV and 230 kV facilities along Route 10 MOD D (comprised of routing segments ExD1-ExD2-33-34-38-39-40-41-42-43-46-48-59-81-82a-291-82c-91-121-128-138-162-179-289-188-201-205-221-223-224-229-231-236-261-266) and the construction of a Running Bear substation at site D and a Babel 500 kV switching station at site B.

3. ETI 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 metallic pipelines that are paralleled by the electric transmission facilities approved by this Order.

4. ETI 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. ETI must obtain all permits, licenses, plans, and permissions required by state and federal law that are necessary to construct the transmission facilities approved by this Order, and if ETI fails to obtain any such permit, license, plan, or permission, it must notify the Commission immediately.

6. ETI must identify any additional permits that are necessary, consult any required agencies (such as the USACE and USFWS), obtain all necessary environmental permits, and comply with the relevant conditions during construction and operation of the transmission facilities approved by this Order.

7. Before commencing construction, ETI must obtain a general permit to discharge under the Texas pollutant discharge elimination system for stormwater discharges associated with construction activities as required by TCEQ. In addition, because more than five acres will be disturbed during construction of the transmission line and associated facilities, ETI must, before commencing construction, prepare the necessary SWPPP, submit a notice of intent to the TCEQ, and comply with all other applicable requirements of the general permit.

8. If ETI encounters any archeological artifacts or other cultural resources during construction, work must cease immediately in the vicinity of the artifact or resource, and ETI must report the discovery to, and act as directed by, the Texas Historical Commission.

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

10. ETI must use best management practices to minimize the potential harm to migratory birds and threatened or endangered species that are presented by the route approved by this Order.

11. ETI 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 Line Interaction Committee, and the California Energy Commission, Washington, D.C. and Sacramento, CA (2006); and the *Avian Protection Plan Guidelines*, Avian Power Line Interaction Committee and the USFWS (April 2005).

12. ETI 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.

13. ETI must exercise extreme care to avoid affecting non-targeted vegetation or animal life when using chemical herbicides to control vegetation within the ROW. Herbicide use must comply with rules and guidelines established in the Federal Insecticide, Fungicide, and Rodenticide Act and with Texas Department of Agriculture regulations.

14. ETI must minimize the amount of flora and fauna disturbed during construction of the transmission facilities, except to the extent necessary to establish appropriate ROW clearance for the transmission line. In addition, ETI must re-vegetate using native species and must consider landowner preferences and wildlife needs in doing so. Furthermore, to the maximum extent practicable, ETI must avoid adverse environmental effects on sensitive plant and animal species and their habitats, as identified by the TPWD and the USFWS.

15. ETI must implement erosion-control measures as appropriate. Erosion control measures may include inspection of the ROW 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, ETI 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 ETI 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.

16. ETI 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 Texas Administrative Code section 22.52(a)(3) and have agreed to the minor deviation.

17. The Commission does not permit ETI 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.

18. If possible, and subject to the other provisions of this Order, ETI must prudently implement an appropriate final design for the transmission line to avoid being subject to the FAA's notification requirements. If required by federal law, ETI must notify and work with the FAA to ensure compliance with applicable federal laws and regulations. The Commission does not authorize ETI to deviate materially from this Order to meet the FAA's recommendations or requirements. If a material change would be necessary to meet the FAA's recommendations or requirements, then ETI must file an application to amend its CCN as necessary.

19. ETI must include the transmission facilities approved by this Order on its monthly construction progress reports before the start of construction to reflect the final estimated cost and schedule in accordance with 16 Texas Administrative Code section 25.83(b). In addition, ETI must provide final construction costs, with any necessary explanation for cost variance, after completion of construction when ETI identifies all costs.

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