

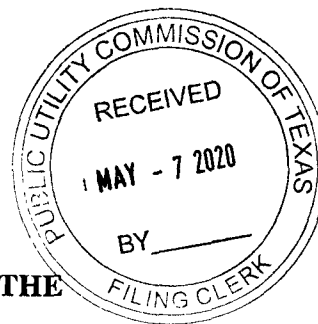


Control Number: 50560



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DOCKET NO. 50560

APPLICATION OF ONCOR ELECTRIC §
DELIVERY COMPANY LLC TO AMEND §
A CERTIFICATE OF CONVENIENCE §
AND NECESSITY FOR A 138-KV §
TRANSMISSION LINE IN MIDLAND §
COUNTY (JOHNSON DRAW POD – §
SALT FLAT ROAD CCN) §

BEFORE THE

PUBLIC UTILITY COMMISSION

OF TEXAS

JOINT PROPOSED NOTICE OF APPROVAL AND MOTION TO ADMIT EVIDENCE

COME NOW Oncor Electric Delivery Company LLC (“Oncor”) and Public Utility Commission of Texas (“Commission”) Staff (“Staff”) and file this Joint Proposed Notice of Approval and Motion to Admit Evidence. Pursuant to Order No. 2, this filing is timely submitted on or before May 7, 2020.

I. JOINT PROPOSED NOTICE OF APPROVAL

On March 5, 2020, Oncor filed its application for approval to amend its certificate of convenience and necessity (“CCN”) for a proposed 138-kilovolt transmission line project between the Salt Flat Road Switch station and the proposed Johnson Draw point of delivery (“POD”) within Midland County, Texas. This docket was processed in accordance with applicable statutes and the rules of the Commission. No party intervened or requested a hearing on the merits in this proceeding. Based on Oncor’s application and Commission Staff’s April 27, 2020, memorandum recommending approval of the application, Oncor and Commission Staff jointly propose that the attached Notice of Approval, including proposed findings of fact, conclusions of law, and ordering paragraphs, be approved.

II. JOINT MOTION TO ADMIT EVIDENCE

Oncor and Commission Staff request that the following evidence be admitted into the record: (a) Oncor’s CCN application and accompanying attachments (filed on March 5, 2020,

Interchange Item No. 2); (b) Oncor's Response to Order No. 1 (filed on March 17, 2020, Interchange Item No. 4); (c) Oncor's Affidavit Attesting to the Provision of Notice to Cities, Counties, Neighboring Utilities, the Office of Public Utility Counsel, the Texas Parks and Wildlife Department, the Department of Defense Siting Clearinghouse, and Landowners (filed on March 19, 2020, Interchange Item No. 5); (d) Oncor's Affidavit Attesting to the Provision of Newspaper Notice (filed on March 25, 2020, Interchange Item No. 6); (e) Commission Staff's Recommendation on Sufficiency of Application and Notice and Proposed Procedural Schedule (filed on March 27, 2020, Interchange Item No. 7); and (f) Commission Staff's Recommendation on Final Disposition and accompanying memorandum (filed on April 27, 2020, Interchange Item No. 10).

III. PRAYER

WHEREFORE, PREMISES CONSIDERED, Oncor and Commission Staff respectfully request that this Joint Motion to Admit Evidence be granted and that a Notice of Approval containing the findings of fact, conclusions of law, and ordering paragraphs attached to this pleading be approved.

Respectfully submitted,

By: Winston P. Skinner *MMG/W. Permission*

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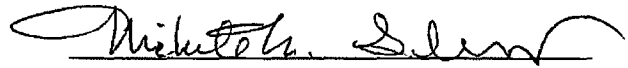
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**ATTORNEYS FOR THE PUBLIC UTILITY
COMMISSION OF TEXAS, LEGAL DIVISION**

CERTIFICATE OF SERVICE

It is hereby certified that a copy of the foregoing has been served on all parties of record in this proceeding via email, on the 7th day of May, 2020, in accordance with the Commission's Order Suspending Rules issued on March 16, 2020, in Project No. 50664.

A handwritten signature in cursive script, appearing to read "Nicholas S. S. S.", written over a horizontal line.

DOCKET NO. 50560

APPLICATION OF ONCOR ELECTRIC	§	BEFORE THE
DELIVERY COMPANY LLC TO	§	
AMEND A CERTIFICATE OF	§	
CONVENIENCE AND NECESSITY FOR	§	PUBLIC UTILITY COMMISSION
A 138-KV TRANSMISSION LINE IN	§	
MIDLAND COUNTY (JOHNSON DRAW	§	
POD – SALT FLAT ROAD SWITCH)	§	OF TEXAS

PROPOSED NOTICE OF APPROVAL

This Notice of Approval addresses the application of Oncor Electric Delivery Company LLC (“Oncor”) to amend its certificate of convenience and necessity (“CCN”) for the design and construction of a new single-circuit 138-kilovolt (“kV”) electric transmission line in Midland County. The Public Utility Commission of Texas (“Commission”) approves the application to amend Oncor’s CCN number 30043 to construct, own, and operate the Johnson Draw POD – Salt Flat Road Switch 138-kV transmission line.

I. Findings of Fact

The Commission makes the following findings of fact:

Applicant

1. Oncor is an electric transmission and distribution service provider and investor-owned utility providing service within the Electric Reliability Council of Texas under CCN number 30043.
2. Oncor is a Delaware limited liability company registered with the Texas Secretary of State under filing number 800880712.

Delegation of Authority

3. Oncor Electric Delivery Company NTU LLC (the North Texas Utility)—an indirect, wholly-owned subsidiary of Oncor—owns the existing Salt Flat Road Switch station.
4. In an agreement filed as an application attachment on March 5, 2020, the North Texas Utility delegated all of its rights to build, own, and operate the transmission facilities proposed in this docket to Oncor.

Application

5. On March 5, 2020, Oncor filed an application to amend its CCN number 30043 for a new 138-kV, single-circuit transmission line to be built on steel or concrete monopole structures between the proposed Johnson Draw point of delivery (“POD”) in Midland County, Texas, and the North Texas Utility’s existing Salt Flat Road Switch station in Midland County, Texas.
6. Halff Associates, Inc. (“Halff”) produced an *Environmental Assessment for the proposed Johnson Draw POD—Salt Flat Road Switch 138 kV Transmission Line Project in Midland County, Texas* (“EA”), which was included as part of the application.
7. In Order No. 2, filed on March 30, 2020, the administrative law judge (“ALJ”) found the application sufficient for further review.

Description of the Transmission Facilities

8. The route approved in this Notice of Approval is approximately 2.8 miles in length.
9. The proposed transmission line will connect XTO Energy Inc.’s (“XTO”) new substation facilities to the existing Pronghorn – Salt Flat Road – Skywest 138-kV transmission line through the existing Salt Flat Road 138-kV Switch station.
10. The proposed Johnson Draw POD will be located less than 2 miles southeast of the intersection of State Highway 349 and Farm-to-Market Road (“FM”) 1379, just east of the facilities operated by ExxonMobil Power and Gas Services Inc. on behalf of XTO. The Salt Flat Road Switch station is located approximately 800 feet north of the intersection of FM 1379 and County Road 1160.
11. XTO has acquired all of the necessary right-of-way for the proposed transmission line to be constructed along the route proposed in the application. Upon approval of the CCN application, XTO will assign the right-of-way to Oncor.
12. The route filed in the application represents a relatively direct path between the project’s endpoints.
13. The proposed project includes modifications at Salt Flat Road Switch station and at the Johnson Draw POD. This work may include dead-end structures, other structures, grading, fences, and other equipment.
14. The typical structure for the transmission line will be approximately 90 to 105 feet in height.

15. The application presented estimates of finalizing engineering and design by September 2020, procuring materials and equipment by January 2021, completing construction by March 2021, and energizing the transmission facilities by March 2021.

Public Input

16. Oncor was not required to hold a public participation meeting because there were fewer than 25 directly affected landowners.
17. Oncor sent written notice to the Department of Defense Siting Clearinghouse of the planned filing of the application prior to completion of the EA.

Notice of the Application

18. On March 19, 2020, Oncor filed the affidavit of Chris Reily, a regulatory manager at Oncor, attesting that notice was provided by mail to directly affected landowners, counties, neighboring utilities, the Office of Public Utility Counsel, the Texas Parks and Wildlife Department, and the Permian Basin Petroleum Association, and by email to the Department of Defense Siting Clearinghouse, on March 5, 2020.
19. On March 25, 2020, Oncor filed another affidavit of Mr. Reily, who attested to the publication of notice on March 12, 2020, in the *Midland Reporter - Telegram*, a newspaper having general circulation in Midland County.
20. There are no municipalities within five miles of the requested facilities.
21. In Order No. 2, filed on March 30, 2020, the ALJ found Oncor's notice sufficient.

Evidentiary Record

22. On May 7, 2020, Oncor and Commission Staff filed a joint proposed notice of approval and joint motion to admit evidence.
23. In Order No. 3 filed on May __, 2020, the ALJ admitted the following evidence into the record: (a) Oncor's CCN application and accompanying attachments, filed on March 5, 2020; (b) Oncor's Response to Order No. 1, filed on March 17, 2020; (c) Oncor's affidavit attesting to the provision of notice, filed on March 19, 2020; (d) Oncor's affidavit attesting to the provision of newspaper notice, filed on March 25, 2020; (e) Commission Staff's recommendation on sufficiency of application and notice of proposed procedural schedule, filed on March 27, 2020; and (f) Commission Staff's recommendation on final disposition and accompanying memorandum, filed on April 27, 2020.

Route Adequacy

24. Oncor and Halff developed, evaluated, and filed the sole proposed route for the project.
25. No party filed testimony or a position statement challenging whether the application provided an adequate number of reasonably differentiated routes to conduct a proper evaluation, and no party requested a hearing on route adequacy.
26. The application provided an adequate and sufficiently delineated route to conduct a proper evaluation.

Need for the Proposed Project

27. XTO is installing new oil and gas processing facilities and plans to construct, own, operate, and maintain its own substation with a maximum peak load demand of 30.5 MW to service those facilities. A load of this size requires transmission-level service.
28. Due to the remote location of XTO's substation, a new transmission line is needed to connect it to the electric grid.
29. Oncor and XTO have signed an agreement for Oncor to provide transmission service to XTO's new substation.
30. No party challenged the need for the project, and Commission Staff recommended approval of the project.
31. Oncor demonstrated a reasonable need for the transmission line.

Project Alternatives

32. The Pronghorn – Salt Flat Road – Skywest 138 kV transmission line is the nearest interconnection point available to connect XTO's facilities to the grid.
33. After the Pronghorn – Salt Flat Road – Skywest transmission line, the nearest transmission line that XTO could connect to is over one-half mile further away. Other transmission lines in the area are more than 10 miles from XTO's facilities.
34. Other potential transmission alternatives would require longer transmission lines and the purchase of additional right-of-way, rendering those alternatives less efficient, more expensive, more time-consuming, and more impactful to landowners.
35. Distribution alternatives are not practical as they would not satisfy XTO's need for transmission-level service.

Effect of CCN on Other Utilities

- 36. The North Texas Utility owns the existing Salt Flat Road Switch station.
- 37. Other than the North Texas Utility's ownership of the Salt Flat Road Switch station, Oncor is the only electric utility involved in the construction of the project.
- 38. The Commission does not expect the project to adversely affect service by other utilities in the area.

Estimated Costs

- 39. The estimated cost associated with the project's transmission line facilities is approximately \$5,257,000.
- 40. The estimated cost associated with the project's substation facilities is approximately \$1,461,000, which includes the costs associated with the Salt Flat Road Switch and the Johnson Draw POD.
- 41. The estimated cost for the project is reasonable.
- 42. The project will be financed through a combination of debt and equity.

Prudent Avoidance

- 43. Commission rules define prudent avoidance under 16 Texas Administrative Code ("TAC") § 25.101(a)(6) as the "limiting of exposures to electric and magnetic fields that can be avoided with reasonable investments of money and effort."
- 44. There are no habitable structures located within 300 feet of the route's centerline.
- 45. The proposed route complies with the Commission's policy of prudent avoidance.

Community Values

- 46. Information regarding community values was received from local, state, and federal agencies and incorporated into the EA and the project's route selection.
- 47. The project adequately addresses the expressed community values.

Using or Paralleling Compatible Rights-of-Way

- 48. None of the project's route parallels existing transmission lines.
- 49. Of its approximately 14,533 foot length, the project parallels apparent property boundaries for 709 feet.
- 50. The route uses or parallels existing compatible corridors and apparent property boundaries to a reasonable extent.

Other Comparisons of Land Uses and Land Types

51. The project traverses a relatively remote portion of Midland County, Texas, consisting almost entirely of rural, undeveloped land used primarily for livestock grazing, agricultural cropland, or oil and gas production.
52. The study area is mainly flat with the exception of the northern boundary, which slopes toward Johnson Draw.
53. Residential and commercial development in this area is scarce.
54. FM 1379 and County Road 1160 represent the few public roadways in the area. Much of the county road network has been incorporated into private oil and gas operations.

Engineering Constraints

55. Oncor evaluated engineering and construction constraints, reliability issues, and estimated costs to evaluate the route as it relates to the requirements of PURA¹ and Commission rules.
56. Oncor did not identify any engineering constraints that would prevent construction of the transmission line along the route proposed for the project.

Radio Towers and Other Electronic Installations

57. There are no AM radio transmitters located within 10,000 feet of the centerline of the proposed route.
58. There are four FM radio transmitters, microwave relay stations, or other similar electronic installations within 2,000 feet of the centerline of the project's route.
59. The presence of transmission facilities along the route will not adversely affect any communication operations within the area.

Airstrips and Airports

60. There are no airports registered with the Federal Aviation Administration ("FAA") with a runway greater than 3,200 feet in length within 20,000 feet of the centerline of the project's route.
61. There are no airports registered with the FAA with runways no greater than 3,200 feet in length within 10,000 feet of the centerline of the project's route.

¹ Public Utility Regulatory Act, Tex. Util. Code §§ 11.001-66.016.

- 62. There are no private airstrips within 10,000 feet of the centerline of the project's route.
- 63. There are no private heliports within 5,000 feet of the centerline of the project's route.
- 64. The Commission does not expect the presence of transmission facilities along the route to adversely affect any airports, airstrips, or heliports.

Irrigation Systems

- 65. The proposed route does not impact any pasture or cropland with traveling irrigation systems.

Recreational and Park Areas

- 66. The project's route does not cross any parks or recreational areas.
- 67. No parks or recreational areas are located within 1,000 feet of the centerline of the project's route.
- 68. The presence of transmission facilities along the proposed route will not adversely affect the use or enjoyment of recreational or park areas.

Historical and Archaeological Areas

- 69. There are no recorded cultural resource sites identified as being crossed by the project's route, and no such sites are located within 1,000 feet of the centerline of the project's route.
- 70. The project's entire 14,533 foot length crosses land with high archaeological or historical site potential.
- 71. The Commission does not expect construction of the transmission facilities along the route to adversely affect historical or archaeological resources.

Aesthetic Values

- 72. None of the project's route is located within the foreground visual zone of park or recreational areas.
- 73. None of the proposed route is located within the foreground visual zone of interstate highways, United States highways, and state highways.
- 74. Approximately 6,378 feet of the proposed route is located within the foreground visual zone of local FM roads.
- 75. The Commission does not expect the presence of transmission facilities along the route to adversely affect the aesthetic quality of the landscape.

Environmental Integrity

76. The routing analysis analyzed the possible impacts of the transmission line on numerous different environmental factors.
77. Oncor and Halff appropriately evaluated how the transmission line could impact the environment, including endangered and threatened species.
78. The project's route will not cross the known habitat of any federally-listed endangered or threatened species.
79. The project's route is unlikely to affect federally-listed plant or animal species. Any effect on federally listed plant or animal species will be mitigated by the use of standard practices and measures taken in accordance with the Endangered Species Act.
80. The Commission does not expect construction of the transmission facilities along the project's route to affect geological, hydrological, wetland, or ecological resources significantly.
81. It is appropriate for Oncor to 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 ("APLIC"); *Suggested Practices for Avian Protection on Power Lines: The State of the Art in 2006*, Edison Electric Institute, APLIC, and the California Energy Commission, Washington, D.C. and Sacramento, CA, 2006; and the *Avian Protection Plan Guidelines*, APLIC and United States Fish and Wildlife Service, April 2005. It is appropriate for Oncor 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.
82. It is appropriate for Oncor to minimize the amount of flora and fauna disturbed during construction of the transmission line.
83. It is appropriate for Oncor to re-vegetate cleared and disturbed areas using native species and consider landowner preferences in doing so.
84. It is appropriate for Oncor to avoid, to the maximum extent reasonably possible, causing adverse environmental impacts to sensitive plant and animal species and their habitats as identified by the Texas Parks and Wildlife Department and the United States Fish and Wildlife Service.

85. It is appropriate for Oncor to implement erosion-control measures and return each affected landowner's property to its original contours and grades unless otherwise agreed to by the landowner. It is not appropriate for Oncor 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 the transmission lines.
86. It is appropriate for Oncor to exercise extreme care to avoid affecting non-targeted vegetation or animal life when using chemical herbicides to control vegetation within the rights-of-way. The use of chemical herbicides to control vegetation within rights-of-way is required to comply with the rules and guidelines established in the Federal Insecticide, Fungicide, and Rodenticide Act and with Texas Department of Agriculture regulations.
87. It is appropriate for Oncor to use best management practices to minimize the potential impact to migratory birds and threatened or endangered species.
88. The Commission does not expect the presence of transmission facilities along the route to adversely affect the environmental integrity of the area.

Texas Parks and Wildlife Department's Comments and Recommendations

89. On December 12, 2019, the Texas Parks and Wildlife Department made various comments and recommendations by letter to Halff regarding the transmission facilities.
90. The Texas Parks and Wildlife Department's comment letter addressed issues relating to impacts on ecology and the environment but did not consider the other factors the Commission and utilities must consider in CCN applications.
91. In preparing the EA, Oncor and Halff took into consideration the recommendations offered by the Texas Parks and Wildlife Department.
92. Halff relied on habitat descriptions from various sources, including the Texas Natural Diversity Database and other sources provided by the Texas Parks and Wildlife Department, along with observations from field reconnaissance, to determine whether habitat for some species is present in the area encompassing the transmission line.
93. Oncor will comply with all environmental laws and regulations, including those governing threatened and endangered species.

94. Oncor will comply with all applicable regulatory requirements in constructing the transmission facilities, including any applicable requirements under § 404 of the Clean Water Act.
95. Oncor will cooperate with the United States Fish and Wildlife Service and the Texas Parks and Wildlife Department if threatened or endangered species' habitats are identified during field surveys.
96. If construction impacts federally-listed species or their habitat or impacts water under the jurisdiction of the United States Army Corps of Engineers or the Texas Commission on Environmental Quality, Oncor will cooperate with the United States Fish and Wildlife Service, United States Army Corps of Engineers, and Texas Commission on Environmental Quality, as appropriate, to obtain permitting and perform any required mitigation.
97. The standard mitigation requirements included in the ordering paragraphs in this Notice of Approval, coupled with Oncor's standard practices, are reasonable measures for a transmission service provider to undertake when constructing a transmission line and are sufficient to address the Texas Parks and Wildlife Department's comments and recommendations.
98. This Notice of Approval addresses only those recommendations and comments by the Texas Parks and Wildlife Department for which there is record evidence.
99. The recommendations and comments made by the Texas Parks and Wildlife Department do not necessitate any modifications to the transmission facilities.

Permits

100. Before beginning construction of the transmission line, it is appropriate for Oncor to conduct a field assessment of the entire length of the transmission line to identify water resources, cultural resources, potential migratory bird issues, and threatened and endangered species' habitat impacted as a result of the transmission line. As a result of these assessments, Oncor will identify any additional permits that are necessary, will consult any required agencies, will obtain all necessary permits or clearances from federal, state, or local authorities, and will comply with the relevant permit conditions during construction and operation of the transmission line.

101. It is appropriate for Oncor to obtain a permit from the Texas Department of Transportation for instances in which the proposed transmission line crosses a state-maintained road or highway or if any portion of the transmission line will be accessed from a state-maintained road or highway.
102. Oncor committed, before commencing construction, to obtain a general permit to discharge under the Texas pollutant discharge elimination system for stormwater discharges associated with construction activities as required by the Texas Commission on Environmental Quality, if required. In addition, because more than five acres will be disturbed during construction of the transmission facilities, Oncor committed, before commencing construction, to prepare the necessary stormwater-pollution-prevention plan, to submit a notice of intent to the Texas Commission on Environmental Quality, and to comply with all other applicable requirements of the general permit, if required.
103. Upon approval of the application and before construction, Oncor will perform a detailed natural resources assessment and cultural resources assessment on the approved route. Before construction, Oncor will obtain all permits or regulatory approvals from the United States Army Corps of Engineers and the United States Fish and Wildlife Service that are required by the results of these assessments.
104. After designing and engineering the alignments, structure locations, and structure heights, Oncor will make a final determination of the need for FAA notification based on the final structure locations and designs. If necessary, Oncor will use lower-than-typical structure heights, line marking, or line lighting on certain structures to avoid or accommodate FAA requirements.

Coastal Management Program

105. Under 16 TAC § 25.102(a), the Commission may grant a certificate for the construction of transmission facilities within the coastal management program boundary only when it finds that the proposed facilities comply with the goals and applicable policies of the Coastal Management Program or that the proposed facilities will not have any adverse effect on any of the applicable coastal natural resource areas specified in 31 TAC § 501.3(b).
106. No part of the project is located within the boundary of the Texas Coastal Management Program as defined in 31 TAC § 503.1.

Effect on the State's Renewable Energy Goal

107. The Texas Legislature established a goal in PURA § 39.904(a) for 10,000 megawatts of renewable capacity to be installed in Texas by January 1, 2025. This goal has already been met.
108. The project cannot adversely affect the goal for renewable energy development established in PURA § 39.904(a).

Limitation of Authority

109. It is reasonable and appropriate for a CCN Notice of Approval not to be valid indefinitely because it is issued based on the facts known at the time of issuance.
110. Seven years is a reasonable and appropriate limit to place on the authority granted in this Notice of Approval to construct the project.

Informal Disposition

111. At least 15 days have passed since the completion of all notice requirements in this docket.
112. No person filed a protest or motion to intervene.
113. Oncor and Commission Staff are the only parties to this proceeding.
114. No party requested a hearing and no hearing is needed.
115. On April 27, Commission Staff recommended approval of the application.
116. The decision is not adverse to any party.

II. Conclusions of Law

The Commission makes the following conclusions of law:

1. The Commission has jurisdiction over this application under PURA §§ 14.001, 32.001, 37.051, 37.053, 37.054, and 37.056.
2. Oncor is a public utility as defined in PURA § 11.004 and an electric utility as defined in PURA § 31.002(6).
3. Oncor must obtain the approval of the Commission to construct the project and provide service to the public using the project under PURA § 37.053.
4. Oncor's application is sufficient under 16 TAC § 22.75(d).
5. Oncor provided notice of the application in compliance with PURA § 37.054 and 16 TAC § 22.52(a).
6. No public meeting on the application was required under 16 TAC § 22.52(a)(4).

7. The Commission processed this docket in accordance with the requirements of PURA, the Administrative Procedure Act,² and Commission rules.
8. The project using the proposed route is necessary for the service, accommodation, convenience, or safety of the public within the meaning of PURA § 37.056(a).
9. The project complies with PURA § 37.056(c) and 16 TAC § 25.101(b)(3)(B), including the Commission's policy of prudent avoidance, to the extent reasonable to moderate the impact on the affected community and landowners.
10. The Texas Coastal Management Program does not apply to the project, and the requirements of 16 TAC § 25.102 do not apply to the application.
11. The North Texas Utility's delegation of authority to Oncor in this docket is in accordance with PURA § 37.056(g).
12. The requirements for administrative approval in 16 TAC § 25.101(b)(3)(C) have been met in this proceeding.
13. The requirements for informal disposition in 16 TAC § 22.35 have been met in this proceeding.

III. Ordering Paragraphs

In accordance with these findings of fact and conclusions of law, the Commission issues the following orders:

1. The Commission amends Oncor's CCN number 30043 to include the construction and operation of the 138-kV transmission line in Midland County using the proposed route.
2. Oncor must conduct surveys, if not already completed, to identify metallic pipelines that could be affected by the transmission line and cooperate with pipeline owners in modeling and analyzing potential hazards because of alternating-current interference affecting pipelines being paralleled.
3. If Oncor or its contractors encounter any archaeological artifacts or other cultural resources during construction of the transmission facilities, work must cease immediately in the vicinity of the artifact or resource and Oncor must report the discovery to the Texas Historical Commission ("THC"). Oncor must take action as directed by the THC.

² Tex. Gov't Code ch. 2001.

4. Oncor must follow the procedures to protect raptors and migratory birds as outlined in following the publications: *Reducing Avian Collisions with Power Lines: State of the Art in 2012*, Edison Electric Institute and APLIC; *Suggested Practices for Avian Protection on Power Lines: The State of the Art in 2006*, Edison Electric Institute, APLIC, and the California Energy Commission; and the *Avian Protection Plan Guidelines*, APLIC and United States Fish and Wildlife Service, April 2005. Oncor must take precautions to avoid disturbing occupied nests and must take steps to minimize the impact of construction on migratory birds during the nesting season of the migratory bird species identified in the area of construction.
5. Oncor must use best management practices to minimize the potential impact to migratory birds and threatened or endangered species.
6. Oncor must exercise extreme care to avoid affecting non-targeted vegetation or animal life when using chemical herbicides to control vegetation within the rights-of-way. Herbicide use must comply with the rules and guidelines established in the Federal Insecticide, Fungicide and Rodenticide Act and with Texas Department of Agriculture regulations.
7. Oncor must minimize the amount of flora and fauna disturbed during construction of the transmission line, except to the extent necessary to establish appropriate right-of-way clearance for the transmission line. In addition, Oncor must re-vegetate using native species and must consider landowner preferences in doing so. Furthermore, to the maximum extent practicable, Oncor must avoid adverse environmental impacts to sensitive plant and animal species and their habitats, as identified by the Texas Parks and Wildlife Department and the United States Fish and Wildlife Service.
8. Oncor must implement erosion control measures as appropriate. Erosion control measures may include inspection of the right-of-way before and during construction to identify erosion areas and implement special precautions as determined reasonable to minimize the impact of vehicular traffic over the areas. Also, Oncor 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. Oncor need not 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.
9. If possible, and subject to the other provisions of this Notice of Approval, Oncor must

prudently implement appropriate final design for the transmission line so as to avoid being subject to the FAA's notification requirements. If required by federal law, Oncor must notify and work with the FAA to ensure compliance with applicable federal laws and regulations. Oncor is not authorized to deviate materially from this Notice of Approval to meet the FAA's recommendations or requirements. If a material change would be necessary to comply with the FAA's recommendations or requirements, then Oncor must file an application to amend its CCN as necessary.

10. Oncor must identify any additional permits that are necessary, must consult any required agencies (such as the United States Army Corps of Engineers and the United States Fish and Wildlife Service), must obtain all necessary environmental permits, and must comply with the relevant permit conditions during construction and operation of the proposed transmission facilities.
11. Oncor must update the reporting of the transmission facilities on its monthly construction progress report before the start of construction to reflect the final estimated cost and schedule in accordance with 16 TAC § 25.83(b). In addition, Oncor must provide final construction costs, with any necessary explanation for cost variance, after completion of construction and when all charges have been identified.
12. Oncor must cooperate with directly affected landowners to implement minor deviations in the approved route to minimize the impact of the transmission line. Any minor deviation to the approved route must only directly affect landowners who were sent notice of the transmission line in accordance with 16 TAC § 22.52(a)(3) and landowners that have agreed to the minor deviation.
13. Oncor is not authorized to deviate from the approved route in any instance in which the deviation would be more than a minor deviation without further amending its CCN.
14. The Commission limits the approval granted by this Notice of Approval to a period of seven years from the date this Notice of Approval is signed, unless the transmission line is commercially energized before that time.
15. The Commission denies all other motions and any other requests for general or specific relief, if not expressly granted.