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May 1, 2020

Ms. Rochelle Robles
Public Utility Commission
P.O. Box 13326
Austin, TX 78711-3326

RE: PUC Docket No. 50560: Application of Oncor Electric Delivery Company LLC to Amend a Certificate of Convenience and Necessity for the Johnson Draw Point of Delivery – Salt Flat Road 138-kilovolt Transmission Line in Midland County

Dear Ms. Robles:

Texas Parks and Wildlife Department (TPWD) has received and reviewed the Environmental Assessment (EA) regarding the above-referenced proposed transmission line project. TPWD offers the following comments and recommendations concerning this project.

Please be aware that a written response to a TPWD recommendation or informational comment received by a state governmental agency may be required by state law. For further guidance, see the Texas Parks and Wildlife (TPW) Code, Section 12.0011. For tracking purposes, please refer to TPWD project number 43423 in any return correspondence regarding this project.

Project Description

Oncor Electric Delivery LLC (Oncor) proposes to design and construct a new transmission line, approximately 2.8 miles in length, in Midland County.

The goal of the proposed transmission line project is to construct a single-circuit 138-kV transmission line to be built on double-circuit capable structures between the proposed Johnson Draw Point of Delivery (POD) and the existing Oncor Salt Flat Road Switch station. The right-of-way (ROW) width for the proposed project will be approximately 70 feet.

Oncor retained Halff Associates, Inc. (Halff) to prepare an Environmental Assessment (EA) to support Oncor's application for a Certificate of Convenience and Necessity. Oncor's application states, "Due to the existing system configuration and remote location of the surrounding transmission lines, alternatives to the Proposed Transmission Line Project are limited".

Recommendation: There was only one route presented in the EA; therefore, TPWD is unable to recommend a preferred route. TPWD provided information and recommendations regarding the preliminary study area for this project to Halff on

To manage and conserve the natural and cultural resources of Texas and to provide hunting, fishing and outdoor recreation opportunities for the use and enjoyment of present and future generations.

December 12, 2019. This letter is included in Appendix A of the EA. Please review the TPWD correspondence in Appendix A and consider the recommendations provided, as they remain applicable to the project as proposed.

Federal Laws

Migratory Bird Treaty Act

The Migratory Bird Treaty Act (MBTA) prohibits direct and affirmative purposeful actions that reduce migratory birds, their eggs, or their nests, by killing or capturing, to human control, except when specifically authorized by the Department of the Interior. This protection applies to most native bird species, including ground nesting species.

Section 4.4.2.1 of the EA states, “If ROW clearing and construction occurs during breeding season, impacts may occur to the young of many species including nestling and fledgling birds. Impacts to nesting birds will require mitigation measures to ensure compliance with the MBTA .”

Recommendation: TPWD recommends any PUC certificate preclude vegetation clearing activities during the general bird nesting season, March 15 through September 15, to avoid adverse impacts to birds. If clearing vegetation during the migratory bird nesting season is unavoidable, TPWD recommends surveying the proposed route for active nests (nests with eggs or young). TPWD recommends that a minimum 150-foot buffer of vegetation remain around any nests that are observed prior to disturbance and occupied nests and buffer vegetation not be disturbed until the eggs have hatched and the young have fledged.

Also, please note, Texas Parks and Wildlife (TPW) Code Section 64.002, regarding protection of nongame birds, provides that no person may catch, kill, injure, pursue, or possess a bird that is not a game bird. TPW Code Section 64.003, regarding destroying nests or eggs, provides that, no person may destroy or take the nests, eggs, or young and any wild game bird, wild bird, or wild fowl. TPW Code Chapter 64 does not allow for incidental take and therefore is more restrictive than the MBTA.

Other Species of Greatest Conservation Need

In addition to state and federally protected species, TPWD tracks species considered to be Species of Greatest Conservation Need (SGCN) that, due to limited distributions and/or declining populations, face threat of extirpation or extinction but currently lack the legal protections given to threatened or endangered species. Special landscape features, natural plant communities, and SGCN are rare resources for which TPWD actively promotes conservation, and TPWD considers it important to minimize impacts to such resources to reduce the likelihood of endangerment and preclude the need to list SGCN as threatened or endangered in the future.

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Section 3.5.1.4 of the EA states two SGCN plant species, Jones' selenia (*Selenia jonesii*) and Cory's ephedra (*Ephedra coryi*), have the potential to occur within the study area where suitable habitat exists.

Recommendation: TPWD recommends surveying the project area for the aforementioned rare plant species where suitable habitat may be present, prior to construction. The survey should be performed by a qualified biologist at the time of year when this species is most likely to be found, usually during the flowering period. If this species is present, plans should be made to avoid adverse impacts to the greatest extent possible. If plants are found in the path of construction, including the placement of staging areas and other project related sites, this office should be contacted for further coordination and possible salvage of plants and/or seeds for seed banking. Plants not in the direct path of construction should be protected by markers or fencing and by instructing construction crews to avoid any harm.

Section 3.5.2.4 of the EA states that three SGCN snake species, the western hognose snake (*Heterodon nasicus*), western rattlesnake (*Crotalus viridis*), and massasauga (*Sistrurus tergeminus*) have the potential to occur within the study area.

Recommendation: Snakes are generally perceived as a threat and killed when encountered during clearing or construction. Therefore, TPWD recommends that personnel involved in construction of the transmission line be informed of the potential occurrence of snakes in the project area and be advised to avoid impacts to these species. Contact with these species should be avoided, and snakes should be allowed to safely leave the premises.

TPWD appreciates the opportunity to review and comment on this EA. Please contact Rick Hanson at (806) 761-4936 or Richard.Hanson@tpwd.texas.gov if you have any questions. Thank you for your favorable consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Clayton Wolf". The signature is fluid and cursive, with the first name "Clayton" and last name "Wolf" clearly distinguishable.

Clayton Wolf
Wildlife Division Director

RH:jn.43423

cc: Mr. Chris Reily, Oncor