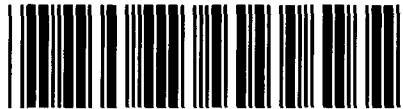




Control Number: 49715



Item Number: 80

Addendum StartPage: 0

**SOAH DOCKET NO. 473-20-0418
PUC DOCKET NO. 49715**



**APPLICATION OF ENTERGY TEXAS,
INC. TO AMEND ITS CERTIFICATE OF
CONVENIENCE AND NECESSITY FOR
A 230-KV TRANSMISSION LINE IN
LIBERTY AND HARRIS COUNTIES**

**BEFORE THE STATE OFFICE
OF
ADMINISTRATIVE HEARINGS**

STIPULATION AND SETTLEMENT AGREEMENT

This stipulation (“Stipulation”) represents an agreement amongst the parties to the above noted proceeding to resolve all of the issues related to the Application of Entergy Texas, Inc. (“ETI”) to Amend Its Certificate of Convenience and Necessity (“CCN”) for a 230-kilovolt (“kV”) Transmission Line in Liberty and Harris Counties, Texas (the “Application”). This Stipulation is made and entered into by the following parties: Entergy Texas, Inc. (“ETI” or the “Company”), Public Utility Commission of Texas Staff (“Staff”), Bobbie Anderton, J.D. Fogarty, Rubye Fogarty, Carl “Allen” Lott, Heather Lott, Sammie L. Pate, Cynthia Pate, Sharon Raczkowski, Stanely Rackzkowski, Rick Shojaei, Charles Southard, Jeanette Southard, Amy Strahan, Alan Trojanowski, and Carmen Trojanowski (together, “Eastgate Alliance”), Liz Ceja, Liberty Grand Partners, LP (Brad Elmore), Wolf Trot Properties, Lake Houston Venture, LH Ranch, Ltd., and CH-B Kingland, LLC, as indicated by their signatures below (collectively, the “Signatories”). Intervenor James Lord is unopposed to the Stipulation. This Stipulation is filed simultaneous with ETI’s Unopposed Motion to Admit Evidence and Remand Proceeding to the Commission.

I. BACKGROUND

1. On July 15, 2019, ETI filed an Application with the Public Utility Commission of Texas (“Commission”) to amend its CCN to construct the proposed Timberland 230-kV transmission line in Liberty and Harris Counties (the “Project”).
2. On November 15, 2019, Entergy Texas filed the direct testimonies of Jody C. Castille, Jeff Dicharry, Thomas A. Martinez, and Gary L. McClanahan.
3. On or about December 20, 2019, Intervenors filed their direct testimony or statements of position in Docket No. 49715. No Intervenor testimony or statement of position expressly challenged the need for the Project.

4. The Application included 10 alternative routes for the Commission's consideration that met the certification requirements of the Public Utility Regulatory Act ("PURA") and the Commission's Substantive Rules and ranged in length from approximately 7.7 to 11.7 miles.
5. The Signatories agree that this Stipulation resolves all issues between them with respect to this proceeding. The Signatories submit this Stipulation to the Commission as representing a just and reasonable disposition of the issues in this docket consistent with the public interest. The Signatories request approval of the Stipulation and entry of the Proposed Order attached as Attachment A to this Stipulation.

II. AGREEMENT

6. The Signatories agree that ETI's CCN, Certificate No. 30076, should be amended to allow the construction and operation of the proposed line as set forth in this Stipulation.
7. The Signatories agree that the Commission should approve Stipulated Route No. 2, consisting of the following routing segments: A1, A2, D, F, J Modified, K1 Modified, K2, N, as described in the Stipulation Testimony of Thomas A. Martinez and depicted in Attachment B and Attachment C to this Stipulation (the "Settlement Route"), as the alternative route that best meets the relevant criteria set forth in the Public Utility Regulatory Act ("PURA") and the Commission's Rules.
8. The Signatories agree that this Stipulation is in the public interest and that, after weighing the factors set forth in PURA § 37.056 and 16 Texas Administrative Code ("TAC") § 25.101(b)(3), the best alternative for the proposed transmission line is the Settlement Route, consisting of the following Segments: A1, A2, D, F, J Modified, K1 Modified, K2, N. With the exception of J Modified and K1 Modified, these Segments were previously noticed and are defined in the enclosures to the landowner notice in Attachment 4 and depicted in affected landowner map in Attachment 3 of the Application. The single landowner affected by the minor modifications to Segments J and K1 (resulting in segments J Modified and K1 Modified) has agreed to those modifications and is a Signatory to this Stipulation. Attachment B and C to this Stipulation show the Settlement Route and updated segment descriptions respectively.
9. The Settlement Route is approximately 8.90 miles long, which is the fourth shortest of the route lengths proposed in this proceeding.

10. The Settlement Route affects 0 habitable structures.
11. With an estimated cost of \$57,441,059, the Settlement Route is the second least expensive of the routes proposed in this proceeding. The least expensive alternative route cost only \$94,710 less than the estimated cost of the Settlement Route.
12. The Signatories agree to support a Motion to Admit Evidence in support of the Stipulation. The motion will seek admission of the following:
 - a. The Application of ETI for the Project filed on July 15, 2019;
 - b. The direct testimonies and exhibits of Jody C. Castille, Jeff Dicharry, Thomas A. Martinez, and Gary L. McClanahan filed on November 15, 2019;
 - c. ETI's proof of notice submitted on August 5, 2019 and additional proof of notice submitted on March 9, 2020;
 - d. The TPWD letter to Ms. Karen Hubbard dated August 30, 2019;
 - e. The direct testimonies of Carl "Allen" and Heather Lott, Bobbi Anderson, Sammie and Cynthia Pate, Amy Strahan, Alan and Carmen Trojanowski, Rick Shojaei, Stanley and Sharon Raczkowski, Charles and Jeanette Southard, and J.D. and Ruby Fogart filed on behalf of Eastgate Alliance on December 20, 2019;
 - f. The direct testimony of Abigail McMahon filed on behalf of CH-B Kingland, LLC on December 20, 2019;
 - g. The direct testimony of Megan Frey filed on behalf of LH-Ranch, Ltd. on February 7, 2020.¹
 - h. Commission Staff's Direct Testimony In Support of Settlement of David Bautista filed on May 18, 2020;
 - i. Settlement Testimony of Thomas A. Martinez filed on May 18, 2020; and
 - j. The Stipulation and Settlement Agreement and its exhibits.
13. Signatories agree that the provisions of this Stipulation resolve their requests for relief from the Commission in Docket No. 49715.
14. The Stipulation is supported by the record evidence admitted in this proceeding.

¹ LH-Ranch attempted to timely file this testimony by courier on the December 20, 2019 filing deadline for intervenor testimony. However, it was later discovered that the filing was not made. No party objects to the admission of this testimony into the record.

15. The Signatories request that the Commission adopt an order consistent with the terms of this Stipulation. The Signatories agree that they will take reasonable steps to ensure that the Commission adopts an order approving the Settlement Route with terms consistent with the terms of this Stipulation. A proposed order approving the Settlement Route is attached to this Stipulation as Attachment A.

III. OTHER PROVISIONS

16. The Signatories recognize that this Stipulation is merely a proposal submitted to the Commission. Although this Stipulation represents a settlement among the Signatories with respect to the issues presented in this docket, the Commission is not bound by this Stipulation and has the authority to enter an order resolving this docket. This Stipulation has been drafted by all the Signatories and is the result of negotiation, compromise, settlement, and accommodation. The Signatories agree that this Stipulation is in the public interest and its terms and conditions are interdependent.

17. This Stipulation is binding on each signatory only for the purpose of settling the issues set forth in the Stipulation and for no other purposes. Nothing in this Stipulation serves to grant any property interest (including, without limitation, an easement) to ETI for the right-of-way for any route. Except to the extent that this Stipulation expressly governs a Signatory's rights and obligations for future periods, this Stipulation shall not be binding or precedential on a Signatory outside of this proceeding or a proceeding to enforce the terms of the Stipulation. The Signatories agree that by signing this Stipulation, no Signatory is bound by the Stipulation's positions, theories, or principles on any issue in any future proceeding unrelated to this docket. Further, no party shall construe any provision in this Stipulation as an admission regarding the desirability or impact of the Settlement Route with respect to the transmission line's effect on the market value of any property. The route may be modified in accordance with the ordering paragraphs in the Commission's order approving this Stipulation. It is acknowledged that a Signatory's support of the matters contained in this Stipulation may differ from the position taken or testimony presented by it in other dockets and jurisdictions.

18. This Stipulation shall not affect any Signatory's right to raise any issue other than those specifically addressed in this Stipulation. No Signatory to this Stipulation waives any of its rights to contest property valuations with respect to any easement associated with this

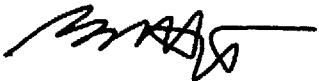
project. Each Signatory to this Stipulation retains the right to seek appropriate and just compensation for the right-of-way on their property and to challenge the estimated cost to obtain the necessary right-of-way for construction on the Signatory's property, if applicable.

19. This Stipulation reflects the signatories' position only to the extent that the Commission adopts it and issues an order consistent with its terms. If the Commission materially changes the terms of the Stipulation or does not adopt an order consistent with the terms of the Stipulation, including specifically the routing of the proposed transmission line along the Settlement Route, the Signatories shall have the right to withdraw from the Stipulation and assume any position, not inconsistent with any other agreements between the parties, which they deem appropriate with respect to any issue in this docket.
20. This Stipulation cannot be used as evidence in other proceedings. Consistent with Texas Rule of Evidence 408, the terms of this Stipulation may not be used as evidence in any regulatory or judicial proceeding except one in which any of the Signatories seek to enforce the terms of this Stipulation.
21. The Signatories agree that the facts and matters stated in this Stipulation are true and correct to the best of their knowledge and may be relied upon by the Commission in resolving this docket. Each person executing this Stipulation represents that he or she is authorized to sign on behalf of the party represented. Copies of signatures are valid for purposes of evidencing such execution. This Stipulation may be executed in multiple counterparts, each of which is deemed an original but all of which constitute one and the same instrument.

Executed as shown below.

Dated this 18th day of May 2020.

Entergy Texas, Inc.



George Hoyt
919 Congress Avenue, Suite 701
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Staff of the Public Utility Commission of Texas

/s/ Rustin Tawater

Rustin Tawater
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/s/ Tammy Wavle-Shea w/ permission

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James Lord

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Dated this ____ day of January 2020.

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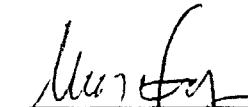
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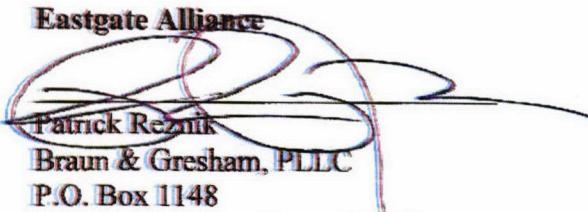
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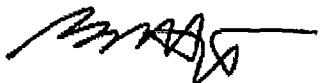
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**PUC DOCKET NO. 49715
SOAH DOCKET NO. 473-20-0418**

**APPLICATION OF ENTERGY TEXAS,
INC. TO AMEND ITS CERTIFICATE OF
CONVENIENCE AND NECESSITY FOR
A 230-KV TRANSMISSION LINE IN
LIBERTY AND HARRIS COUNTIES § PUBLIC UTILITY COMMISSION
§ OF TEXAS
§**

PROPOSED ORDER

This Order addresses the application of Entergy Texas, Inc. (“ETI”) for approval to amend its certificate of convenience and necessity (“CCN”) to construct, own, and operate the Timberland 230-kilovolt (“kV”) transmission line in Liberty and Harris Counties. ETI filed on behalf of all parties a settlement agreement resolving all issues among the parties to this proceeding. The Commission amends ETI’s CCN number 30076 to the extent provided by this Order.

I. Findings of Fact

The Commission makes the following findings of fact.

Applicant

1. ETI provides electric generation, transmission, and distribution services under CCN number 30076.

Application

2. On July 15, 2019, ETI filed an application to amend its CCN to build a new 230-kV transmission line in Liberty and Harris Counties, Texas that will connect to ETI’s new Timberland substation (the transmission facilities).
3. ETI retained Power Engineers, Inc. to prepare an environmental assessment and routing analysis, which ETI attached to its application.
4. No party challenged the sufficiency of the application.
5. In Order No. 3, issued on August 16, 2019, the Commission administrative law judge (ALJ) found the application sufficient.

Description of the Transmission Facilities

6. The 230-kV transmission line proposed in the application is 7.7 miles to 11.7 miles, depending on the route selected.
7. ETI will construct the transmission line on steel or concrete single-circuit monopoles and steel or concrete double-circuit monopoles, depending on location, from the existing China to Heights (L-822) 230-kV transmission line to the proposed Timberland substation in Liberty County.
8. The estimated construction costs of the filed routes range from \$57,346,349 to \$60,683,034.
9. The routes are based on a right-of-way width of 125 feet.
10. ETI will own, operate, and maintain all of the transmission facilities.
11. ETI's application included one route, alternative Route No. 2, which ETI contended best addressed the requirements of PURA¹ and the Commission's rules, in addition to 9 alternative routes for the transmission facilities.
12. ETI estimated that it would acquire all right-of-way and land by July 2021, finalize engineering and design by April 2021, procure material and equipment by November 2021, and complete construction and energize the proposed transmission facilities by April 2022.

Public Input

13. ETI hosted a public meeting to gather information on community values for the transmission facilities on September 27, 2018.
14. ETI directly mailed 78 individual written notices of the public meeting to affected landowners.
15. Ten people signed in as attending the public meeting.
16. Nine attendees completed questionnaires and submitted them to ETI or Power Engineers for consideration.

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

17. ETI evaluated and incorporated information from the public meeting and from local, state, and federal agencies into the selection of recommended and alternative routes.

Notice of Application

18. On July 15, 2019, ETI provided the following notice of its application: (a) mailed notice of its application by first class mail to all directly affected landowners, as defined by 16 Tex. Admin. Code (“TAC”) § 22.52 (a)(3), as well as landowners with land within 300 feet of the centerline of the proposed routes; (b) mailed notice of its application by first class mail to all municipalities within five miles of the proposed routes; (c) mailed notice to the county governments of the counties in which any part of the proposed routes are located; mailed notice to neighboring utilities providing the same utility service within five miles of the proposed routes; (d) mailed notice to pipelines crossed by or within 100 feet of the proposed routes; (e) mailed notice of its application by first class mail to the Office of Public Utility Counsel (“OPUC”); (f) mailed notice by first class mail to the Department of Defense Siting Clearinghouse (“DOD”); and (g) provided a copy of the Environmental Assessment to the Texas Parks and Wildlife Department (“TPWD”).
19. On July 18, 2019, the Commission issued Order No. 1 requiring information from ETI and the Commission Staff to provide a recommendation on the sufficiency of the Application and addressing other procedural matters.
20. On August 5, 2019, ETI filed Proof of Notice as required under P.U.C. Proc. R. 22.52 and Commission Order No. 1, including an affidavit attesting to publication of notice of the application in newspapers having general circulation in the counties where ETI requested a CCN and publishers’ affidavits and tear sheets for the publications. ETI’s Proof of Notice also included an affidavit attesting to the provision of notice to OPUC, DOD, and TPWD. On January 21, 2020, ETI filed an affidavit attesting to notice of the application to municipalities, counties, neighboring utilities, pipelines, and directly affected landowners, which affidavit was described in ETI’s August 5, 2019 Proof of Notice but inadvertently omitted from that filing.
21. On February 14, 2020, following the subdivision of a property along segments J and K1 after ETI’s application had been filed, the Company provided notice to 16 new landowners

and provided a second notice to Colony Ridge Development, LLC, the owner of the property prior to its subdivision and which continued to own a number of the subdivided lots along Route No. 2.

22. On March 9, 2020, ETI filed Proof of Notice, including an affidavit attesting to the provision of notice by mail to the owners of the subdivided property along segments J and K1. ETI's notice to the owners of the subdivided property indicated that the recipients of the notice should file any requests to intervene in this proceeding with 15 days of receiving the notice mailed on February 14, 2020.

Intervenors

23. On September 10, 2019, Charlotte McComb submitted comments opposing ETI's application.
24. By Order No. 2, issued on August 9, 2019, and Order No. 4, issued on September 6, 2019, twenty-two affected landowners were granted leave to intervene in and remain parties in this docket. James Lord, CH-B Kingland, LLC, Liberty Grand Partners, LP (Brad Elmore), Lizeth Ceja, Lake Houston Venture, LH-Ranch, Ltd., and Wolf Trot Properties, LLC intervened individually. Bobbi Anderton, J.D. and Rubye Fogarty, Carl "Allen" and Heather Lott, Sammie L. and Cynthia Pate, Stanley and Sharon Raczkowski, Rick Shojaei, Charles and Jeanette Southard, and Amy Strahan intervened and aligned as "Eastgate Alliance."
25. On March 10, 2020, Colony Ridge Development, LLC filed a request to intervene.
26. On March 12, 2020, Eastgate Alliance filed an objection to Colony Ridge Development, LLC's request to intervene.
27. On ___, SOAH Order No. ___ was issued _____ Colony Ridge Development, LLC's request to intervene.

Route Adequacy

28. ETI's application presented ten geographically diverse routes for the proposed Timberland transmission line utilizing a combination of 23 segments.

29. No party filed testimony or a statement of position 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.
30. The ten geographically diverse routes provided in the application are an adequate number of differentiated routes to conduct a proper evaluation.

Referral to SOAH for Hearing

31. Several intervenors filed requests for a hearing on the merits.
32. On September 5, 2019, Commission Staff filed a request for hearing and referral to the State Office of Administrative Hearings ("SOAH").
33. On October 1, 2019, the Commission issued an order of referral and preliminary order, referring this application to SOAH for assignment of an ALJ to conduct a hearing and issue a proposal for decision, if necessary; and specified issues to be addressed in this proceeding.
34. In SOAH Order No. 1, issued on October 4, 2019, the SOAH ALJs provided a filing description, notice of a pre-hearing conference, and addressed sufficiency of notice and completeness of ETI's application.
35. On October 15, 2019, a prehearing conference was held in Austin, Texas.
36. In SOAH Order No. 2, issued on October 18, 2019, the SOAH ALJs memorialized the prehearing conference, adopted an agreed procedural schedule and discovery deadlines, and provided notice of a hearing on the merits on February 17, 2020.
37. In SOAH Order No. 3, issued on October 22, 2019, the SOAH ALJs cancelled the hearing on the merits set for February 17, 2020, and required the parties to confer and submit a new agreed date for the hearing on the merits.
38. In SOAH Order No. 4, issued on October 25, 2019, the SOAH ALJs reset the hearing on the merits for February 18, 2020.

39. In SOAH Order No. 5, issued on January 2, 2020, the SOAH ALJs granted ETI's unopposed motion to abate the proceeding and ordered parties to file a status report by January 20, 2020.
40. On January 21, 2020, ETI filed a status report stating that the parties continued to make progress finalizing the settlement among them.
41. On March 9, 2020, ETI filed a status report explaining that the parties continued to work toward settlement, but noting that a property along segments J and K1 had been subdivided after the filing of ETI's application and providing proof that ETI had notified the owners of the that subdivided property.
42. On May 18, 2020, ETI filed a settlement agreement resolving all issues among the parties, including approval of an agreed settlement route and a map showing the location of the settlement route; the settlement testimony of Thomas A. Martinez; a proposed order; and a joint motion to admit evidence and remand the proceeding to the Commission.
43. On May 18, 2020, Commission Staff filed its Direct Testimony in Support of Settlement of David Bautista.
44. In SOAH Order No. 6, issued on _____, the SOAH ALJs granted ETI's motion to admit evidence and remand the docket to the Commission. The SOAH ALJs admitted the settlement agreement and attachments filed on _____; the application and attachments ETI filed on July 15, 2019; the Proof of Notice and attachments ETI filed on August 5, 2019 (as well as the omitted affidavit later filed on January 21, 2020); ETI's Response to Staff's 1st Set of RFIs filed on October 1, 2019; the direct testimonies of Jody C. Castille, Jeff Dicharry, Thomas A. Martinez, and Gary L. McClanahan ETI filed on November 15, 2019; the Status Report and Proof of Notice and attachments ETI filed on March 9, 2020; the settlement testimony of Thomas A. Martinez ETI filed on May 18, 2020; the recommendation letter TPWD filed on August 30, 2019; the direct testimonies of Carl "Allen" and Heather Lott, Bobbi Anderson, Sammie and Cynthia Pate, Amy Strahan, Alan and Carmen Trojanowski, Rick Shojaei, Stanley and Sharon Raczkowski, Charles and Jeanette Southard, and J.D. and Ruby Fogart filed on behalf of Eastgate Alliance on December 20, 2019; the direct testimony of Abigail McMahon filed on behalf

of CH-B Kingland, LLC on December 20, 2019; and the Direct Testimony in Support of Settlement of David Bautista Commission Staff filed on May 18, 2020.

Statements of Position and Pre-filed Testimony

45. On November 15, 2019, ETI filed the direct testimonies of Jody C. Castille, Jeff Dicharry, Thomas A. Martinez, and Gary L. McClanahan.
46. On December 18, 2019, ETI filed an unopposed motion to abate the procedural schedule to provide the parties time to finalize a settlement of all issues to this proceeding.
47. On December 20, 2019, James Lord submitted a Statement of Position.
48. On December 20, 2019, CH-B Kingland, LLC submitted the direct testimony of Abigail McMahon.
49. On December 20, 2019, Carl “Allen” and Heather Lott, Bobbi Anderson, Sammie and Cynthia Pate, Amy Strahan, Alan and Carmen Trojanowski, Rick Shojaei, Stanley and Sharon Raczkowski, Charles and Jeanette Southard, and J.D. and Rubye Fogarty submitted direct testimony on behalf of Eastgate Alliance.
50. On February 7, 2020, Megan Frey submitted direct testimony on behalf of LH-Ranch, Ltd. LH-Ranch had previously attempted to timely file its testimony on December 20, 2019 but due to delivery issues the filing was not made.

Description of the Agreed Settlement Route

51. The agreed settlement route for the Timberland 230-kV transmission line is a modified version of Route No. 2 presented in ETI’s application. The agreed settlement route is 8.90 miles and consists of segments A1, A2, D, F, J Modified, K1 Modified, K2, N.
52. The agreed settlement route is the as filed Route 2, with modifications to segments J and K1, to avoid properties that changed ownership after ETI’s application was filed.
53. The agreed settlement route consists entirely of noticed segments that were not changed or modified from the segments proposed in the application except for J Modified and K1 Modified. All landowners affected by those modifications have provided consent.

Adequacy of Existing Service and Need for Additional Service

54. No party disputed the need for the transmission facilities.
55. The Timberland 230-kV transmission line is a project identified by Entergy Services, LLC Distribution Asset Planning to enable ETI to reliably address customer growth spurred by the construction of the Grand Parkway in the ETI certificated service territory adjacent to a portion of the Sam Houston Electric Cooperative (“SHECO”) certificated service territory.
56. ETI submitted the Project to the Midcontinent Independent System Operator, Inc. (“MISO”) to be studied in the MTEP 18 planning process. MISO independently reviewed and publicly presented the impact to the bulk electric system to ensure compliance with the North American Electric Reliability Corporation (“NERC”) Transmission Planning Standard TPL-001-04 and local planning criteria.
57. MISO determined the Project did not adversely impact the bulk electric system. The Project was classified as an “Other” project per the MISO tariff and approved by the MISO Board of directors on December 6, 2018.

Effect of Granting the Application on ETI and Probable Improvement of Service or Lowering of Cost to Customers

58. ETI is the only electric utility involved in the construction of the transmission facilities.
59. The agreed settlement route will connect into the existing ETI-owned China-to-Heights 230-kV transmission line and terminate at ETI’s proposed new 230/13.8kV Timberland distribution substation.
60. The Timberland transmission line will not cross or parallel transmission facilities owned by any other utility.
61. The Commission does not expect the construction of the proposed transmission facilities along the agreed settlement route to adversely affect service by other utilities in the area.
62. The Commission expects the construction of the proposed transmission facilities along the settlement route to reliably address customer growth spurred by construction of the Grand Parkway.

63. The Commission expects the construction of the proposed transmission facilities along the settlement route to enable the future interconnection of new distribution substations, generator interconnection substations, and interconnection to an existing 230-kV transmission line north of the study area, subject to future needs.
64. The Commission expects the construction of the proposed transmission facilities along the settlement route to also provide a new interconnection opportunity for the new Plum Grove substation planned by SHECO at a reduced cost to all members of the Entergy Texas Transmission Pricing Zone compared with the construction of new transmission lines for both substations independently.

Estimated Costs

65. The estimated costs for the alternative routes filed in the application range from \$57,346.349 (for Route No. 3) to \$60,683,034 (for Route No. 4).
66. The estimated cost for the construction of the transmission facilities along the agreed settlement route is \$57,441,059, which is an increase of \$67,098 relative to Route No. 2 as originally presented in ETI's application.
67. The agreed settlement route is the second least expensive of the route alternatives in this application and is only \$94,710 more expensive than the least costly route.
68. The cost of the agreed settlement route is reasonable considering the range of the cost estimates for the alternative routes.
69. The transmission facilities will be financed through a combination of debt and equity.

Prudent Avoidance

70. Prudent avoidance, as defined by 16 TAC § 25.101(a)(6), is the "limiting of exposures to electric and magnetic fields that can be avoided with reasonable investments of money and effort."
71. Over its length of 8.90 miles, the agreed settlement route (Route No. 2) has no habitable structures within 300 feet of the center line of its right-of-way.
72. The construction of transmission facilities along the agreed settlement route complies with the Commission's policy of prudent avoidance.

Community Values

73. To ascertain community values for the transmission facilities, ETI held a public meeting on September 27, 2018.
74. POWER Engineers' routing analysis and ETI's eventual selection of routes filed in the application incorporated information received from the public meeting and from local, state, and federal agencies.
75. POWER Engineers, in consultation with ETI, used information received from the public meeting to modify preliminary route segments.
76. The principal concerns expressed in nine questionnaire responses from the public meeting were to maximize the distance of the facilities from residences, parallel other existing compatible rights-of-way, and minimize environmental impacts. Respondents also expressed concerns and preferences related to property values, health and safety, dividing properties, route length, cost, aesthetics, impacts on ranching/ agricultural operations, and placement near existing development.
77. The agreed settlement route adequately addresses the expressed community values.

Use or Parallelizing Compatible Rights-of-Way and Paralleling of Property Boundaries

78. ETI evaluated the use of existing rights-of-way, paralleling of existing compatible rights-of-way, and paralleling apparent property boundaries when developing the alternative routes.
79. The alternative routes in the application parallel other existing compatible rights-of-way for 0 to 3.89 miles, depending on the route selected.
80. The agreed settlement route parallels other existing compatible ROW (highway, roads, canals, railway, etc.) second most of all proposed routes at 2.88 miles, parallels apparent property lines or other natural or cultural features for 2.81 miles, and parallels pipeline ROW for 2.44 miles.
81. The agreed settlement route parallels existing compatible rights-of-way and apparently property lines to a reasonable extent.

Engineering Constraints

82. ETI evaluated engineering and construction constraints, reliability issues, and estimated costs to evaluate the alternative routes that relate to the requirements of PURA and Commission rules.
83. ETI did not identify any known existing engineering constraints in the application that would prevent the construction of transmission facilities along the agreed settlement route.

Other Comparisons of Land Uses and Land Types

a. Radio Towers and Other Electronic Installations

84. There are no commercial AM radio transmitters located within 10,000 feet of the centerline of the agreed settlement route.
85. There are no FM radio transmitters, microwave towers or any other electronic installation devices located within 2,000 feet of the centerline of the agreed settlement route.
86. The Commission does not expect the presence of transmission facilities along the agreed settlement route to adversely affect communication operations in the proximity of the agreed settlement route.

b. Airstrips and Airports

87. There are no airports registered with the Federal Aviation Administration (“FAA”) with at least one runway longer than 3,200 feet located within 20,000 feet of the centerline of the agreed settlement route.
88. There are no airports registered with the FAA with a runway less than 3,200 feet in length located within 10,000 feet of the centerline of the agreed settlement route.
89. There are no private airstrips located within 10,000 feet of the centerline of the agreed settlement route.
90. There are no heliports located within 5,000 feet of the centerline of the agreed settlement route.

91. The Commission does not expect the presence of transmission facilities along the agreed settlement route to adversely affect any airports, airstrips, or heliports in the proximity of the agreed settlement route.

c. Irrigation Systems

92. The agreed settlement route does not cross land with known mobile irrigation systems.
93. The Commission does not expect the presence of transmission facilities along the agreed settlement route to adversely affect any agricultural lands with known mobile irrigation systems.

Parks and Recreational Areas

94. The agreed settlement route does not cross or come within 1,000 feet of any parks and recreational areas.
95. The Commission does not expect the presence of transmission facilities long the agreed settlement route to adversely affect the use and enjoyment of parks and recreational areas.

Historical and Archeological Values

96. Two archeological sites have been previously recorded within the study area within 459 and 350 feet, respectively, of the agreed settlement route. Both sites are prehistoric in age and the National Register of Historic Places (“NHRP”) has determined both to be ineligible for listing on its register of historic places. Both sites, prehistoric sites on pimple mounds, have been determined by the State Historic Preservation Officer to be ineligible for listing on the NRHP.
97. There are no properties listed on or determined eligible for listing on the NHRP within the right-of-way of the agreed settlement route.
98. There are no properties listed on or determined eligible for listing on the NHRP within 1,000 feet of the centerline of the agreed settlement route.
99. There are no NRHP-listed or eligible properties, bridges, or Official Texas Historical Markers recorded in the study area.
100. There are no recorded cultural resource sites crossed by the agreed settlement route.

101. The Commission does not expect the presence of transmission facilities along the agreed settlement route to adversely affect archeological or historical resources.

Aesthetic Values

102. None of the alternative routes have any portion of their length located within the foreground visual zone of Interstate, US, and State highways, excluding the planned Grand Parkway.
103. None of the alternative routes have any portion of their length located within the foreground visual zone of farm-to-market or ranch-to-market roads.
104. None of the alternative routes have any portion of their lengths located within the foreground visual zone of parks or recreational areas.
105. The Commission does not expect the presence of transmission facilities along the agreed settlement route to adversely affect the aesthetical quality of the surrounding landscape.

Environmental Integrity

106. The environmental assessment and alternative route analysis analyzed the possible effects of the transmission facilities on numerous different environmental factors.
107. ETI and POWER Engineers performed an evaluation of the effects of the transmission facilities on the environment, including endangered and threatened species.
108. The agreed settlement route crosses 5.1 miles of upland forest.
109. The agreed settlement route crosses 2.8 miles of bottomland/riparian woodlands.
110. The agreed settlement route affects 23.3 acres of National Wetland Inventory (“NWI”) mapped forested or scrub/shrub wetlands and 3.2 acres of NWI mapped emergent wetlands.
111. The agreed settlement route does not cross the known habitat of any federal endangered or threatened species of plant or animal.
112. ETI will cooperate with the U.S. Fish and Wildlife Service (“USFWS”) to the extent that field studies identify threatened or endangered species’ habitats.
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 that ETI minimize the amount of flora and fauna disturbed during construction of the transmission facilities.
115. It is appropriate that ETI revegetate cleared and disturbed areas using native species and consider landowner preferences in doing so.
116. It is appropriate that ETI implement erosion control measures and return each affected landowner's property to its original contours and grades unless otherwise agreed by the landowners; however, it is not appropriate that ETI 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.
117. It is appropriate that ETI exercise extreme care to avoid affecting non-targeted vegetation or animal life when using chemical herbicides to control vegetation within the right-of-way and such herbicide use must comply with the rules and guidelines established in the Federal Insecticide, Fungicide, and Rodenticide Act and with the Texas Department of Agriculture's regulations.
118. It is appropriate that ETI 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: The State of the Art in 2006*, Edison Electric Institute, Avian Power Line Interaction Committee, and California Energy Commission, Washington, D.C. and Sacramento, C.A. 2006; and the *Avian Protection Plan Guidelines*, Avian Power Line Interaction Committee and United States Fish and Wildlife Service, April 2005.
119. It is appropriate that ETI use best management practices to minimize any potential harm the agreed settlement route presents to migratory birds and threatened or endangered species.
120. The Commission does not expect the presence of transmission facilities along the agreed settlement route to adversely affect the environmental integrity of the surrounding landscape.

TPWD's Comments and Recommendations

121. On August 22, 2019, TPWD filed a comment letter making various comments and recommendations regarding the transmission facilities.
122. TPWD's comment letter addressed issues relating to effects ecology and the environment but did not consider the other factors the Commission and utilities must consider in CCN applications.
123. ETI will comply with all applicable environmental laws and regulations, including those governing threatened and endangered species.
124. ETI will comply with all applicable regulatory requirements in constructing the transmission facilities, including any applicable requirements under section 404 of the Clean Water Act.
125. POWER Engineers relied on habitat descriptions from various sources, including the Texas Natural Diversity Database, other sources provided by the TPWD, and observations from field reconnaissance to determine whether habitats for some species are present in the area encompassing the transmission facilities.
126. ETI will coordinate with USFWS, TPWD, and all other appropriate agencies if threatened or endangered species habitats are identified during field surveys.
127. If construction affects federally listed species or their habitat or affect water under the jurisdiction of the United States Army Corps of Engineers or the Texas Commission on Environmental Quality, ETI will cooperate with the USFW, United States Army Corps of Engineers, and the Texas Commission on Environmental Quality as needed to coordinate permitting and perform any required mitigation.
128. The standard mitigation requirements included in the ordering paragraphs in this Order, coupled with ETI's current practices, are reasonable measures for a utility to undertake when constructing a transmission line and are sufficient to address TPWD's comments and recommendations.
129. This Order addresses only those TPWD recommendations for which there is record evidence.

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

Permits

131. Before beginning construction of the proposed transmission facilities, ETI will obtain any necessary permits from the Texas Department of Transportation if the facilities cross state-owned or maintained properties, roads, or highways.
132. Before beginning construction of the proposed transmission facilities, ETI will obtain any necessary permits or clearances from federal, state or local authorities.
133. Before beginning construction of the proposed transmission facilities, it is appropriate for ETI to conduct a field assessment of the agreed settlement route to identify water resources, cultural resources, potential migratory bird issues, and threatened and endangered species' habitats disrupted by the transmission line before beginning construction of the proposed transmission facilities. As a result of these assessments, ETI will identify all necessary permits, and will comply with the relevant permit conditions during construction and operation of the transmission facilities along the agreed settlement routes.

Coastal Management Program

134. 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.
135. The agreed settlement route does not cross any land within the coastal management program boundary, as defined in 31 TAC § 503.1(b).

Effect on the State's Renewable Energy Goal

136. 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.

137. The Commission does not expect the presence of transmission facilities along the agreed settlement route to adversely affect the goal for renewable energy development established in PURA § 39.904(a).

Limitation of Authority

138. It is reasonable and appropriate for a CCN order not to be valid indefinitely because the order was based on the facts known at the time of issuance.
139. Seven years is a reasonable and appropriate limit to place on the authority granted in this order to construct the transmission facilities.

Informal Disposition

140. More than 15 days have passed since completion of the notice provided in this docket.
141. All intervenors have agreed to or do not oppose the settlement route and agree that there is no need for a hearing on the merits.
142. No hearing is necessary.
143. Commission Staff supports approval of the agreed settlement route.
144. The decision is not adverse to any party.

II. Conclusions of Law

The Commission makes the following conclusions of law.

1. ETI is a public utility as defined in PURA § 11.004 and an electric utility as defined in PURA § and 31.002(6).
2. ETI must obtain the approval of the Commission to construct the proposed transmission line and provide service to the public using the line.
3. The Commission has jurisdiction over this matter pursuant to PURA §§ 14.001, 32.001, 37.051, 37.053, 37.054, and 37.056.
4. SOAH exercised jurisdiction over this proceeding pursuant to PURA § 14.053 and Tex. Gov't Code § 2003.049.

5. ETI provided notice of the application according to PURA § 37.054 and 16 TAC § 22.52(a).
6. The Application is sufficient under 16 TAC § 22.75(d).
7. The Commission processed this docket in accordance with the requirements of PURA, the Administrative Procedure Act,² and Commission rules.
8. The transmission facilities using the agreed settlement route are necessary for the service, accommodation, convenience, or safety of the public within the meaning of PURA § 37.056(a).
9. The Texas Coastal Management Program does not apply to the transmission facilities and the requirements of 16 TAC § 25.102 do not apply to the application.
10. The proceeding meets the requirements for informal disposition under 16 TAC § 22.35.

III. Ordering Paragraphs

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

1. The Commission amends ETI's CCN number 30076 to include the construction and operation of a new 230-kV transmission and associated facilities along the agreed settlement route extending from the existing China to Heights (L-822) 230-kV transmission line to the proposed Timberland substation in Liberty County.
2. 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 natural gas pipelines paralleled by the proposed transmission facilities.
3. ETI must conduct surveys, if not already completed, to identify metallic pipelines potentially affected by the proposed transmission line and cooperate with pipeline owners in modeling and analyzing potential hazards due to alternating-current interference affecting metallic pipelines being paralleled.

² Tex. Gov't Code §§ 2001.001–.902.

4. ETI must obtain all permits, licenses, plans, and permission required by state and federal law that are necessary to construct the proposed transmission facilities, and if ETI fails to obtain any such permit, license, plan, or permission, it must notify the Commission immediately.
5. ETI must identify any additional permits that are necessary, consult any required agencies (such as the United States Army Corps of Engineers and United States Fish and Wildlife Service), obtain all necessary environmental permits, and comply with the relevant conditions during construction and operation of the proposed transmission facilities.
6. In the event ETI or its contractors encounter any archeological artifacts or other cultural resources during transmission line construction, work shall cease immediately in the vicinity of the artifact or resource and the discovery shall be reported to the Texas Historical Commission (“THC”). In that situation, ETI shall take action as directed by the THC.
7. 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.
8. ETI must use best management practices to minimize the potential harm to migratory birds and threatened or endangered species presented by the agreed settlement route.
9. 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 United States Fish and Wildlife Service, April 2005. ETI must take precautions to avoid disturbing occupied nests and take steps to minimize the burden of construction of the transmission facilities on migratory birds during the nesting season of the migratory bird species identified in the area of construction.

10. ETI must exercise extreme care to avoid affecting non-targeted vegetation or animal life when using chemical herbicides to control vegetation within the right-of-way, and shall ensure that such herbicide use complies with rules and guidelines established in the Federal Insecticide, Fungicide and Rodenticide Act and with Texas Department of Agriculture regulations.
11. ETI 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, ETI must revegetate 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 impacts to sensitive plant and animal species and their habitats, as identified by the TPWD and the USFWS.
12. ETI 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. ETI must return each affected landowner's property to its original contours and grades unless otherwise agreed to by the landowner or landowner's representative. The Commission does not, however, require ETI to restore original contours and grades where different contour or grade is necessary to ensure the safety or stability of the structures or the safe operation and maintenance of the line.
13. ETI must cooperate with directly affected landowners to implement minor deviations in the approved route to minimize the disruptive effect 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.
14. 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.

15. ETI must include the transmission facilities approved in this Order on its monthly construction progress reports before the start of construction to reflect final estimated cost and schedule in accordance with 16 TAC § 25.83(b). In addition, ETI must provide final construction costs, with any necessary explanation for cost variance, after completion of construction and when all charges have been identified.
16. Entry of this Order does not indicate the Commission's endorsement or approval of any principle or methodology that may underlie the settlement.
17. 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.
18. The Commission denies all other motions and any other requests for general or specific relief that the Commission has not expressly granted.

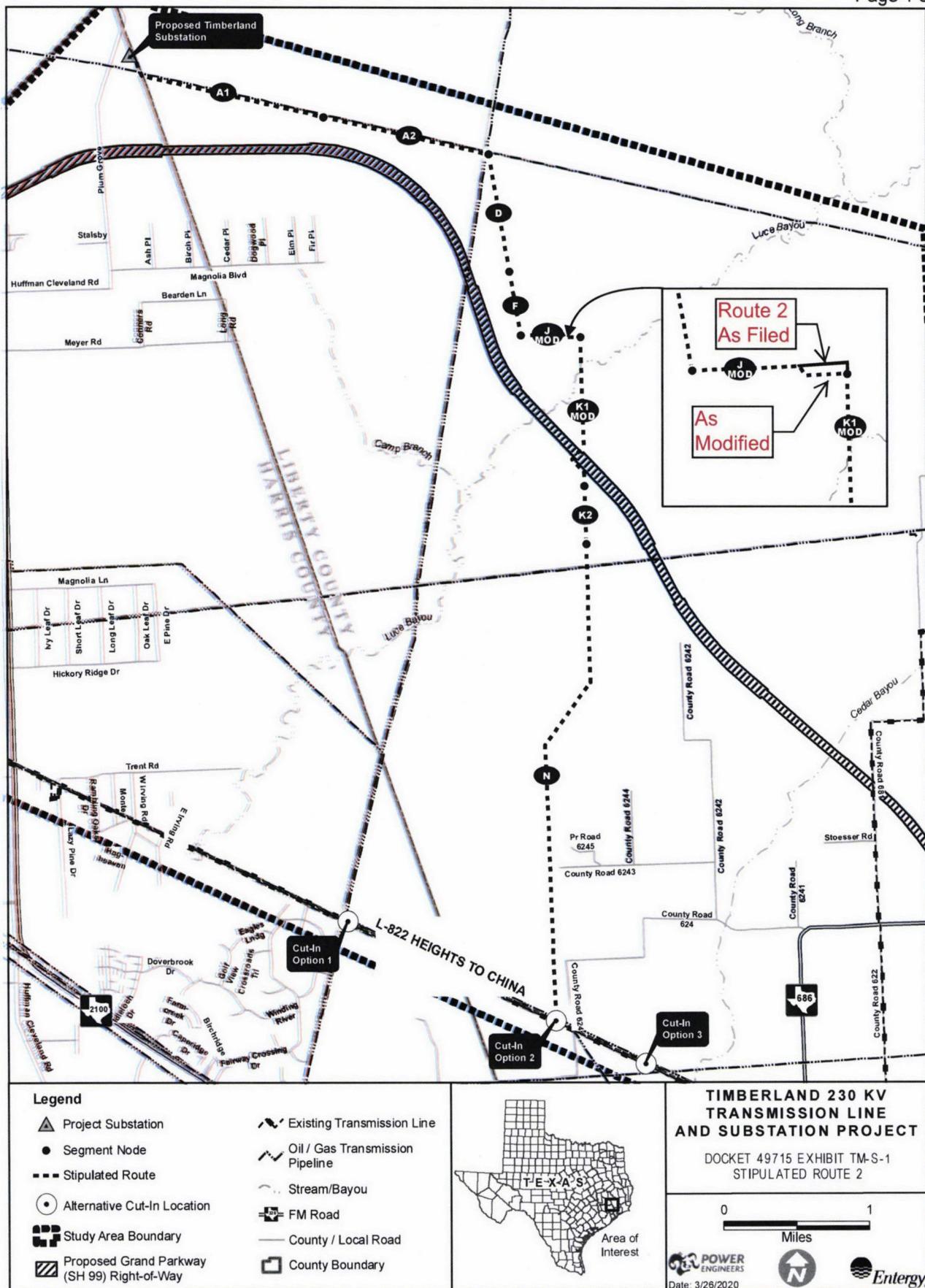
Signed at Austin, Texas the _____ day of _____ 2020.

PUBLIC UTILITY COMMISSION OF TEXAS

DEANN T. WALKER, CHAIRMAN

ARTHUR C. D'ANDREA, COMMISSIONER

SHELLY BOTKIN, COMMISSIONER



Entergy Texas, Inc. Docket No. 49715
Proposed Timberland 230 kV Transmission Line and Substation Project
Harris and Liberty Counties, Texas

Route	Segment Combination
Stipulated Route	A1-A2-D-F-J Mod-K1 Mod-K2-N

Note: All distances are approximate and rounded to the nearest hundredths of a mile. The distances of individual Segments below may not sum to the total length of route presented above due to rounding.

SEGMENT A1

Segment A1 begins at the southeast side of the proposed Timberland Substation in Harris County, Texas, located east of Plum Grove Road (Rd) approximately 1.19 miles north-northeast of the intersection of Plum Grove Rd. and Stalsby Rd. The segment exits the proposed substation and heads 0.09 mile southeast, crossing an existing pipeline. The segment then turns east-southeast into Liberty County for approximately 1.28 miles, parallel to the south side of an existing pipeline, before reaching the segment's intersection with Segment A2, located approximately 0.96 mile north of the intersection of Magnolia Boulevard (Blvd) and Fir Place (Pl).

SEGMENT A2

Segment A2 begins at its intersection of Segment A1, located approximately 0.96 miles north of the intersection of Magnolia Blvd and Fir Pl. The segment heads east-southeast for approximately 1.17 miles parallel to the south side of an existing pipeline, crossing an existing pipeline, before reaching the segment's intersection with Segment D, located approximately 1.38 miles northeast of the intersection of Magnolia Blvd and Fir Pl.

SEGMENT D

Segment D begins at its intersection with Segment A2, located approximately 1.38 miles northeast of the intersection of Magnolia Blvd and Fir Pl. The segment heads south-southeast for approximately 0.78 mile before reaching the segment's intersection with Segment F, located approximately 1.30 miles east of the intersection of Magnolia Blvd and Fir Pl.

SEGMENT F

Segment F begins at its intersection with Segment D, located approximately 1.30 miles east of the intersection of Magnolia Blvd and Fir Pl. The segment heads south-southeast for approximately 0.44 mile, before reaching the segment's intersection with Segment J Mod, located approximately 1.48 miles east-southeast of the intersection of Magnolia Blvd and Fir Pl.

SEGMENT J Mod

Segment J Mod begins at its intersection with Segment F, located approximately 1.48 miles east-southeast of the intersection of Magnolia Blvd and Fir Pl. The segment heads east for approximately 0.28 mile. The segment then turns southeast for approximately 0.03 mile. The segment then turns east for approximately 0.11 mile before reaching the segment's intersection with Segment K1 Mod, located 1.87 miles southeast of the intersection of Magnolia Blvd and Fir Pl.

SEGMENT K1 Mod

Segment K1 Mod begins at its intersection with Segment J Mod, located 1.87 miles southeast of the intersection of Magnolia Blvd and Fir Pl. The segment heads south for approximately 0.71 mile, crossing Luce Bayou. The segment then turns southwest for approximately 0.12 mile, crossing the Proposed Grand Parkway (SH 99) Right-of-Way. The segment turns southeast and parallel to the Proposed Grand Parkway (SH 99) Right-of-Way for approximately 0.13 mile. The segment then turns south for approximately 0.09 mile, until reaching the segment's intersection with Segment K2, located approximately 2.54 miles north-northwest of the intersection of County Road 6243 and County Road 6244.

Entergy Texas, Inc. Docket No. 49715
Proposed Timberland 230 kV Transmission Line and Substation Project
Harris and Liberty Counties, Texas

SEGMENT K2

Segment K2 begins at its intersection with Segments K1 and T, located approximately 2.54 miles north-northwest of the intersection of County Road 6243 and County Road 6244. The segment heads south for approximately 0.38 mile, before reaching the segment's intersection with Segments M and N, located approximately 2.14 miles north of the intersection of County Road 6243 and County Road 6245.

SEGMENT N

Segment N begins at its intersection with Segment K2, located approximately 2.14 miles north of the intersection of County Road 6243 and County Road 6245. The segment heads south for approximately 0.92 miles, crossing an existing pipeline. The segment turns southwest for approximately 0.53 miles. The segment then turns south for approximately 1.85 miles, before reaching the segment's intersection with the existing L-822 Heights to China Transmission Line at Cut-In Option 2.