

**PUC DOCKET NO. 38562  
SOAH DOCKET NO. 473-11-0071**

**APPLICATION OF ELECTRIC  
TRANSMISSION TEXAS, LLC TO  
AMEND ITS CERTIFICATE OF  
CONVENIENCE AND NECESSITY FOR  
THE RILEY TO EDITH CLARKE TO  
COTTONWOOD 345-KV CREZ  
TRANSMISSION LINE IN  
WILBARGER, HARDEMAN, FOARD,  
KNOX, COTTLE, KING, MOTLEY,  
AND DICKENS COUNTIES**

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**PUBLIC UTILITY COMMISSION  
OF TEXAS**

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**ORDER**

This Order addresses the application of Electric Transmission Texas, LLC (ETT) to amend its certificate of convenience and necessity (CCN) to include the Riley-to-Edith Clarke-to-Cottonwood transmission line. The project consists of two segments. The Riley-to-Edith Clarke (REC) segment begins at ETT's new Riley switching station in central Wilbarger County and extends to the ETT Edith Clarke switching station in central Foard County. The Edith Clarke-to-Cottonwood (ECC) segment will extend from the Edith Clarke switching station to the proposed Cottonwood station to be constructed by Wind Energy Transmission Texas in northern Dickens County. The line will run through Wilbarger, Hardeman, Foard, Cottle, King, and Dickens counties.

On February 9, 2011, the State Office of Administrative Hearings' (SOAH) administrative law judges (ALJs) issued a proposal for decision in which the judges recommended granting ETT's application. The ALJs ultimately recommended that the Commission adopt route REC12 for the REC segment because it best comports with PURA and Commission CCN criteria.<sup>1</sup> For the ECC segment, the ALJs found that the settlement route provides a strong indication of the area's community values; it preserves historic ranches, lessens the environmental impact, and avoids the likely construction of a transmission line on a planned

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<sup>1</sup> Proposal for Decision at 52.

wind farm.<sup>2</sup> As discussed in this Order, the Commission adopts in part and modifies in part the proposal for decision issued by the ALJs in this proceeding, including findings of fact and conclusions of law. Specifically, the Commission adopts the ALJs' recommendation on the ECC segment, but rejects their recommendations on the REC segment.

### I. Discussion

The Commission concludes that route REC1-modified should be constructed for the REC segment instead of route REC12 as recommended by the ALJs. Route REC1-modified is identical to route REC1 except instead of using link G1, it uses links D1b, H1, and L1. The Commission took official notice of two stipulations filed in Docket No. 38743.<sup>3</sup> The parties in that docket have agreed upon routes that would parallel close to link G1. The Commission finds that route REC1-modified minimizes the potential for paralleling a CREZ transmission line route to be selected in Docket No. 38743, the docket that addresses the route that will connect to the Tesla switching station, Edith Clarke switching station, Clear Crossing switching station, and West Shackelford station. Also, route REC1-modified mitigates the impact on the Waggoner Estate property. The links that affect the Waggoner Estate property on route REC1-modified are identical to route REC1.

To reflect the Commission's selection of route REC1-modified for the REC segment, the Commission deletes findings of fact 33, 92, 94, 102, 108, 117, 118, 126, 131, and 135; modifies findings of fact 78, 89, 90, 93, 96, 97, 98, 99, 100, 103, 104, 105, 109, 110, 111, 112, 114, 116, 119, 121, 122, 123, 124, 125, 129, 130, 134, 136, 137, 138, and 140; adds finding of fact 74A, 93A, and 141A; and modifies conclusion of law 12.

The Commission adopts the ALJs' recommendation that the settlement route, ECC-SR, should be selected for the ECC segment.

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<sup>2</sup> Proposal for Decision at 53.

<sup>3</sup> *Application of Electric Transmission Texas, LLC to Amend Its Certificate of Convenience and Necessity for the Proposed Tesla to Edith Clarke to Clear Crossing to West Shackelford Double-circuit 345-kV Transmission Line in Childress, Cottle, Hardeman, Foard, Knox, Haskell, Jones, and Shackelford Counties, Texas Pursuant to P.U.C. SUBST. R. 25.174, Docket No. 38743 (pending).*

Recent amendments to the Texas Parks and Wildlife Code<sup>4</sup> require the Commission to provide a written response to each recommendation or informational comment made by the TPWD on or after September 1, 2009. The TPWD filed such a letter on November 2, 2010. The Commission adds findings of fact 60A, 60B, 60C, and 60D to address TPWD's recommendations that are supported in the record that were not already addressed in the proposal for decision.

The Commission adds finding of fact 27A to note that the Commission took judicial notice of the stipulated routes filed in Docket No. 38743. Consistent with the recommendations of Commissioner Nelson in her February 23, 2011 memo and the memo from the ALJs filed on February 24, 2011, the Commission makes minor corrections to findings of fact 25, 69, and 211.

The Commission adopts the following findings of fact and conclusions of law:

## II. Findings of Fact

### Procedural History

1. The Commission designated Electric Transmission Texas, LLC (ETT) to construct the Oklaunion-to-PanOakMid double-circuit 345-kilovolt (kV) transmission line and the Panhandle AD-to-PanOakMid double-circuit 345-kV transmission line in *Commission Staff's Petition for Selection of Entities Responsible for Transmission Improvements Necessary to Deliver Renewable Energy from Competitive Renewable-Energy Zones*, Docket No. 35665, Order on Rehearing (May 15, 2009) and *Remand of Docket No. 35665 (Commission Staff's Petition for Selection of Entities Responsible for Transmission Improvements Necessary to Deliver Renewable Energy from Competitive Renewable-Energy Zones)*, Docket No. 37902, Order on Remand (Mar. 30, 2010).
2. The Electric Reliability Council of Texas (ERCOT), in its CREZ transmission optimization (CTO) study, originally classified ETT's project as multiple projects. The Commission, in *Proceeding to Sequence Certificate of Convenience and Necessity Applications for the Subsequent Projects for the Competitive Renewable Energy Zones*

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<sup>4</sup> TEX. PARKS & WILD. CODE ANN. (Vernon 2002 & Supp. 2009).

(CREZ), Docket No. 36802, Order (Apr. 5, 2010), required ETT to file both project segments in a single application.

3. On September 8, 2010, ETT filed its application to amend its certificate of convenience and necessity (CCN) to construct a double-circuit, 345-kV CREZ electric transmission line from the Riley switching station to be constructed by ETT in central Wilbarger County, to the Edith Clarke switching station to be constructed by ETT in central Foard County, to the Cottonwood Station to be constructed by Wind Energy Transmission Texas (WETT) in northwest Dickens County. The name of the project is the Riley-to-Edith Clarke-to-Cottonwood 345-kV transmission-line project.
4. The project consists of two separate segments. The Riley-to-Edith Clarke (REC) segment is the Oklaunion-to-PanOakMid segment after the PanOakMid station was renamed the Edith Clarke switching station and after ERCOT approved the Riley switching station as an extension of the Oklaunion substation. The Edith Clarke-to-Cottonwood (ECC) segment is the Panhandle AD-to-PanOakMid segment after the Panhandle AD station was renamed the Cottonwood station. Each segment's proposed routes are independent of, and share no links with, proposed routes in the other segment.
5. On September 8, 2010, ETT mailed written notice by first class mail of the filing of the application, including a map, to each landowner of record, as determined by review of the current county tax rolls, that would be directly affected, as defined by P.U.C. PROC. R. 22.52(a)(3), if the application was granted.
6. On September 8, 2010, ETT mailed written notice by first class mail of the filing of the application, including a map, to all electric utilities within five miles of the project, including American Electric Power Texas North Company, American Electric Power Public Service Company of Oklahoma; Oncor Electric Delivery Company, LLC; Sharyland Utilities, L.P.; Wind Energy Transmission Texas, LLC; Xcel Energy-Southwestern Public Service Company (SPS); Lighthouse Electric Cooperative, Inc.; South Plains Electric Cooperative, Inc.; Southwest Rural Electric Association, Inc.; Tri-County Electric Cooperative, Inc.; and Western Farmers Electric

Cooperative, Inc.; all of which are utilities providing the same utility service within five miles of the requested facilities.

7. On September 8, 2010, ETT mailed written notice by first class mail of the filing of the application, including a map, to public officials in all municipalities located within five miles of the project, including the municipalities of Vernon, Odell, Harrold, Quanah, Crowell, Benjamin, Paducah, Guthrie, Matador, Dickens, and Roaring Springs, Texas.
8. On September 8, 2010, ETT mailed written notice by first class mail of the filing of the application, including a map, to county officials in Wilbarger, Hardeman, Foard, Knox, Cottle, King, Motley, and Dickens counties.
9. On September 8, 2010, ETT filed an affidavit attesting to delivery of a copy of the environmental assessment and alternative route analysis (EA) to the Texas Parks and Wildlife Department (TPWD).
10. On September 10, 2010, the Commission referred this matter to the State Office of Administrative Hearings (SOAH). The order of referral listed a number of issues to be addressed and issues not to be addressed in this docket.
11. ETT caused notice of the application to be published in the *Paducah Post* on September 14, 2010; in the *Vernon Daily Record*, the *Motley County Tribune*, the *Munday Courier*, the *Foard County News*, and the *Texas Spur* on September 16, 2010; and in the *Quanah Tribune-Chief* on September 17, 2010. These are newspapers having general circulation in Wilbarger, Hardeman, Foard, Knox, Cottle, King, Motley, and Dickens counties, Texas.
12. On September 15, 2010, ETT sent a supplemental notice to nine landowners that were directly affected by an error in the table of links in the written description. The table erroneously indicated that links N1 and G1 were used in the preferred route, but the map correctly indicated that the link D1 was used in the preferred route. ETT also sent a similar supplemental notice to the local officials in Dickens County.
13. On September 22, 2010, Staff recommended that ETT's application be found sufficient.
14. Notice of the application was published in the *Texas Register* on September 24, 2010.

15. On September 29, 2010, ETT filed an affidavit attesting to the publication and delivery of notice to landowners, neighboring utilities, cities and counties.
16. On September 29, 2010, the SOAH administrative law judge (ALJ) found that ETT's application and notice were sufficient, provided notice of a prehearing conference to be held on October 21, 2010, and provided instructions for accessing filings in this case via the Commission's interchange website.
17. On October 4, 2010, the Commission issued a supplemental preliminary order identifying additional issues to be addressed related to paralleling 345-kV transmission lines.
18. On October 21, 2010, the ALJ convened a prehearing conference at which the ALJ granted all requests for intervention that were timely filed by the date of the hearing.
19. On October 27, 2010, the ALJ issued Order No. 4, memorializing the prehearing conference, establishing a procedural schedule for this proceeding, setting a prehearing conference for December 17, 2010, providing notice of the hearing on the merits on December 20-22, 2010, providing instructions concerning evidence, exhibits, service of pleadings, and information for unrepresented parties.
20. On October 29, 2010, ETT filed a supplement to its application including corrections to certain routing links and additional aerial maps and also addressing additional issues raised by the Commission in its supplemental preliminary order.
21. On November 24, 2010, the ALJ dismissed parties who had failed to file either direct testimony or a statement of position, including Sidney Carol Clarke, Rebecca Howard, Doug Johnson, Dorothy Klepper, Pitchfork Land and Cattle Company, Laran McInnes, Dennis Ratliff, Hyt-Ann Living Trust and James P. Ratliff, John Ratliff, and Janis Schnaidt.
22. On December 1, 2010, the ALJ issued Order No. 6, reinstating intervenor Pitchfork Land and Cattle Company.
23. On December 17, 2010, ALJ Lilo D. Pomerleau convened a prehearing conference.
24. On December 20 through December 21, 2010, the ALJ convened the hearing on the merits.

25. On December 21, 2010, during the hearing on the merits, the following entities agreed to a stipulation to route the ECC segment along a stipulation route: Tongue River, Ltd.; Matador Ranch; Gibson Ranch, MRG Land, LLC, and Gibson Land Co., Ltd.; AWM Management Trust and Burnett Ranches, LLC; Pitchfork Land and Cattle Co.; Tristar Wind Energy, LLC; James and Lois Cave; Don Brothers; JBR Hamilton of Texas; Adrienne Hamilton; Morton A. and Kathleen Whatley; Billy B. Hand; Stephen K. Brady; Terry Oliver; Bob Stafford; Rhenm Graves Trust; Dinah Brothers, Cassie Brothers, Frances and John Brothers; Three Rivers Foundation for the Arts and Sciences; McAdams Ranch Management, LLC; Larry Hughston; Duane Johnson; Jim Paul Norman; Y Ranch; and Southwestern Public Service Company. The stipulated route is comprised of links Ila; K1; G1; P1; B2; N2; N2a; Q2a; Q2b; V2; W2; W2a; W2b; R2a; E3; K3; U3; E4a; E4b; E4c; F4; H4; K4; O4; S4; V4; and W4. Attachment 8a of the stipulation shows how link B2 is modified across the property of James and Lois Cave. Attachment 8b of the stipulation shows how links N2, N2a, Q2a, and Q2b will cross the property of signatories Hand, Brady, Oliver, and Tongue River, and non-party landowner Smith. Links N2, N2a, Q2a, and Q2b will not cross the property of Don Brothers. Attachment 8c of the stipulation shows how links V2; W2; W2a; and W2b will cross the property of signatory Gibson and non-party landowners Richards, Parnell, and Piper. Attachment 8d of the stipulation shows how links E4a; E4b; and E4c will cross the property of signatory Y Ranch and non-party landowners Toney, Chatfield, and Shaw. ETT and Commission Staff did not sign the stipulation but does not oppose the settlement route.
26. On December 22, 2010, the ALJ established the briefing schedule and held open the record for the submission of additional exhibits.
27. On January 12, 2011, the ALJ admitted ETT exhibits 14a and 15 and additional signature pages to the stipulation.

- 27A. On March 3, 2011, during an open meeting, the Commission took official notice of the stipulated routes filed in Docket No. 38743<sup>5</sup> for the proposed Tesla-to-Edith Clarke and Edith Clarke-to-Clear Crossing double-circuit 345-kV CREZ transmission lines. After an opportunity to do so, no party objected to such notice.

**Project Description**

28. ETT is an investor-owned electric utility providing service under CCN Nos. 30193 and 30194.
29. The project in this proceeding is a proposed double-circuit 345-kV CREZ transmission line within Wilbarger, Hardeman, Foard, Knox, Cottle, King, Motley, and Dickens counties as shown on the maps filed with the application.
30. ETT's application requests approval to construct a double-circuit 345-kV transmission line that extends from the Riley switching station to be constructed by ETT in central Wilbarger County, to the Edith Clarke switching station to be constructed by ETT in central Foard County, to the Cottonwood station to be constructed by WETT in northwest Dickens County.
31. Both the Riley-to-Edith Clarke segment of the project and the Edith Clarke-to-Cottonwood segment of the project are CREZ projects as described in the Commission's order in *Commission Staff's Petition for Designation of Competitive Renewable-Energy Zones*, Docket No. 33672, Order on Rehearing (Oct. 7, 2008) and in the orders in Docket No. 36802 and 37902.
32. The right-of-way for the project will be 150 feet wide. The transmission line will be constructed on double-circuit single-pole steel structures using 2-1590 ACSS conductors.
33. DELETED.
34. The project will be financed with funds from short-term borrowings and owner equity.

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<sup>5</sup> *Application of Electric Transmission Texas, LLC to Amend Its Certificate of Convenience and Necessity for the Proposed Tesla to Edith Clarke to Clear Crossing to West Shackelford Double-circuit 345-kV Transmission Line in Childress, Cottle, Hardeman, Foard, Knox, Haskell, Jones, and Shackelford Counties, Texas Pursuant to P.U.C. SUBST. R. 25.174, Docket No. 38743 (pending).*

Application

35. ETT's application presented an adequate number of reasonably differentiated alternative routes to conduct a proper evaluation.
36. ETT's application met the filing requirements set forth in P.U.C. SUBST. R. 25.216(g)(2) and (3).
37. ETT submitted its CCN application in compliance with the orders in Docket Nos. 37902 and 36802 assigning it responsibility for the project.

Proposed Modifications to the Scope of Work Contained in the CTO Study

38. ERCOT endorsed three modifications to the scope of work contained in the ERCOT CTO study for the Riley-to-Edith Clarke-to-Cottonwood project.
39. First, according to the ERCOT CTO study, a total of eight new 345-kV circuits from the Tesla, Edith Clarke, Krum West, and Bowman stations were to be connected to the existing Oklaunion station located on the AEP Oklaunion plant site. Following the completion of the CTO study, AEP determined that the existing Oklaunion station could not be expanded sufficiently to handle the terminal equipment for the eight new circuits. As such, ETT proposed to construct a new Riley switching station near the Oklaunion plant site and along the right-of-way of the existing single-circuit Oklaunion-to-Fisher Road 345-kV transmission line.
40. Second, ERCOT recommended 2-1590 ACSR conductor for the project but recognized that transmission service providers could modify the type of conductor as long as the adjustments do not adversely affect the performance of the plan. ETT proposed to use 2-1590 ACSS as the conductor. The 2-1590 ACSS conductor meets or exceeds the capability of the CTO study conductor.
41. ERCOT has endorsed the proposed construction of the Riley switching station and the use of 2-1590 ACSS conductor for this project.
42. Third, the ERCOT CTO study recommended the installation of 200 Mvar cap bank on Edith Clarke and 200 Mvar reactive compensation on Edith Clarke. These devices were subsequently assigned to ETT. ERCOT has contracted with ABB Electric Systems Consulting (ABB) to review and analyze the reactive requirements of the CREZ

transmission plan to determine the optimal configuration of the type, size, and location of series and shunt reactive compensation. The reactive requirements study has not been completed and the final recommendation of ABB and ERCOT regarding the type, size, and location of any reactive devices associated with this project is not known.

**Need for the Proposed Transmission Line**

43. The project was listed as a CREZ project in the Commission's final orders in Docket Nos. 33672, 35665, and 37902.

**Goal for Renewable Energy**

44. To fulfill the renewable energy goals established in § 39.904(a) of the Public Utility Regulatory Act, TEX. UTIL. CODE ANN. §§ 11.001-66.016 (PURA), the Commission adopted, in Docket No. 33672, a transmission plan to deliver renewable energy to market.
45. In Docket No. 33672, the Commission determined that the transmission facilities identified in its final order, including the Riley-to-Edith Clarke-to-Cottonwood transmission facilities, were necessary to deliver renewable energy generated in the CREZ to electric customers.
46. In Docket No. 37902, the Commission designated certain transmission service providers to build the required transmission facilities, including assigning the Riley-to-Edith Clarke project and the Edith Clarke-to-Cottonwood project to ETT.

**Alternatives to the Project**

47. Because the proposed transmission line project was specifically identified in the CTO study and in the Commission's orders in Docket Nos. 33672, 35665, and 37902 as a CREZ project, no alternatives to the project have been considered.

**Engineering Constraints**

48. ETT's project will cross or parallel existing transmission and distribution lines operated by other utilities in the panhandle and high plains regions, including SPS. On December 18, 2010, ETT reached an agreement with SPS by which ETT agreed to determine the impact of mutual coupling on SPS's line before ETT's line is placed into service and to route its approved transmission line, to the extent practicable, in a manner

that will minimize potential adverse impacts on SPS's existing TUCO-Oklahoma 345-kV line. Mutual coupling can be addressed by appropriate changes to the protection systems to avoid misoperation of the parallel lines.

49. The design of the project will meet or exceed the requirements for construction as defined in the National Electric Safety Code (NESC). However, the NESC is a safety code and not a design guide, so additional design criteria will be used, including the American National Standards Institute standards, ETT and American Electric Power Service Corporation standard practices, and such practices as required by federal, state, and local governments and agencies.
50. No engineering constraints have been identified with respect to the project.

**Coastal Management Program**

51. The project is not located within the coastal management program boundary as defined in 31 TEX. ADMIN. CODE § 503.1.

**TPWD's Written Comments and Recommendations**

52. TPWD provided recommendations and comments on the proposed line in this proceeding in a letter dated November 2, 2010.
53. The letter primarily addressed mitigation measures to reduce impacts to wildlife and wildlife habitat during construction of the proposed transmission line.
54. Witnesses for both ETT and Commission Staff testified in response to the TPWD letter.
55. ETT can take certain mitigation measures to minimize the impact of line construction on wildlife, including stopping work in the vicinity and consulting with the Texas Historical Commission (THC), if artifacts or cultural resources are found; following certain procedures for protecting raptors; using extreme care in the application of chemical herbicides; implementing erosion control measures as appropriate and returning landowners' property to original contours and grades; minimizing disruption of flora and fauna; and re-vegetating with native species following completion of construction. Implementation of these mitigation measures would sufficiently address most of the concerns expressed by TPWD in its recommendations and comments.

56. Of the routes evaluated by PBS&J and ETT, TPWD stated that route REC11 and route ECC18 appeared to best minimize potential impacts to natural resources when compared to the other routes evaluated in the EA.
57. ETT has committed to complying with TPWD's recommendations to the extent possible, consistent with the need to complete the project in a timely and cost-effective manner, including implementing standards for re-vegetation through its storm water pollution prevention plan, following guidelines for protection of certain avian species, consulting with the U.S. Fish and Wildlife Service (USFWS) if endangered species habitat is encountered, complying with applicable legal requirements relating to state-listed species, identifying and delineating stopover sites for whooping cranes and surveying for suitable nesting habitat for the interior least tern on or immediately adjacent to the right-of-way after route selection and implementing any necessary measures to minimize impacts to the species, making reasonable efforts to allow the Texas kangaroo rat and the horned lizard to vacate affected areas or to be relocated by a permitted individual, continuing to monitor the listing status of the kangaroo rat on the federal endangered species list, and taking precautions to mitigate transmitting white-nose syndrome to bats.
58. The standard mitigation requirements included in the ordering paragraphs in this Order, coupled with ETT's plans to avoid, minimize, or mitigate effects to natural resources, are reasonable measures for a utility to undertake when constructing a transmission line.
59. To the extent practical, ETT will avoid or mitigate adverse environmental impacts to sensitive plant and animal species and their habitats as identified by the TPWD and USFWS.
60. It is impractical and unnecessary to undertake a comprehensive on-the-ground survey of all proposed routes for habitat of rare and protected species before a final order identifying a route is issued by the Commission.
- 60A. After a route is approved by the Commission and ETT obtains access to the property along that route, ETT can undertake on-the-ground measures to identify whether there is potential endangered or threatened species habitat and respond appropriately if such habitat is identified.

- 60B. ETT must rely on publicly-available information regarding flood plains until it has access to private property on the approved route.
- 60C. ETT committed to work with landowners to meet the landowners' needs regarding revegetation of the right-of-way or otherwise return the habitat to its pre-construction condition through the planting of native, site-specific vegetation.
- 60D. ETT committed to evaluate measures to avoid and minimize project impacts to bats if caves or karst features are encountered during right-of-way preparation or construction.

Community Values

- 61. ETT hosted four open-house meetings on December 7-10, 2009 in Matador, Paducah, Vernon, and Crowell, Texas to solicit public input and involvement in its process. Notices of the public open-house meetings were published in local newspapers in Vernon and Paducah the week before the open-house meetings.
- 62. Direct notice was mailed to owners of approximately 2,500 properties within 500 feet of the centerline for each of the routes being presented at the open-house meetings.
- 63. A total of 338 people registered their attendance at the open house meetings, which used an interactive information station format to solicit input and share information with attendees in an informal atmosphere.
- 64. ETT addressed with attendees the purpose and need for the project, locations of proposed routes that are under consideration, possible impacts to individual properties, and the physical parameters of the proposed line. ETT also distributed questionnaires at the meetings seeking additional input.
- 65. ETT received 162 completed or partially completed questionnaires addressing the following concerns: length of line paralleling existing right-of-way, property lines; distance of line from residences and public parks; visibility of the line; costs; impacts on agricultural lands, floodplains, wetlands, historic or cultural resources, and wildlife; and reliability of service. In addition, respondents expressed concerns about the following: impacts to cattle pens and gates; potential fragmentation of land; possible effects associated with exposure to electromagnetic fields; following property boundaries;

- impacts to property values; impacts to oil and gas operations and facilities; impacts to future wind-farm development; potential for soil erosion; and the size of easements.
66. Questionnaire respondents favored placing lines in undeveloped areas versus in residential areas and using existing right-of-way when possible. Respondents also overwhelmingly indicated a preference for the monopole structure ETT intends to use in this project.
  67. ETT used public input from the open-house meetings to evaluate issues and concerns and to select the preferred and alternative routes. Based on information gathered at the open houses, several links were subsequently modified to reduce impacts to habitable structures and other land use features to the greatest extent practicable, and new links were added and others deleted.
  68. Generally, modifications were made to further reduce the number of habitable structures within 500 feet of the centerline of a proposed route; to improve the paralleling of apparent property lines; to improve the paralleling of compatible rights-of-way; and to reduce other potential land-use impacts to ranching and farming operations.
  69. In addition, ETT contacted local, state, and federal agencies and officials by letter in September 2009 to solicit comments, concerns and information regarding the potential impact of the proposed transmission line. ETT used comments and information from governmental agencies in the preparation of the existing environment sections of the EA, the constraints map, and in the selection and evaluation of alternative routes.

**Paralleling Other 345-kV Transmission Lines**

70. ETT's REC segment route REC12 parallels an existing SPS 345-kV transmission line for a majority of its length.
71. Crossing or paralleling two CREZ transmission lines could create reliability risks and should be avoided, if possible, or minimized.
72. Crossing or paralleling the SPS 345-kV line does not create such risks because it is in a different power pool.

73. Construction of two 345-kV lines in parallel can create an interaction of magnetic fields between the lines known as “mutual coupling.” This can be addressed by appropriate changes to the protection systems to avoid misoperation of the parallel lines.
74. ETT has entered into a letter agreement with SPS to address mutual coupling issues associated with paralleling the SPS 345-kV line.
- 74A. The Commission finds that route REC1-modified minimizes the potential for paralleling a CREZ transmission line route to be selected in Docket No. 38743.

**RILEY-TO-EDITH CLARKE (REC) SEGMENT**

**Project Description**

75. ETT proposed fourteen routes for the line from the Riley switching station to the Edith Clarke switching station, including its preferred route, route REC12, and thirteen alternative routes.
76. ETT selected the preferred and alternative routes for the REC segment based on the certification criteria set out in the Public Utility Regulatory Act (PURA), TEX. UTIL. CODE ANN. §§ 11.001-66.107 (PURA) and the Commission’s substantive rules, as well as on input from the public, the recommendations of ETT’s environmental consultant PBS&J, and ETT’s evaluation of engineering constraints, costs, and grid reliability.
77. All fourteen routes proposed for the REC segment of ETT’s application are viable, feasible, and acceptable from environmental, engineering, and cost perspectives.
78. The proposed routes for this segment varied in length from 42.3 miles to 53.8 miles.
79. ETT will build the Riley and Edith Clarke switching stations for this portion of the project. ETT will own, operate, and maintain all transmission line facilities for this portion of the project.
80. Completion of the REC segment of the project will accomplish the intended results for the CREZ project designated as Oklaunion-to-PanOakMid double-circuit 345-kV line in the CREZ transmission plan and ordered by the Commission in Docket Nos. 37902 and 36802.
81. The projected in-service date for the REC segment is March 2013.

**Routing of the REC Segment**

82. ETT retained PBS&J to perform the EA for this segment of the project.
83. One of the objectives of the EA was to select and evaluate several transmission-line routes and to recommend to ETT preferred and alternate routes for the REC segment that are feasible from environmental and land use standpoints.
84. PBS&J delineated a REC segment study area approximately 113 miles long by 20 miles wide, for a total coverage of approximately 2,340 square miles.
85. PBS&J examined potential routes taking into consideration the factors that appear in PURA § 37.056(c)(4), the Commission's substantive rules, and the information required to be provided by the Commission's CREZ CCN application form.
86. Considering the balance of the environmental criteria, PBS&J recommended route REC12 as its preferred route for the REC segment.
87. Based on PBS&J's evaluation and ETT's own evaluation of additional criteria including cost, engineering constraints and reliability concerns, ETT selected route REC12 as the preferred route for the Riley-to-Edith Clarke segment.
88. Commission Staff recommends approval of route REC12.
89. Route REC1 is a viable, feasible, and acceptable route from environmental, engineering, and cost perspectives.
90. Route REC1 is electrically efficient, cost-effective, and will provide a reliable and beneficial path for the transmission of renewable energy from the CREZs to the load centers in ERCOT.
91. ETT considered and submitted an adequate number of geographically diverse routes for the REC segment.
92. DELETED.
93. Although all of the routes proposed in the application are viable and compliant with applicable routing criteria, the Commission finds route REC1-modified is the best

alternative for the REC segment weighing the factors set forth in PURA § 37.056(c) and P.U.C. SUBST. R. 25.101(b)(3)(B).

- 93A. Route REC1-modified is the same as route REC1, except route REC1-modified uses links D1b, H1, and L1 in lieu of link G1.
94. DELETED.

**Community Values**

95. The project would not result in the disruption or preemption of any recreational activities but would have some temporary or permanent impact on visual aesthetics.
96. There are seven habitable structures within 500 feet of the centerline of route REC1.
97. No commercial AM radio transmitters were identified within 10,000 feet of the centerline of route REC1.
98. No electronic communications towers were identified within 2,000 feet of the centerline of route REC1.
99. There are no Federal Aviation Administration (FAA) registered airports located in the study area or within 20,000 feet of route REC1. There are two private airstrips located within 10,000 feet of route REC1. There are no heliports located within 5,000 feet of route REC1. There are no significant impacts to any airports or heliports anticipated from construction of this segment of the transmission line.
100. Route REC1 does not cross any cropland irrigated by a traveling irrigation system.
101. ETT has committed to cooperating with directly affected landowners to implement minor deviations in the approved route to minimize the impact of the project.
102. DELETED.

**Recreational and Park Areas**

103. No parks or recreational areas were identified within 1,000 feet of the centerline of route REC1.

**Historical Values and Aesthetic Impacts**

104. Route REC1 does not cross any recorded cultural resource site.

105. No cultural resource sites were identified within 1,000 feet of route REC1.
106. If necessary during construction, ETT will obtain cultural resource clearance from the THC for the project right-of-way.
107. All proposed routes would have some negative impact on aesthetic values, though some would have more impact than others.
108. DELETED.
109. Route REC1 is within the foreground visual zone of federal and state highways for 12.35 miles.
110. Route REC1 is not within the foreground visual zone of any park or recreational areas.
111. Route REC1 has seven habitable structures within 500 feet of its centerline.
112. The use of monopole structures along route REC1 mitigates the aesthetic impacts of this transmission line.

**Environmental Integrity**

113. PBS&J evaluated each of the fourteen proposed routes in the REC segment based on potential environmental impacts including impacts on land use, ecology, and cultural resources.
114. Route REC1 is an environmentally acceptable route.
115. TPWD provided comments regarding the routes as filed in the application. Of the routes evaluated in the EA, TPWD stated that, for the REC segment, route REC11 appeared to better minimize potential impacts to natural resources when compared to the other routes evaluated in the EA.
116. The Commission must consider a wider range of factors than TPWD in evaluating transmission line routes.
117. DELETED.
118. DELETED.

119. Route REC1 does not have any right-of-way crossing known occupied habitat of any federally-listed endangered or threatened wildlife species.
120. The mitigation measures proposed in the EA will serve to reduce and mitigate potential adverse effects of construction and operation of the proposed transmission line.
121. Route REC1 crosses upland woodland or brushland for 8.72 miles.
122. Route REC1 crosses bottomland, riparian woodland, and brushland for 1.17 miles.
123. Route REC1 crosses potential wetlands for 1.12 miles.
124. Route REC1 crosses open water for 0.33 miles.
125. None of route REC1 crosses a 100-year flood plain that has been identified by the Federal Emergency Management Agency (FEMA).
126. DELETED.

**Engineering Constraints**

127. No engineering constraints have been identified associated with this project.

**Estimated Cost**

128. ERCOT's CTO study and the Commission's orders in Docket Nos. 35665 and 37902 estimated the length of the Riley-to-Edith Clarke segment of this project to be 62 miles and the planning level cost to be \$104.16 million, or \$1.68 million per mile.
129. The 14 alternative routes that are being considered for this segment range from approximately 42.3 miles in length to about 53.8 miles. Route REC1 is approximately 42.92 miles in length and is the second shortest route.
130. The estimated costs for the alternative routes on the REC segment range from approximately \$71.7 million (route REC7) to about \$95.1 million (route REC5), with route REC1 being approximately \$80.0 million or \$1.86 million per mile.
131. DELETED.
132. The estimated cost of the Riley switching station is \$52.8 million. The estimated cost of the Edith Clarke switching station is \$43.9 million.

133. The costs projected in the application are only estimates because the approved line route has not yet been determined by the Commission or surveyed by ETT, and final engineering design has not been performed.
134. Route REC1-modified represents a good route in terms of cost, environmental integrity, community values, prudent avoidance, aesthetic values, recreational and park areas, use and paralleling of existing compatible right-of-way, and historic values. It presents no engineering constraints.

**Use of Existing Compatible Right-of-Way and Property Lines**

135. DELETED.
136. Route REC1 has right-of-way parallel to existing transmission rights-of-way, roads, other compatible rights-of-way, and apparent property lines for 84.8 percent of the route.
137. Route REC1 appropriately reflects consideration of using or paralleling existing compatible rights of way and other natural or cultural features, criteria contained in P.U.C. SUBST. R. 25.101(b)(3)(B)(i)-(iii).

**Prudent Avoidance**

138. Route REC1 complies with the policy of prudent avoidance.
139. The number of habitable structures within 500 feet of the centerline ranges from a low of none to a high of 21.
140. Route REC1 is within 500 feet of seven habitable structures.
141. ETT's proposed REC routes minimize, to the extent reasonable, the number of habitable structures in close proximity to the routes. ETT considered and reasonably avoided population centers and other areas where people gather and live when developing its alternative routes for the project.
- 141A. The Commission finds that route REC1-modified mitigates the impact on the Waggoner Estate property.

**EDITH CLARKE-TO-COTTONWOOD (ECC) SEGMENT**

**Project Description**

142. ETT proposed 23 routes for the line from the Edith Clarke switching station to the Cottonwood station, including its preferred route, route ECC2, and 22 alternative routes.
143. The preferred and alternative routes for the ECC segment were selected based on the certification criteria set out in PURA and the Commission's substantive rules, as well as on input from the public, the recommendations of ETT's environmental consultant PBS&J, and ETT's evaluation of engineering constraints, costs and grid reliability concerns.
144. All 23 routes, as well as the settlement route, route ECC-SR, are viable, feasible, and acceptable from environmental, engineering, and cost perspective.
145. The proposed routes for this segment varied in length from 73.0 miles to 84.7 miles.
146. The settlement route is 88.65 miles in length with an estimated cost of \$158,267,000.
147. ETT will build the Edith Clarke switching station for this portion of the project. WETT will build the Cottonwood substation. ETT will own, operate, and maintain all other transmission line facilities for this portion of the project.
148. Completion of the ECC segment of the project will accomplish the intended results for the CREZ project designated as Panhandle AD-to-PanOakMid double-circuit 345-kV line in the CREZ transmission plan and ordered by the Commission in Docket Nos. 37902 and 36802.
149. The projected in-service date for the ECC segment is September 2013.

**Routing of the ECC Segment**

150. ETT retained PBS&J to perform an EA for this segment of the project.
151. One of the objectives of the EA was to select and evaluate several transmission line routes and to recommend to ETT preferred and alternate routes for the ECC segment that are feasible from environmental and land use standpoints.

152. PBS&J delineated a study area approximately 113 miles long by 20 miles wide, for a total coverage of approximately 2,340 square miles.
153. PBS&J examined potential routes taking into consideration the factors that appear in PURA § 37.056(c)(4), the Commission's substantive rules, and the information required to be provided by the Commission's CREZ CCN application form.
154. Considering the balance of the environmental criteria, PBS&J recommended route ECC2 as its preferred route for the ECC segment.
155. Based on PBS&J's evaluation and ETT's own evaluation of additional criteria including cost, engineering constraints and reliability concerns, ETT selected route ECC2 as the preferred route for the ECC segment.
156. Before the hearing on the merits, intervenors on the ECC segment entered into a stipulation and route agreement concerning the ECC segment in which the settlement route was agreed upon.
157. The stipulation agreement was signed by all of the intervenors along the ECC segment.
158. Neither ETT nor Commission Staff signed the stipulation agreement. However, neither ETT nor Staff are opposed the selection of the settlement route, route ECC-SR, as set forth in the stipulation agreement.
159. The settlement route is composed of links I1a, K1, G1, P1, B2 (as modified), N2, N2a, Q2a, Q2b, V2, W2, W2a, W2b, R2a, E3, K3, U3, E4a, E4b, E4c, F4, H4, K4, O4, S4, V4, and W4.
160. The settlement route is a viable, feasible, and acceptable route from environmental, engineering, and cost perspectives.
161. The settlement route complies with all necessary aspects of PURA § 37.056 and P.U.C. SUBST. R. 25.101.
162. The settlement route is electrically efficient, cost-effective, and will provide a reliable and beneficial path for the transmission of renewable energy from the CREZs to the load centers in ERCOT.

163. ETT considered and submitted an adequate number of geographically diverse routes for the ECC segment.
164. The settlement route is the most desirable route because it has been unanimously supported by every ECC intervenor.
165. The settlement route ranks favorably in the following aspects:
  - a. unanimously accepted by all landowners;
  - b. third-lowest number of habitable structures within 500 feet of the project centerline;
  - c. parallels existing transmission right-of-way, roads, and other compatible right-of-way, and apparent property lines for 77.48% of total length;
  - d. only 9.5% of right-of-way is within the foreground visual zone of federal and state highways;
  - e. only 2.12 miles of right-of-way crosses upland woodland or brushland;
  - f. crosses no parks or recreation areas and does not come within 1,000 feet of parks or recreation areas;
  - g. crosses potential wetlands for only 0.43 miles;
  - h. does not cross any known occupied habitat of endangered or threatened species;
  - i. does not cross any 100-year floodplains;
  - j. avoids crossing the Tongue River and the Pease River, two of the major streams in the study area;
  - k. crosses no cropland or pasture land with mobile irrigation systems; and
  - l. has a reasonable cost.
166. Although all of the routes proposed in the application are viable and compliant with applicable routing criteria, the settlement route is the best alternative weighing the factors set forth in PURA § 37.056(c) and P.U.C. SUBST. R. 25.101(b)(3)(B).
167. There are no alternative routes or facilities configurations that would have a less negative impact on landowners along the ECC segment.
168. Intervenors on the ECC segment proposed a settlement route that would mitigate the impact of the line on some affected landowners. The incremental cost of this route, compared to ETT's preferred route, is \$33,145,000. The incremental cost of the settlement route, compared to ETT's highest cost route ECC23 is \$13,284,000.

169. Numerous parties who signed the stipulation proposing the ECC settlement route are willing to allow portions of the project to be constructed on their property. The settlement route is viable from an engineering perspective.

Community Values

170. The settlement route is unanimously supported by all landowners in the ECC study area and is the route that best comports with the community values of the area.
171. The ECC study area is unique in that it consists mainly of large, unfragmented, historic ranches, including Matador Ranch, Pitchfork Ranch, 6666 Ranch, and Tongue River Ranch (formerly SMS/Swenson Ranch).
172. These ranches are important to Texas history and the local community, and the settlement route best minimizes the adverse impacts to these collective ranches.
173. Land fragmentation is a growing concern, and the settlement route will avoid further fragmentation of these historic ranches.
174. The settlement route is the result of a community effort, containing links that were not proposed by ETT and that required the consent of all affected landowners. The landowners in this case have invested substantial time and effort in developing this route, and it is a strong reflection of the values of the affected community.
175. The project would not result in the disruption or preemption of any recreational activities but would have some temporary or permanent impact on visual aesthetics.
176. There are six habitable structures within 500 feet of the centerline of the settlement route.
177. No commercial AM radio transmitters were identified within 10,000 feet of the centerline of the settlement route.
178. No electronic communications towers were identified within 2,000 feet of the centerline of the settlement route.
179. There are no FAA-registered airports located in the study area or within 20,000 feet of the settlement route. There are no private airstrips located within 10,000 feet of the settlement route. There are no heliports located within 5,000 feet of the settlement route.

There are no significant impacts to any airports or heliports anticipated from construction of this segment of the transmission line.

180. ETT has committed to cooperate with directly affected landowners to implement minor deviations in the approved route to minimize the impact of the project.
181. ETT has evaluated community values and addressed the concerns adequately.

**Recreational and Park Areas**

182. There are no parks or recreational areas within 1,000 feet of the centerline of the settlement route. No impacts to the use or enjoyment of any parks or recreational areas are anticipated from the construction of the transmission line.

**Historical and Aesthetic Values**

183. The settlement route does not cross any recorded cultural resource site.
184. There is one recorded cultural resource site located within 1,000 feet of the centerline of the settlement route.
185. If necessary during construction, ETT will obtain cultural resource clearance from the THC for the project right-of-way.
186. ETT's proposed routes range from crossing 40.90 to 64.37 miles of areas with high archaeological potential. The settlement route is near the median of this range, crossing 55.20 miles of areas with high archaeological potential.
187. All proposed routes would have some negative impact on aesthetic values, though some would have more impact than others.
188. The settlement route is within the foreground visual zone of federal and state highways for 8.43 miles.
189. The settlement route is not within the foreground visual zone of any park or recreational areas.
190. The settlement route has only six habitable structures within 500 feet of its centerline.
191. The use of monopole structures along the settlement route mitigates the aesthetic impacts of this transmission line along those links.

**Environmental Integrity**

192. PBS&J evaluated each of the 23 proposed routes in the ECC segment based on potential environmental impacts including impacts on land use, ecology, and cultural resources.
193. All routes and links presented in the ECC segment provide environmentally acceptable routes. The settlement route compares favorably to ETT's proposed routes in terms of impact on environmental integrity, based on factors qualified in the EA. The settlement route is an environmentally acceptable route.
194. TPWD provided comments regarding the routes as filed in the application. Of the routes evaluated in the EA, TPWD stated that for ECC segment, route ECC18 appeared to better minimize potential impacts to natural resources when compared to the other routes evaluated in the EA.
195. The Commission must consider a wider range of factors than TPWD in evaluating transmission line routes. In this case, the settlement route appropriately balances the relevant factors.
196. The settlement route is not expected to adversely impact known populations of any federally-listed endangered or threatened wildlife species.
197. The mitigation measures proposed in the EA will serve to reduce and mitigate potential adverse effects of construction and operation of the proposed transmission line.
198. The settlement route crosses upland woodland or brushland for 18.8 miles.
199. The settlement route crosses bottomland, riparian woodland, and brushland for 2.12 miles.
200. The settlement route crosses potential wetlands for 0.43 miles.
201. The settlement route crosses open water for 0.10 miles.
202. None of the settlement route crosses a 100-year flood plain that has been identified by FEMA.
203. The settlement route is not expected to significantly impact or alter the cultural resources within the project area.

204. The settlement route avoids creating additional erosion problems in the same area as the existing SPS transmission line on the properties of Tongue River Ranch, Matador Ranch, and the Hughstons.

Engineering Constraints

205. No engineering constraints have been identified associated with this project.

Estimated Cost

206. ERCOT's CTO study and the Commission's orders in Docket Nos. 35665 and 37902 estimated the length of the Edith Clarke-to-Cottonwood segment of this project to be 37 miles and the planning level cost to be \$62.16 million or \$1.68 million per mile.
207. The 23 alternative routes being considered for the ECC segment range from approximately 73.0 miles in length (route ECC1) to about 84.7 miles (route ECC23). The settlement route is approximately 88.65 miles in length.
208. The estimated costs for the alternative routes on the ECC segment range from approximately \$125.1 million (route ECC2) to about \$145.0 million (route ECC23), with the settlement route being approximately \$158 million or \$1.785 million per mile.
209. The costs projected in the application are only estimates since the approved line route has not yet been determined by the Commission or surveyed by ETT, and final engineering design has not been performed.
210. The additional costs of the settlement route are justified by the unanimous support from landowners and the route's benefits.
211. The cost of the settlement route already includes all known modifications necessary to address landowner concerns.
212. The additional costs of the settlement route result in part from the additional length needed to navigate the unfragmented, historic ranches in the study area in the least impactful manner.
213. The settlement route does not include any backward links.

214. The settlement route represents a good route in terms of cost, environmental integrity, community values, prudent avoidance, aesthetic values, recreational and park areas, use and paralleling of existing compatible right-of-way, and historic values. It presents no engineering constraints.

**Use of Existing Compatible Right-of-Way and Property Lines**

215. Approximately 65 miles and 77% of the length of the settlement route follow existing compatible corridors.
216. The settlement route appropriately reflects consideration of using or paralleling existing compatible right-of-way and other natural or cultural features, criteria contained in P.U.C. SUBST. R. 25.101(b)(3)(B)(i)-(iii).

**Prudent Avoidance**

217. The settlement route complies with the policy of prudent avoidance.
218. The number of habitable structures within 500 feet of the centerline ranges from a low of four to a high of 12.
219. The settlement route is within 500 feet of six habitable structures.
220. The settlement route impacts a low number of habitable structures compared to all the proposed routes and avoids the more extreme impacts to the landowners near the Cottonwood substation.
221. Unlike ETT's preferred route and other routes using link E4, the settlement route avoids unduly burdening Mr. Hughston's property. ETT's route ECC2 would surround Mr. Hughston's home with at least two 345-kV transmission lines and potentially a third line that has been filed as an alternate link in another CREZ proceeding.
222. The settlement route also avoids two habitable structures on Mr. Johnson's property on link E4.

**III. Conclusions of Law**

1. ETT is an electric utility as defined in PURA §§ 11.004 and 31.002(6).

2. The Commission has jurisdiction and authority over the application pursuant to PURA §§ 14.001, 32.001, 37.051, 37.053, 37.054, 37.056 and 39.203(e).
3. Notice of the application was provided in compliance with PURA § 37.054 and P.U.C. PROC. R. 22.52(a).
4. ETT's application is sufficient and ETT's notice was adequate.
5. SOAH exercised jurisdiction over this docket pursuant to PURA § 14.053 and the Administrative Procedure Act, TEX. GOV'T CODE ANN. Chapter 2001.
6. The project is necessary for the service, accommodation, convenience or safety of the public within the meaning of PURA § 37.056(a), taking into consideration the applicable factors set out in PURA § 37.056(c).
7. ETT has met the requirements of P.U.C. SUBST. R. 25.101(b)(3).
8. The proposed transmission line project is consistent with the Commission's goals for the CREZ program and P.U.C. SUBST. R. 25.174.
9. As a CREZ transmission project identified in Docket Nos. 33672, 35665, and 37902, the application is exempt under PURA §§ 39.203(e) and 39.904(h) and P.U.C. SUBST. R. 25.174(d)(2) from the requirement to consider the factors in PURA § 37.056(c)(1)-(3) and (4)(E).
10. No issue is presented by the application subject to P.U.C. SUBST. R. 25.102 (Coastal Management Program).
11. Pursuant to P.U.C. SUBST. R. 25.174(d)(10), the level of financial commitment by generators is sufficient under PURA § 39.904(g)(3) to grant ETT's application.
12. ETT's project using REC segment route REC1-modified and ECC segment settlement route complies with all aspects of PURA § 37.056 and P.U.C. SUBST. R. 25.101, including the Commission's policy of prudent avoidance.
13. ETT's application is entitled to approval as described in the findings of fact, taking into consideration the factors set out in PURA § 37.056 and P.U.C. SUBST. R. 25.101.

#### IV. Ordering Paragraphs

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

1. ETT's application is approved. ETT's CCN Nos. 30193 and 30194 are amended to include the construction, ownership, and operation of the project.
2. The project shall follow the approved route, which is route REC1-modified for the REC segment and the settlement route for the ECC segment as set out in the application and stipulation agreement, respectively.
3. In the event ETT or its contractors encounter any archeological artifacts or other cultural resources during project construction, work shall cease immediately in the vicinity of the resource and the discovery shall be reported to the THC. ETT shall take action as directed by the THC.
4. ETT shall follow the procedures outlined in the following publication for protecting raptors: *Suggested Practices for Raptor Protection on Power Lines, The State of the Art in 2006*, Avian Power Line Interaction Committee (APLIC), 2006 and the Avian Protection Plan Guidelines published by the APLIC in April 2005.
5. ETT shall identify stopover sites on or immediately adjacent to the right-of-way for the whooping crane and implement necessary measures to avoid or minimize impacts by consultation with USFWS if stopover sites are identified. If necessary, ETT shall consult with the USFWS concerning proposed avoidance, minimization, and mitigation measures for potential impacts of the line on whooping cranes.
6. ETT shall survey for suitable nesting habitat for the interior least tern along the approved route and implement any necessary measures to minimize impacts to that species. If necessary, ETT shall consult with the USFWS concerning proposed possible impacts of the line on the interior least tern.
7. ETT shall comply with the requirements of the Migratory Bird Treaty Act in connection with construction and maintenance of the project.

8. ETT shall allow state-listed threatened species observed during construction to leave the site or be relocated to a suitable nearby area by a permitted individual.
9. ETT shall continue to monitor the listing status of the Texas kangaroo rat on the federal endangered species list and will consult with the USFWS should the kangaroo rat's listing status change and additional measures need to be taken to protect its habitat.
10. ETT shall evaluate measures to avoid and minimize project impacts to bats if caves or karst features are encountered during right-of-way preparation or construction.
11. ETT shall exercise extreme care to avoid affecting non-targeted vegetation or animal life when using chemical herbicides to control vegetation within the right-of-way.
12. ETT shall minimize the amount of flora and fauna disturbed during construction of the proposed transmission line, except to the extent necessary to establish appropriate right-of-way clearance for the transmission line. In addition, ETT shall revegetate using native species and shall consider landowner preferences in doing so. Furthermore, to the maximum extent practicable, ETT shall avoid adverse environmental impacts to sensitive plant and animal species and their habitats as identified by TPWD and the USFWS.
13. ETT shall use best management practices to minimize the potential impact to migratory birds and threatened or endangered species.
14. ETT shall implement erosion control measures as appropriate. Also, ETT shall return each affected landowner's property to its original contours and grades unless otherwise agreed to by the landowner.
15. ETT shall undertake on-the-ground measures on the routes approved by the Commission to identify whether there is potential endangered or threatened species habitat and respond appropriately if such habitat is identified.
16. For the REC segment, ETT shall co-locate the existing 69-kV transmission line owned by AEP Texas North Company on the 345-kV structures to be built on link I2 in this docket.
17. ETT shall cooperate with directly affected landowners to implement minor deviations in the approved route to minimize the impact of the project. Any minor deviation to the approved route shall only directly affect landowners who were sent notice of the

transmission line in accordance with P.U.C. PROC. R. 22.52(a)(3) and shall directly affect only those landowners that have agreed to the minor deviation. Any agreed minor deviations shall not delay the project beyond its Commission-required completion date nor shall any minor deviation add any significant cost to the project.

18. ETT shall be permitted to deviate from the approved route in any instance in which the deviation would be more than a minor deviation, but only if the following two conditions are met. First, ETT shall receive consent from all landowners who would be affected by the deviation regardless of whether the affected landowner received notice of or participated in this proceeding. Second, the deviation shall result in a reasonably direct path towards the terminus of the line and not cause an unreasonable increase in cost or delay the project. Unless these two conditions are met, this paragraph does not authorize ETT to deviate from the approved route except as allowed by the other ordering paragraphs in this Order.
19. ETT is required to update the reporting of this project on its monthly construction progress report before the start of construction to reflect final estimated cost and schedule in accordance with P.U.C. SUBST. R. 25.83(b). In addition, ETT shall provide final construction costs, with any necessary explanation for cost variance, after completion of construction and when all charges have been identified. ETT shall file in Project No. 37858 information pursuant to P.U.C. SUBST. R. 25.216(f) and the order in Docket No. 37902.
20. All other motions, requests for entry of specific findings of fact or conclusions of law, and any other requests for general or specific relief, if not expressly granted, are denied.

SIGNED AT AUSTIN, TEXAS the 7<sup>th</sup> day of March, 2011

**PUBLIC UTILITY COMMISSION OF TEXAS**

  
BARRY T. SMITHERMAN, CHAIRMAN

  
DONNA L. NELSON, COMMISSIONER

I join the Commission on the selection of the settlement route (ECC-SR) for the ECC segment. I dissent on the selection of route REC1-modified for the REC segment. However, I agree to the modifications to the route on the REC segment to accommodate landowners.

  
KENNETH W. ANDERSON, JR., COMMISSIONER