



Control Number: 50410



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March 16, 2020

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PUBLIC UTILITY COMMISSION
FILING CLERK

Ms. Karen Hubbard
Public Utility Commission
P.O. Box 13326
Austin, TX 78711-3326

RE: PUC Docket No. 50410: Joint Application of Wind Energy Transmission Texas, LLC and Oncor Electric Delivery Company to Amend Their Respective Certificates of Convenience and Necessity for the Proposed Bearkat Switching Station to Longshore Switching Station 345-kilovolt Transmission Line in Glasscock and Howard Counties

Dear Ms. Hubbard:

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

Please be aware that a written response to a TPWD recommendation or informational comment received by a state governmental agency may be required by state law. For further guidance, see the Texas Parks and Wildlife (TPW) Code, Section 12.0011. For tracking purposes, please refer to TPWD project number 43034 in any return correspondence regarding this project.

Project Description

Wind Energy Transmission Texas, LLC (WETT) and Oncor Electric Delivery LLC (Oncor) propose to design and construct a new 345-kilovolt (kV) transmission line in Howard and Glasscock Counties.

The goal of the proposed transmission line project is to connect the Longshore Switching Station located in Howard County to the Bearkat Switching Station located in Glasscock County. The transmission line will be approximately 30 to 44 miles in length depending on the route selected by the Public Utility Commission of Texas (PUC). WETT and Oncor propose to use self-supporting double circuit lattice steel towers with a single circuit installed for this project within a 160-foot right-of-way (ROW).

WETT and Oncor retained KP Environmental, Inc. (KPE) to prepare an EA to support WETT's and Oncor's application to amend their Certificates of Convenience and Necessity (CCN) for this project.

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Previous Coordination

TPWD provided information and recommendations regarding the preliminary study area for this project to KPE on May 16, 2019. This letter is included in Appendix B of the EA.

Recommendation: Please review the TPWD correspondence in Appendix B and consider the recommendations provided, as they remain applicable to the project as proposed.

Proposed Route

KPE identified 249 preliminary alternative routes that were further evaluated and presented to WETT and Oncor. From these preliminary routes, 42 alternative routes were selected to be filed with the CCN application. After analyzing each of the 42 alternative routes, KPE selected Route 102 as the route that best meets the requirements of Public Utility Regulatory Act and the PUC's Substantive Rules.

Appendix G of the EA states "some of the significant factors that lead to the selection of Route 102 included:"

- The length of Route 102 is approximately 30.8 miles, which is one of the shortest alternative routes.
- Route 102 is estimated to cost approximately \$63,879,000 which is one of the least expensive routes.
- Route 102 parallels existing compatible corridors, including existing transmission lines, public roads and highways, railroads and apparent property boundaries, for approximately 69.2 percent of its length (the range of filed alternative routes paralleling existing compatible corridors is 60.6 percent to 85.8 percent).

The EA failed to provide sufficient information based on surveys (aerial or field), remote sensing, modeling, or other available analysis techniques to determine which route would best minimize impacts to important, rare, and protected species. Therefore, TPWD's routing recommendation is based solely on the natural resource information provided in the CCN application and the EA, as well as publicly available information examined in a Geographic Information System (GIS).

Recommendation: Of the 42 alternative routes evaluated in the EA, **Alternative Route 48** appears to be the route that causes the least adverse

impacts to natural resources. TPWD's primary recommendation to the PUC is to select a route that minimizes the fragmentation of intact lands because such a route should have the least adverse impacts to natural resources. TPWD believes the State's long-term interests are best served when new utility lines and pipelines are sited where possible in or adjacent to existing utility corridors, roads, or rail lines instead of fragmenting intact lands. Of the proposed routes, Alternative Route 48 would appear to be the preferred route.

Alternative Route 42

- Is the fifth shortest route, at 168,296 feet (31.9 miles).
- Length of route parallel to existing electric transmission lines is 100,862 feet.
- Length of route parallel to existing public roads and highways is 26,362 feet.
- Parallels existing transmission lines or existing public roads and highways for approximately 75.6 percent of its length. The range of filed alternative routes paralleling existing transmission lines or existing public roads and highways is 15.3 percent to 75.6 percent.
- Parallels existing compatible corridors, including existing transmission lines, public roads and highways, and apparent property boundaries, for approximately 85.8 percent of its length.

Federal Laws

Migratory Bird Treaty Act

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

Section 7.4.2.1 of the EA states, "If ROW clearing and construction occurs during breeding season, impacts may occur to the young of many species including nestling and fledgling birds. Impacts to nesting birds will require mitigation measures to ensure compliance with the MTBA."

Recommendation: TPWD recommends any PUC certificate preclude vegetation clearing activities during the general bird nesting season, March 15 through September 15, to avoid adverse impacts to birds. If clearing

vegetation during the migratory bird nesting season is unavoidable, TPWD recommends surveying the proposed route for active nests (nests with eggs or young). TPWD recommends that a minimum 150-foot buffer of vegetation remain around any nests that are observed prior to disturbance and occupied nests and buffer vegetation not be disturbed until the eggs have hatched and the young have fledged.

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

Species of Concern/Important Species

In addition to state and federally protected species, TPWD tracks special features, natural communities, and rare species that are not listed as threatened or endangered. These species and communities are tracked in the Texas Natural Diversity Database (TXNDD), and TPWD actively promotes their conservation. TPWD considers it important to evaluate and, if necessary, minimize impacts to rare species and their habitat to reduce the likelihood of endangerment.

Section 7.4.1.4 of the EA states “There were four plant species listed as Species of Greatest Conservation Need with potential to occur within the study area: Jones’ selenia (*Selenia jonesii*), Irion County wild-buckwheat (*Eriogonum nealleyi*), Cory’s ephedra (*Ephedra coryi*), and villous muhly (*Muhlenbergia villiflora* var. *villosa*). Jones’ selenia, Cory’s ephedra, and villous muhly were listed as an element of occurrence under the TXNDD within the study area. Potential impacts to these species during construction include being crushed or uprooted during vegetation clearing or during overland construction travel.”

Recommendation: TPWD recommends surveying the project area for the aforementioned rare plant species where suitable habitat may be present, prior to construction. The survey should be performed by a qualified biologist at the time of year when this species is most likely to be found, usually during the flowering period. If this species is present, plans should be made to avoid adverse impacts to the greatest extent possible. If plants are found in the path of construction, including the placement of staging areas and other project related sites, this office should be contacted for further coordination and possible salvage of plants and/or seeds for seed

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banking. Plants not in the direct path of construction should be protected by markers or fencing and by instructing construction crews to avoid any harm.

Section 7.4.2.4 of the EA states that two snake species, the western hognose snake (*Heterodon nasicus*), western rattlesnake (*Crotalus viridis*) have a moderate to high potential to occur within a wide variety of habitats within the study area.

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

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

Sincerely,



for
Clayton Wolf
Wildlife Division Director

RH:jn.43034

cc: Mr. Matt Van Arkel, WETT
Mr. Richard Hanson