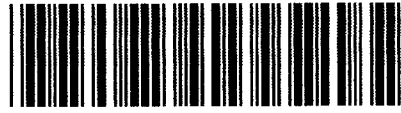




Control Number: 38560



Item Number: 176

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**PUC DOCKET NO. 38560
SOAH DOCKET NO. 473-11-0082**

**APPLICATION OF SHARYLAND
UTILITIES, LP TO AMEND ITS
CERTIFICATE OF CONVENIENCE
AND NECESSITY FOR THE PROPOSED
SILVERTON TO COTTONWOOD
345-KV CREZ TRANSMISSION LINE IN
BRISCOE, CROSBY, DICKENS, FLOYD,
AND MOTLEY COUNTIES**

**§ PUBLIC UTILITY COMMISSION
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§ OF TEXAS
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ORDER

This Order addresses the application of Sharyland Utilities, LP (Sharyland) to amend its certificate of convenience and necessity (CCN) for the Silvertton-to-Cottonwood 345-kV competitive-renewable-energy-zone (CREZ) transmission line. The Silvertton-to-Cottonwood line begins at Sharyland's new Silvertton collection station in southwest Briscoe County and runs southeast to the new Wind Energy Transmission Texas, LLC (WETT) Cottonwood collection station in northwest Dickens County. Sharyland, Commission Staff, and all intervenors in this proceeding entered into a stipulation and agreement that resolves all issues in this proceeding and agreed to support the selection and approval of a modified version of route 17. The Commission also directs the use of monopolizing on certain links in the southeastern part of the transmission-line route. Consistent with the stipulation and this change, Sharyland's application is approved.

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

I. Findings of Fact

Procedural History and General Project Description

1. Sharyland is an investor-owned electric utility providing service under CCN Nos. 30026, 30114, 30191, and 30192.
2. On September 8, 2010, Sharyland filed an application to amend its CCN for the proposed Silvertton to Cottonwood 345-kV CREZ transmission line in Briscoe, Crosby, Dickens, Floyd, and Motley Counties (application).

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3. In the application, Sharyland requested approval to construct a new 345-kV double-circuit CREZ transmission line that extends from the proposed Silverton station in Briscoe County to WETT's proposed Cottonwood station in Dickens County. The name of the project is the Silverton-to-Cottonwood transmission-line project (formerly, Panhandle AC-to-Panhandle AD transmission-line project) (proposed transmission-line project).
4. On September 8, 2010, Sharyland filed the direct testimonies of Mark E. Caskey, Mark D. Meyer, and Rob R. Reid.
5. On September 8, 2010, Sharyland mailed written notice, by first class mail, of the application, including a map, written descriptions of Sharyland's preferred and alternative routes, and a copy of the Commission's brochure entitled *Landowners and Transmission Line Cases at the PUC for Competitive Renewable Energy Zone (CREZ) Projects*, to each landowner as stated on current county tax rolls that could be directly affected if Sharyland's CCN is amended.
6. On September 8, 2010, Sharyland mailed written notice of the filing of the application, including a map and written descriptions of Sharyland's preferred and alternative routes, to (a) each neighboring utility providing the same utility service within five miles of the requested facilities, including Cross Texas Transmission, LLC (Cross Texas), Electric Transmission of Texas, LLC (ETT), Golden Spread Electric Cooperative, Inc., Lighthouse Electric Cooperative, Inc., South Plains Electric Cooperative, Southwestern Public Service Company (SPS), Swisher Electric Cooperative, Inc., and WETT; (b) each municipality located within five miles of the requested facilities, including the cities of Floydada, Silverton, Lockney, and Roaring Springs, and District 2 Texas Farm Bureau; and (c) each county in which any portion of the requested facilities could be located, including the counties of Briscoe, Floyd, Dickens, Motley and Crosby.

7. Sharyland published notice of the application on the following dates in the following newspapers having general circulation in the counties where the amended CCN is being requested: *The Floyd County Hesperian-Beacon*, on September 9, 2010, *Motley County Tribune*, on September 9, 2010, *The Valley Tribune*, on September 14, 2010, *Crosby County News*, on September 10, 2010, *The Briscoe County News*, on September 15, 2010, and *The Texas Spur*, on September 9, 2010.
8. On September 14, 2010, the Commission referred this matter to the State Office of Administrative Hearings (SOAH). This matter was designated SOAH Docket No. 473-11-0082. The Commission's order of referral included a list of issues to be addressed and a deadline for decision.
9. On September 16, 2010, Sharyland filed an affidavit attesting to the provision of a copy of its Environmental Assessment and Alternative Route Analysis to the Texas Parks and Wildlife Department (TPWD).
10. On September 20, 2010, the SOAH administrative law judge (ALJ) issued Order No. 1, requiring, among other things, information from Sharyland regarding notice, comments from Commission Staff regarding sufficiency of notice, and a recommendation from Commission Staff regarding the sufficiency of the application. Order No. 1 also provided notice of the initial prehearing conference to be held on October 20, 2010.
11. On September 24, 2010, Commission Staff issued a recommendation finding the application sufficient and not finding any material deficiencies.
12. On September 29, 2010, Sharyland filed an affidavit attesting to the delivery of notice of the application to directly affected landowners, neighboring utilities, municipalities, and counties, and publication of notice in newspapers having general circulation in counties where the amended CCN is requested.

13. On October 1, 2010, Commission Staff filed comments on notice, stating that Commission Staff found Sharyland's provision of notice of the application to comply with P.U.C. PROC. R. 22.52, and recommended that Sharyland's notice be deemed sufficient.
14. On October 4, 2010, the Commission issued the supplemental preliminary order listing additional issues to be addressed in this proceeding.
15. On October 20, 2010, a prehearing conference was held.
16. On October 25, 2010, the SOAH ALJ issued Order No. 2, stating, among other things, that all landowners that timely filed a motion to intervene in this proceeding were admitted as parties at the prehearing conference held on October 20, 2010. The SOAH ALJ also concurred with Commission Staff's finding that the application is sufficient, set forth a procedural schedule, including that a second prehearing conference, would be held on November 10, 2010, and provided notice of the hearing on the merits to be held on December 13-17, 2010.
17. On October 29, 2010, Sharyland filed the supplemental direct testimony of Mark E. Caskey.
18. On November 8, 2010, TPWD filed a letter containing comments and recommendations regarding the proposed transmission-line project.
19. On November 10, 2010, a second pre-hearing conference was held.
20. On November 15, 2010, the SOAH ALJ issued Order No. 3, memorializing the second prehearing conference held on November 10, 2010.
21. On November 15, 2010, the SOAH ALJ issued Order No. 4, adopting a protective order.

22. On November 19, 2010, Sharyland filed the first errata to its application and the direct testimony of Mark D. Meyer. The first errata corrected an error in the cost calculations that Sharyland provided for the preferred and alternative routes in the original application and supporting direct testimony of Mark D. Meyer. In the original cost calculations, Sharyland included the cost of double-circuit towers, but inadvertently omitted the cost of one of the circuits.
23. The following intervenors filed direct testimony or statements of position, or both, in this docket: Morton and Kathleen Whatley, Carlton Shaw, Wes Campbell, David Patterson, Sally Shaw, Amy Jared, Bob Stafford and Old Glory L.P., Bundy Hal Campbell, Chad Southard, Annabel Bramlet, the Harvey Wayne Bramlet Estate Trust, Larry Bramlet, Southwestern Public Service Company (SPS), W.C. Bratcher, Mitzi Kate Webb, Anita B. Wright, Daniel Bert Ehresman, Roy Ehresman, Billie Ehresman, William Paul Nelson, Rebecca N. Eadie, Mary Nelson Kjellstrom, Lucretia Howe, Rancho De Los Ninos Corporation, Mucho Bueno Corporation, 4DGs, Inc., Kenneth Gregg, A.C. Pratt, Frances Graves, Farris Family Ltd., Jerry and Sheree Cannon, the Kellie Williams 1994 Trust, the Kerrie Pitts 1994 Trust, Connie Sanders, Mark Sanders, Dee Sanders, Matador Ranch, Cross Texas Transmission, LLC, Tristar Wind Energy, LLC, W.R. Collier, and Cap Rock Acres, Inc.
24. On December 2, 2010, Commission Staff filed the direct testimony of T. Brian Almon, P.E.
25. On December 7, 2010, Sharyland filed the rebuttal testimonies of Mark E. Caskey, Mark D. Meyer, and Rob R. Reid and Sharyland's second errata. The second errata corrected errors in the cost estimates for route 16 and route 17 (Sharyland's preferred route).
26. On December 7, 2010, Sharyland and all intervenors but one filed the joint notice of non-unanimous stipulation and agreement in which the signatories notified the SOAH ALJ

that they had entered into a non-unanimous settlement (NUS) to resolve all issues in this docket. The NUS was filed as an attachment to the joint notice.

27. On December 13, 2010, the hearing on the merits was convened at which all parties announced that they had reached a unanimous settlement in this proceeding.
28. On December 15, 2010, Sharyland, Commission Staff, and all intervenors in this proceeding filed a joint notice of a unanimous stipulation and agreement. This new stipulation made certain modifications to the NUS, including modifications to the route agreed to in the NUS. Consistent with the stipulation, the signatories agreed that they would seek the Commission's approval of route 17, as modified by the stipulation (modified route 17). The stipulation, which was signed by all parties to the proceeding, replaced the NUS and resolved all issues in this docket, except that Matador Ranch, W.R. Collier and Cap Rock Acres, Inc., and Wes Campbell reserved the right to request that monopole structures should be constructed on links OO, PP, MM1, MM2, and MM3.
29. On December 17, 2010, the SOAH ALJ issued Order No. 6, returning this docket to the Commission for final processing and admitting the following evidence into the record: (a) Sharyland's application; (b) the direct testimonies of Mark E. Caskey, Mark D. Meyer, and Rob R. Reid, on behalf of Sharyland; (c) Sharyland's proof of notice by mail and proof of publication; (d) the supplemental direct testimony of Mark E. Caskey, on behalf of Sharyland; (e) Sharyland's errata to its application and the direct testimony of Mark D. Meyer; (e) the direct testimonies of intervenors Wes Campbell, Bundy Hal Campbell, Chad Southard, W.C. Bratcher, Robert Kilmer, Timothy D. Cook, Ken Lyons, W.R. Collier; (f) the supplemental direct testimony of intervenor Bundy Hal Campbell; (g) the direct testimony of T. Brian Almon, on behalf of Commission Staff; (h) the rebuttal testimonies of Mark E. Caskey, Mark D. Meyer, and Rob R. Reid, on behalf of Sharyland; (i) the letter agreement between Sharyland and SPS; and (j) the signatories' unanimous stipulation.

Application

30. Sharyland's application is sufficient. The application contains an adequate number of reasonably differentiated alternative routes to conduct a proper evaluation.
31. Sharyland's notice of the application complied with PURA¹ § 37.054 and P.U.C. PROC. R. 22.52(a).
32. Sharyland's application meets the filing requirements set forth in P.U.C. SUBST. R. 25.216(g)(2) and (3).
33. Sharyland submitted the application in compliance with the orders in Docket Nos. 37902² and 36802³ assigning Sharyland responsibility for a CREZ transmission-plan facility.
34. As a CREZ transmission-line project identified in Docket Nos. 35665⁴ and 37902, the proposed transmission-line project will accomplish the intended result for the CREZ project designated as Panhandle AC-to-Panhandle AD double-circuit 345-kV line (Silverton - Cottonwood 345-kV) in the CREZ transmission plan and ordered by the Commission in Docket Nos. 37902 and 36802.

Routing of the Project

35. Sharyland retained PBS&J to delineate and evaluate alternative routes and to perform an environmental assessment.
36. Sharyland's application proposed one preferred route (route 17) and 16 alternative routes.

¹ Public Utility Regulatory Act, TEX. UTIL. CODE ANN. §§ 11.001-66.016 (Vernon 2007 & Supp. 2010) (PURA).

² *Remand of Docket No. 35665 (Commission Staff's Petition for the 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).

³ *Proceeding to Sequence Certificate of Convenience and Necessity Applications for the Subsequent Projects for the Competitive Renewable Energy Zones*, Docket No. 36802, Order (Apr. 5, 2010).

⁴ *Commission Staff's Petition for the 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).

37. Sharyland considered and submitted a sufficient number of geographically diverse routes for the project.
38. Pursuant to the stipulation, the signatories agreed they would seek the Commission's approval of modified route 17.
39. No party to this docket contests the use of modified route 17 for the proposed transmission-line project.
40. No alternative routes or facilities configurations have been proposed that would have a less negative impact on landowners.
41. Route 17, as proposed in the application, consists of the links A4-A7-A-C-F-F'-G-L-P-U-U'-FF'-FF"-FF"'-OO-PP-MMI-MM2-MM3-MM4-QQ.'" Pursuant to the stipulation, the signatories agreed to modify route 17 as depicted and described in the maps attached to the stipulation as Exhibit A by more closely following property boundaries and avoiding any areas of concern identified by affected landowners.
42. All landowners, neighboring utilities, municipalities, and counties directly affected by modified route 17 were provided notice of this proceeding.
43. Modified route 17 will not diminish the electric efficiency or reliability of the proposed transmission-line project.
44. The right-of-way for modified route 17 will be 175 feet wide, but Sharyland will have the ability to require a wider right-of-way should engineering requirements, compliance with relevant codes and standards for construction or operation of the transmission line, or both necessitate a wider right-of-way.
45. Modified route 17 complies with PURA § 37.056 and P.U.C. SUBST. R. 25.101.

46. Modified route 17 is the most desirable route because it utilizes as much of the environmentally preferred route identified by PBS&J as possible while at the same time addressing significant landowner concerns. Modified route 17 best meets the considerations set forth in the Commission's preliminary order in this docket.

Effect on Other Utilities

47. Modified route 17 will cross and parallel existing transmission and distribution lines operated by other utilities in the region. Crossings and paralleling of other utilities' facilities will require coordination between Sharyland and such utilities to avoid adverse impacts.
48. Some utilities in the area where Sharyland's project will be constructed are members of the Southwest Power Pool (SPP). Sharyland's project will be connected to the ERCOT electrical grid, which is asynchronous with SPP.
49. Transmission-line crossings and paralleling of lines owned and operated by different utilities are common in the electric industry, and there are well established engineering techniques for avoiding adverse impacts during construction or operation of lines that cross or parallel other lines. Utilities typically work together to coordinate construction and operation of facilities that are in proximity to one another.
50. Mutual coupling occurs when transmission lines parallel one another in close proximity and an interaction of electric and magnetic fields occurs between the lines. There are accepted engineering methods to account for and mitigate the effects of mutual couplings for transmission lines that share common corridors.
51. Crossings and paralleling of existing and planned transmission lines by modified route 17 can be addressed through coordination between Sharyland and the appropriate utilities and the application of common engineering measures.

Community Values

52. Sharyland and PBS&J sought input regarding the routing of the proposed transmission-line project from landowners, public officials, and other interested parties. In connection with their work, PBS&J sent letters to the public officials of the cities of Silverton, Floydada, Lockney, and Roaring Springs, as well as to county officials in Briscoe, Floyd, Motley, Crosby, and Dickens Counties, and to other state and federal officials.
53. Sharyland held three public open-house meetings. These meetings were held at the following locations on the following dates: Silverton, Texas on September 21, 2009; Muncy, Texas on September 22, 2009; and Dickens, Texas on September 24, 2009.
54. A total of 313 people attended the three public meetings.
55. Based on information received at the public meetings held in September 2009, some proposed links were modified to reduce impacts to habitable structures and other constraints. Links also were modified as a result of the relocation of the proposed Silverton and Cottonwood stations.
56. Information received from the public open-house meetings and from local, state, and federal agencies was considered and incorporated into the selection of preferred and alternative routes by Sharyland.
57. PBS&J personnel conducted extensive reconnaissance of the study area to identify constraints, habitable structures, cemeteries, churches, schools, and road names, which were not always listed on maps.
58. Sharyland considered and avoided population centers and other locations where people gather and live when routing all of its proposed routes for the proposed transmission-line project.

59. Modified route 17 avoids all of the incorporated cities in the study area, including Floydada, Silverton, Lockney, and Roaring Springs.
60. There are no significant impacts to any communication facilities, airports, airstrips, or heliports anticipated from construction of the proposed transmission-line project along modified route 17.
61. There are no commercial AM radio transmitters within 10,000 feet of the centerline of modified route 17, and there are two FM or other communication towers within 2,000 feet of the centerline of modified route 17.
62. There are no FAA-registered airports within 20,000 feet of the centerline of modified route 17, and there is one private airstrip within 10,000 feet of the centerline of modified route 17. There are no heliports within 5,000 feet of the centerline of modified route 17.
63. Modified route 17 traverses 22.88 miles of cropland or pastureland with mobile irrigation systems. The transmission line will be routed so as not to affect farming operations following construction of the line. This will include the positioning of transmission structures so that the structures span the traveling arc of mobile irrigation systems.
64. It is reasonable to require that Sharyland cooperate with directly affected landowners to implement minor deviations in the approved route to minimize the impact of the proposed transmission-line project.
65. A habitable structure is defined as one that is normally inhabited by humans or intended to be inhabited by humans on a daily or regular basis.
66. There are four habitable structures within 500 feet of the centerline of modified route 17.

Recreational and Park Areas

67. The proposed transmission-line project will not significantly impact the use or enjoyment of park and recreational facilities.
68. There are no parks or recreational areas owned by a governmental body or an organized group, club, or church crossed by modified route 17.
69. There are no parks or recreational areas owned by a governmental body or an organized group, club, or church within 1,000 feet of modified route 17.
70. Modified route 17 is not anticipated to have a negative impact on any park or recreational area.

Historical Values

71. No significant impacts to archaeological or historical resources are anticipated as a result of the construction of the proposed transmission-line project.
72. Modified route 17 does not cross any recorded cultural-resource sites.
73. There are two recorded cultural-resource sites within 1,000 feet of the centerline of modified route 17.
74. In the event Sharyland or its contractors encounter any artifacts or other cultural resources during construction, it is reasonable for all work to cease immediately in the vicinity of the resource and for Sharyland to report the discovery to the Texas Historical Commission (THC).

Aesthetic Values

75. Aesthetic impacts of the proposed transmission-line project have been considered and minimized to the extent practicable.

76. Modified route 17 does not cross park or recreational areas owned by a governmental body or an organized group, club, or church, and no such parks or recreational areas are within 1,000 feet of the centerline of modified route 17.
77. Modified route 17 does not have any length of its route within the foreground visual zone of parks and recreational areas owned by a governmental body or an organized group, club, or church, and approximately 2.07 miles of modified route 17 lie within the foreground visual zone of a State or U.S. Highway.

Environmental Integrity

78. The environmental assessment prepared by PBS&J analyzed the possible impacts of the project on numerous different environmental factors.
79. Construction of the proposed transmission-line project will not have a significant effect on the physiographic or geologic features of the area.
80. No significant impact to soils is anticipated from construction of the proposed transmission-line project.
81. Impacts on prime farmland will be insignificant because of the small footprint of the tower structures.
82. Construction of the proposed transmission-line project should have little adverse impact on the surface or ground-water resources of the area.
83. The proposed transmission-line project is not located either in whole or in part within the Texas Coastal Management program boundary.
84. PBS&J appropriately performed an evaluation of the impacts of the proposed transmission-line project on endangered and threatened plant and wildlife species.

85. Modified route 17 does not cross any known locations of threatened or endangered plant species.
86. The proposed transmission-line project is unlikely to affect threatened or endangered wildlife species, and any effect the project will have on these species will be mitigated by Sharyland's standard practices.
87. To protect raptors and migratory birds, it is reasonable for Sharyland to follow the procedures outlined in the following publication for protecting raptors: *Suggested Practices for Avian 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.
88. It is reasonable for Sharyland to 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.
89. It is reasonable for Sharyland to implement erosion-control measures as appropriate and return each affected landowner's property to its original contours unless otherwise agreed to by the landowners.
90. It is reasonable for Sharyland to exercise extreme care to avoid affecting non-targeted vegetation or animal life when using chemical herbicides to control vegetation within the right-of-way.
91. To minimize environmental and aesthetic impairment, it is appropriate to use monopoles to construct the transmission line along all of links MM1, MM2, and MM3. In addition, it is appropriate to use monopoles for a mile or more along link OO and also for a mile or more along link PP as necessary to ensure that monopoles are used across the entrance to the Matador Ranch. It is appropriate for Sharyland to work with Ms. Vivian Campbell

(the owner of habitable structure #46) to locate the specific part of link OO to monopole and with the Matador Ranch to locate the part of link PP to monopole.

Goal for Renewable Energy

92. To fulfill the renewable-energy goals established by the Legislature in PURA § 39.904(a), the Commission adopted, in Docket No. 33672,⁵ a transmission plan to deliver renewable energy to market and, in Docket No. 37902, designated certain transmission-service providers to build the required transmission facilities.
93. In Docket No. 33672, the Commission determined that the transmission facilities identified in its final order, including the Silverton-to-Cottonwood transmission line, were necessary to deliver to customers renewable energy generated in the CREZ.

Engineering Constraints

94. There are no known engineering constraints along modified route 17 that cannot be resolved with additional consideration during the design and construction phase of the proposed transmission-line project.

Estimated Costs

95. The overall cost of construction of modified route 17, including construction of the Silverton station, is estimated to be \$167,710,000, without taking into account the extra costs of using monopoles on links MM1, MM2, and MM3, and parts of links OO and PP.
96. The estimated cost for the transmission-line portion of modified route 17 is estimated to be \$113,050,000 without the monopoling ordered by the Commission for the above-identified links, and no more than \$118,600,000 with such monopoling. The cost for the Silverton station is estimated to be \$54,660,000.

⁵ *Commission Staff's Petition for Designation of Competitive Renewable Energy Zones*, Docket No. 33672, Order on Rehearing (Oct. 7, 2008).

97. The estimated cost for the transmission-line portion of the most expensive route in Sharyland's application, route 14, is \$119,930,000.
98. The extra cost of using monopoles on links MM1, MM2, and MM3, and parts of links OO and PP is expected to be no more than \$5,550,000, which is the estimated cost of using monopole structures on the entirety of those links.
99. The ERCOT CREZ transmission-optimization study (CTO study) estimated the proposed transmission-line project would cost \$94,080,000. However, this estimate did not include the cost of right-of-way and land acquisition and only anticipated construction of a 56-mile transmission-line project. The estimated length of modified route 17 is 64.48 miles.

Compatible ROW

100. Modified route 17 parallels compatible right-of-way and apparent property lines for 53.7 percent of its length.

Prudent Avoidance

101. Modified route 17 complies with the Commission's policy of prudent avoidance.
102. Modified route 17 has four habitable structures located within 500 feet of the centerline of the proposed transmission-line project.

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

103. The CTO study proposed constructing the line using 2-wire bundled 1590 Aluminum Conductor Steel Reinforced (ACSR) conductor. Sharyland proposes using a 2-wire bundled 1939-kcmil Aluminum Conductor Steel Reinforced/Trapezoidal Wire (ACSR/TW) conductor.
104. Consistent with ERCOT's opinion that the location of the Silverton station could be adjusted from the location provided in the CTO study based on additional information not

available at the time of the CTO study, Sharyland located the Silverton station so as to avoid, as much as possible, certain siting and routing constraints.

105. ERCOT recommends Sharyland's proposed modifications to conductor type and station location.
106. Sharyland's proposed changes are cost-effective, are consistent with the CTO Study, and are reasonable.
107. The CTO study specifies 50 MVAR of reactive compensation and 100 MVAR of shunt capacitors for the Silverton station, the costs of which are included in Sharyland's estimated costs for modified route 17. ERCOT, Sharyland, and the other CREZ transmission-service providers are currently engaged in a system-wide study of reactive-compensation needs for CREZ facilities, and Sharyland will incorporate the results of that study if it finds that additional reactive compensation is needed at the Silverton station.

Alternative Routes with Less Negative Effect

108. There are no alternative routes or facility configurations that would have a less negative effect on landowners than modified route 17.

TPWD's Written Comments and Recommendations

109. On November 8, 2010, TPWD filed a letter dated November 2, 2010, containing comments and recommendations regarding the proposed transmission-line project.
110. No modifications to the proposed transmission-line project are required as a result of the recommendations and comments made by TPWD.
111. TPWD's factors of concern in identifying route 7 as its preferred route are narrower than the factors that the Commission is required to consider under § 37.056 of PURA and P.U.C. SUBST. R. 25.101.

112. Sharyland must comply with all environmental laws and regulations governing threatened, endangered, and state-listed species.
113. Because of Sharyland's inability to access private properties to conduct on-the-ground surveys during the development of the environmental assessment, PBS&J relied on various sources, including information provided by TPWD and the U.S. Fish and Wildlife Service (USFWS).
114. Qualified individuals will conduct a field assessment of the entire length of modified route 17 to identify water resources; cultural resources; potential migratory-bird issues; threatened-, endangered-, and state-listed-species habitat; and habitat of the black-tailed prairie dog that may be impacted as a result of the proposed transmission-line project. Sharyland will identify additional permits that are necessary, obtain all necessary environmental permits, and comply with applicable permit conditions during construction and operation of the transmission line.
115. Sharyland will use best management practices to minimize the potential impact to migratory birds; threatened, endangered, or state-listed species; and black-tailed prairie dog towns.
116. Sharyland's current best management practices are sufficient, and thus no permitted biological monitor is necessary during clearing and construction activities.
117. State-listed threatened species observed during construction will be allowed to safely leave the construction site or will be relocated by a permitted individual to a nearby area with similar habitat that will not be disturbed during construction.
118. Sharyland will take measures to comply with all aspects of the Migratory Bird Treaty Act, which protects, among other species, the western burrowing owl and mountain plover.

119. An absolute restriction on vegetation-clearing activities during the general bird nesting season is neither reasonable nor operationally practical.
120. Mitigation measures relating to raptor protection, herbicide use, flora and fauna disturbance, re-vegetation, and erosion control are part of Sharyland's standard practice.
121. The standard mitigation requirements, included in the ordering paragraphs in this order, coupled with Sharyland's current practices are reasonable measures for a utility to undertake when constructing a transmission line and adequately address the concerns of the TPWD.

Need for the Proposed Transmission Line

122. As a CREZ transmission project identified in Docket Nos. 33672, 35665, and 37902, the project 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).

Financial Commitment

123. Pursuant to the Commission's order in Docket No. 37567,⁶ the level of financial commitment by generators for the Panhandle A CREZ is sufficient under PURA § 39.904(g)(3).

II. Conclusions of Law

1. Sharyland is an electric utility as defined in §§ 11.004 and 31.002(6) of PURA.
2. The Commission has jurisdiction over this matter pursuant to PURA §§ 14.001, 32.001, 37.051, 37.053, 37.054, 37.056, and 39.203(e).

⁶ *Commission Staff's Petition for Determination of Financial Commitment for the Panhandle A and Panhandle B Competitive Renewable Energy Zones*, Docket No. 37567, Order (Jul. 30, 2010).

3. SOAH exercised jurisdiction over this docket pursuant to PURA § 14.053 and the Administrative Procedure Act, TEX. GOV'T CODE ANN. Chapter 2001 (Vernon 2010).
4. This docket was processed in accordance with the requirements of PURA, Commission rules, and the Administrative Procedure Act, TEX. GOV'T CODE ANN. Chapter 2001 (Vernon 2010).
5. Sharyland provided proper notice of the application in compliance with PURA § 37.054 and P.U.C. PROC. R. 22.52(a).
6. Sharyland's application meets the filing requirements set forth in P.U.C. SUBST. R. 25.216(g)(2) and (3).
7. Sharyland's application is sufficient.
8. The preferred and alternative routes described in the application and modified route 17 comply with all aspects of PURA § 37.056 and P.U.C. SUBST. R. 25.101, including the Commission's policy of prudent avoidance.
9. Sharyland is entitled to approval of the application as described in the findings of fact, utilizing modified route 17, taking into consideration the factors set out in PURA § 37.056 and P.U.C. SUBST. R. 25.101.
10. Modified route 17 is consistent with and in furtherance of the goals and mandates for renewable energy established in PURA § 39.904(a).
11. The proposed transmission-line project, as a CREZ transmission project identified in Docket Nos. 33672, 35665, and 37902, is exempt under PURA §§ 39.203(e) and 39.904(h) and P.U.C. SUBST. R. 25.174(d)(2) from the requirement of proving that the construction ordered is necessary for the service, accommodation, convenience, or safety of the public and need not address the adequacy of existing service, the need for

additional service, the effect of granting the certificate on the recipient of the certificate and any electric utility serving the proximate area, and the probable improvement of service or lowering of cost to consumers in the area if the certificate is granted.

12. Pursuant to the Commission's order in Docket No. 37567, the level of financial commitment by generators is sufficient under PURA § 39.904(g)(3) to grant Sharyland's application for an amendment to its CCN in this docket.
13. The requirements for informal disposition pursuant to P.U.C. PROC. R. 22.35 have been met in this proceeding.

III. Ordering Paragraphs

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

1. Consistent with the unanimous stipulation, Sharyland's CCN Nos. 30026, 30114, 30191, and 30192 are amended, and Sharyland's application to build a new 345-kV double-circuit transmission line that extends from the new Silverton station to WETT's new Cottonwood station is approved.
2. The project will follow modified route 17, as described in the application and modified by the unanimous stipulation. If there is a need to deviate from the modifications described in that stipulation, then Sharyland shall, in consultation with the affected property owners, construct the proposed transmission-line project in a manner that most closely aligns with modified route 17.
3. In the event Sharyland or its contractors encounter any archaeological artifacts or other cultural resources during construction of the transmission line, Sharyland shall cease work immediately in the vicinity of the resource and report the discovery to the THC and take action as directed by the THC.

4. Sharyland shall follow the procedures outlined in the following publication for protecting raptors: *Suggested Practices for Avian 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 APLIC in April, 2005.
5. Sharyland shall use best management practices to minimize the potential impact to migratory birds and threatened or endangered species.
6. Sharyland 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, and shall ensure that such herbicide use complies with the rules and guidelines established in the Federal Insecticide, Fungicide and Rodenticide Act and with the Texas Department of Agriculture regulations.
7. Sharyland shall 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, Sharyland shall re-vegetate using native species and shall consider landowner preferences in doing so. Furthermore, to the maximum extent practicable, Sharyland shall avoid adverse environmental impacts to sensitive plant and animal species and their habitats as identified by TPWD and USFWS.
8. Sharyland shall implement erosion-control measures as appropriate. Also, Sharyland shall return each affected landowner's property to its original contours and grades except to the extent necessary to establish appropriate right-of-way, structure sites, setup sites, and access, including access roads for the transmission line.
9. Sharyland shall cooperate with directly affected landowners to implement minor deviations in the approved route to minimize the impact of the transmission line. Any minor deviations in the approved route shall only directly affect landowners who received notice of the transmission line in accordance with P.U.C. PROC. R. 22.52(a)(3) and that

have agreed to the minor deviations. Any agreed minor deviations shall not delay the proposed transmission-line project beyond its Commission-required completion date nor shall any minor deviation add any significant cost to the Project.

10. Sharyland 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, Sharyland 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 Sharyland to deviate from the approved route except as allowed by the other ordering paragraphs in this Order
11. Sharyland shall update the reporting of this proposed transmission-line project on its monthly construction progress report prior to the start of construction to reflect final estimated cost and schedule in accordance with P.U.C. SUBST. R. 25.83(b). In addition, Sharyland shall provide final construction costs, with any necessary explanation for cost variance, after completion of construction and when all charges have been identified.
12. Sharyland shall file in Project No. 37858 information pursuant to P.U.C. SUBST. R. 25.216(f) and the Order on Remand in Docket No. 37902.
13. Sharyland shall be permitted to use right-of-way wider than 175 feet should engineering requirements, compliance with relevant codes and standards for construction or operation of the transmission line, or both necessitate a wider right-of-way.
14. Sharyland shall be permitted to use monopole structures if it is more cost-effective. In addition, Sharyland shall endeavor to use monopole structures in situations where right-of-way is extremely constrained, the right-of-way could disproportionately affect a particular landowner, or the cost of the right-of-way acquisition is extremely high.


15. Sharyland shall use monopole structures along all of links MM1, MM2, and MM3. In addition, Sharyland shall use monopoles for a mile or more along link OO and also for a mile or more along link PP as necessary to ensure that monopoles are used across the entrance to the Matador Ranch. Sharyland shall work with Ms. Vivian Campbell (the owner of habitable structure #46) to locate the specific part of link OO to monopole and with the Matador Ranch to locate the part of link PP to monopole.
16. Sharyland shall coordinate with other utilities with regard to each crossing of an existing electric transmission facility by modified route 17 and in each instance where an existing electric transmission line is paralleled by modified route 17.
17. Sharyland shall route the proposed transmission-line project to the extent practicable in a manner that minimizes potential adverse impacts on other utilities. When crossings are unavoidable, Sharyland shall work with other utilities to coordinate crossings and operating clearances and to schedule construction at a time that provides minimum disturbance to other utilities.
18. Sharyland shall work in good faith with other utilities to de-energize its transmission facilities when requested by the other utility for line construction or maintenance, subject to obtaining any necessary approvals from ERCOT or SPP.
19. Sharyland shall coordinate with wind generators, including Tristar Wind Energy, LLC, regarding construction and operation of the proposed transmission-line project through land leased or owned by wind generators for existing or planned wind generation projects and in obtaining a viable point of interconnection with the ERCOT grid, and shall route the proposed transmission-line project to the extent practicable in a manner that minimizes potential adverse impacts on existing and planned wind generation facilities and their associated infrastructure.

20. Resolution of this docket was the product of settlement by the signatories. Entry of this Order consistent with the unanimous stipulation does not indicate the Commission's endorsement or approval of any principle or methodology that may underlie the stipulation. Entry of this Order consistent with the unanimous stipulation shall not be regarded as binding holding or precedent as to the appropriateness of any principle that may underlie the stipulation.
21. 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 herein, are denied.

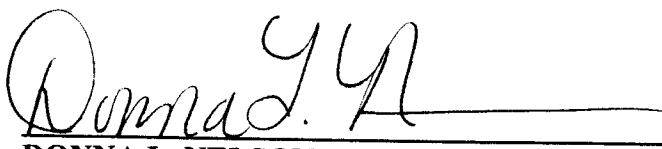
SIGNED AT AUSTIN, TEXAS the 10th day of February 2011.

PUBLIC UTILITY COMMISSION OF TEXAS


BARRY T. SMITHERMAN, CHAIRMAN


KENNETH W. ANDERSON, JR., COMMISSIONER

I respectfully dissent on the issue of monopolizing links OO, PP, MM1, MM2, and MM3.
I concur with the Commission's decision in all other respects.


DONNA L. NELSON, COMMISSIONER