

Control Number: 38290



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PUC DOCKET NO. 38290
SOAH DOCKET NO. 473-10-4790

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APPLICATION OF SHARYLAND §
UTILITIES, LP TO AMEND ITS §
CERTIFICATE OF CONVENIENCE §
AND NECESSITY FOR THE §
HEREFORD TO WHITE DEER 345-KV §
CREZ TRANSMISSION LINE §
(FORMERLY PANHANDLE AB TO §
PANHANDLE BA) IN ARMSTRONG, §
CARSON, DEAF SMITH, OLDHAM, §
POTTER, AND RANDALL COUNTIES §

PUBLIC UTILITY COMMISSION
OF TEXAS

ORDER

This Order addresses the application of Sharyland Utilities, LP to amend its certificate of convenience and necessity (CCN) for a proposed new 345-kilovolt (kV) single-circuit Competitive Renewable Energy Zone (CREZ) transmission line, to be constructed mainly on double-circuit-capable lattice towers, from the proposed Hereford collection station (formerly Panhandle AB), located in southeast Deaf Smith County, to the proposed White Deer collection station (formerly Panhandle BA), located in Carson County, Texas. Specifically, the Commission adopts the administrative law judge's proposal for decision, as modified by the judge, including findings of fact and conclusions of law.

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

I. Findings of Fact

Procedural History and General Project Description

1. Sharyland Utilities, L.P. (Sharyland) is an investor-owned electric utility providing service under Certificate of Convenience and Necessity (CCN) Nos. 30026, 30114, 30191, and 30192.
2. On June 16, 2010, Sharyland filed with the Public Utility Commission of Texas (Commission) an application to amend its certificate of convenience and necessity for the

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- proposed Hereford-to-White Deer 345-kV CREZ transmission line in Armstrong, Carson, Deaf Smith, Oldham, Potter, and Randall Counties.
3. In its application, Sharyland requested approval to construct a new 345-kV single-circuit CREZ transmission line, on double-circuit-capable lattice towers, that extends from the new Hereford collection station to the new White Deer collection station. The project is known as the Hereford-to-White Deer 345 kV transmission-line project (formerly the Panhandle AB-to-Panhandle BA transmission-line project) (proposed transmission-line project).
 4. On June 16, 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.
 5. On June 16, 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 (1) each neighboring utility providing the same utility service within five miles of the requested facilities, including Cross Texas Transmission, LLC, Golden Spread Electric Cooperative, Inc., Southwestern Public Service Company, Deaf Smith Electric Cooperative, Inc., Greenbelt Electric Cooperative, Inc., Lamb County Electric Cooperative, Inc., Lighthouse Electric Cooperative, Inc., Rita Blanca Electric Cooperative, Inc., South Plains Electric Cooperative, Inc., and Swisher Electric Cooperative, Inc.; (2) each municipality and unincorporated community located within five miles of the requested facilities, including the Cities of Hereford, Amarillo, Canyon, Panhandle, Claude, Happy, Bishop Hills, Timbercreek, Palisades Village, the Village of Lake Tanglewood, the Panhandle Regional Planning Committee, and the unincorporated communities of Wildorado and Bushland; and (3) each county in which any portion of the requested facilities could be located, including the Counties of Deaf Smith, Oldham, Potter, Carson, Armstrong, and Randall.

6. On June 17, 2010, Sharyland published notice of the application in newspapers having general circulation in the counties where the amended CCN is being requested, including the *Amarillo Globe-News*, *Canyon News*, *Hereford Brand*, *Panhandle Herald/White Deer News*, *Claude News*, and *Vega Enterprise*.
7. On June 17, 2010, the Commission referred this matter to the State Office of Administrative Hearings (SOAH). This matter was designated SOAH Docket No. 473-10-4790. The Commission's order of referral included a list of issues to be addressed and a deadline for decision.
8. On June 23, 2010, Sharyland filed an affidavit attesting to the provision of a copy of its Environmental Assessment and Alternative Route Analysis (EA) to the Texas Parks and Wildlife Department (TPWD).
9. On June 30, 2010, Staff issued a recommendation stating that it found the application sufficient and did not find any material deficiencies within it.
10. On July 7, 2010, Sharyland filed an affidavit attesting to the delivery of notice of the application to landowners, neighboring utilities, municipalities, cities, and counties, and publication of notice in newspapers having general circulation in counties where the amended CCN is requested. This affidavit also explained that link descriptions for Links B1 and B17 that were included in its original notice did not precisely match the B1 and B17 routes illustrated on maps provided with the original notice. Sharyland provided supplemental notice, with revised descriptions of Links B1 and B17, to landowners potentially affected by the modified descriptions. Sharyland provided with its July 7, 2010 affidavit a copy of the supplemental-notice letter mailed to these landowners and a list of landowners to whom the supplemental notice was mailed.
11. On July 15, 2010, Sharyland filed a supplemental proof of notice by mail, explaining that on July 15, 2010 Sharyland reissued a notice letter to Baker Place LLC that was returned to Sharyland as undeliverable on July 9, 2010.
12. On July 23, 2010, the SOAH Administrative Law Judge (ALJ) convened a prehearing conference. At the prehearing conference, Laurance Kriegel was dismissed as a party to the proceeding.

13. On July 30, 2010, Sharyland filed a second supplemental proof of notice by mail, explaining that on July 30, 2010, Sharyland provided notice of the application to Joshua and Jennifer Ownby and First Bank of Texas, directly affected landowners that were not listed as owners of directly affected land on the applicable county tax rolls on June 16, 2010, the date that Sharyland filed its application.
14. On August 12, 2010, the TPWD filed a letter containing comments and recommendations regarding the project.
15. Sharyland supplemented its application on August 25, 2010.
16. On September 7, 2010, SOAH ALJ issued Order No. 10, dismissing the following intervenors for failing to file direct testimony or a statement of position as required by Order No. 1: Jerry Artho; Anthony Bass; Carthel Family, LP; Randy and Lisa Darnell; Bill and Donna Forbes; James and Melanie Friemel; Henson Family Trust; McCaleb Family, Ltd.; Barbara and Marvin Mode; Ronald Moon; and Harold Sides.
17. On September 13, 2010, SOAH ALJ issued Order No. 11, which, among other things, reinstated Jerry Artho as an intervenor in the proceeding.
18. The hearing on the merits convened on September 20, 2010 and concluded on September 24, 2010.

Application

19. Sharyland's application is materially sufficient. The application contains an adequate number of reasonably differentiated alternative routes to conduct a proper evaluation.
20. Sharyland submitted the application in compliance with the orders in Docket Nos. 37902 and 36802 assigning Sharyland responsibility for a CREZ Transmission Plan facility.
21. As a CREZ transmission-line project identified in Docket Nos. 35665 and 37902, the proposed transmission-line project will accomplish the intended result for the CREZ project designated as "Panhandle AB-to-Panhandle BA single-circuit, double-circuit capable 345-kV (Hereford-to-White Deer)" in the CREZ Transmission Plan and ordered by the Commission in Docket Nos. 37902 and 36802.

Routing of the Project

22. Sharyland retained PBS&J to delineate and evaluate alternative routes and to perform an environmental assessment.
23. Sharyland's application proposed one preferred route (route 1) and 11 alternative routes.
24. Sharyland considered and submitted a sufficient number of geographically diverse routes for the project.
25. All routes pass through portions of Deaf Smith and Carson counties, where the respective proposed collection stations are located. Various routes go through Randall, Potter, and Armstrong counties. Route 1, Sharyland's preferred route, passes through the southeast corner of Oldham County.
26. The routes can be categorized into four "corridors."
27. The "northern" corridor includes routes 1, 2, and 6. These routes proceed generally north from the Hereford station, passing Amarillo on the west, then turn east and pass to the north of Amarillo before dropping back south to the proposed White Deer station. The routes in this corridor are the longest routes and traverse the Canadian River Basin.
28. The "central-north" corridor includes routes 3, 7, and 10. These routes pass south of the Amarillo city limits and north of Lake Tanglewood and Palo Duro Canyon. Routes in this corridor are near to many more habitable structures than routes in other corridors; this fact suggests much greater population density. This corridor includes the route recommended by PUC Staff (Staff route, or SR), which is not one of the 12 alternate routes identified by Sharyland, but is composed entirely of links included in the application.
29. The "central-south" corridor includes routes 4, 5, 8, 9, and 11. This corridor generally reflects the most direct southwest-to-northeast path from the proposed Hereford station to the proposed White Deer station. The routes in this corridor span the Palo Duro Canyon to the north of Palo Duro Canyon State Park—the "north Palo Duro Canyon area." PBS&J, Sharyland's consultant that prepared the environmental assessment (EA), selected route 5 as its preferred route.

30. The “southern” corridor includes route 12. This route proceeds generally east from the proposed Hereford station location, passing well south of the Amarillo area. The route crosses Palo Duro Canyon to the southeast of Palo Duro Canyon State Park – the “south Palo Duro Canyon area.” The route then travels north to the proposed White Deer station location.
31. The straight-line distance between the two proposed collection stations is approximately 63 miles. The longest proposed alternate route is about 92 miles (route 2), while the shortest is about 65 miles (route 4). Route 1 is approximately 91 miles long.
32. Route 1 consists of the links A, G, B1, B5, B8, B11, B16, B17, and B19.
33. Route 1 is the most reasonable and supportable choice of routes because (a) it avoids the Palo Duro Canyon and the populated area of south greater Amarillo; (b) it crosses open rangeland for most of its length, which is consistent with the view expressed by the majority of landowners who submitted questionnaires that the transmission line should be constructed in less-developed areas; (c) it affects no recreational areas; (d) it affects few habitable structures; (e) it is relatively easy to construct from an engineering perspective; and (f) it parallels existing compatible rights-of-way for approximately 44 percent of its length and existing transmission-line rights-of-way for just under 20 percent of its length.

Community Values

34. Sharyland held four public open-house meetings. These meetings were held at the following locations on the following dates: Amarillo, Texas, on August 24, 2009; Panhandle, Texas, on August 25, 2009; Wildorado, Texas, on November 17, 2009; and Panhandle, Texas, on November 19, 2009.
35. A total of 578 people attended the four public meetings.
36. Based on information received at the public meetings held in August 2009, various proposed links were modified or dropped and the preliminary study area for the project was expanded to accommodate the addition of supplemental alternative routes. Changes made to the preliminary alternative routes presented at the public meetings in August 2009 were presented to the public at the two public meetings held in November 2009.

37. PBS&J personnel conducted reconnaissance of the Study Area to identify constraints, habitable structures, cemeteries, churches, schools, and road names, which were not always listed on maps.
38. Sharyland considered and incorporated information received from the public open-house meetings and from local, state, and federal agencies into the selection of preferred and alternative routes.
39. A majority of landowners responding to questionnaires distributed at Sharyland's public meetings agreed that the proposed transmission-line project should be constructed in less-developed areas.
40. 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.
41. Route 1 avoids all of the incorporated cities in the study area, including Amarillo, Happy, Claude, Canyon, and Hereford, as well as all of the unincorporated communities in the study area, including, Evert, Cluck, Cuyler, Juilliard, Gentry, Wildorado, Bushland, Soncy, Bishop Hills, Cliffside, Pleasant Valley, Folsom, Wayside, Joel, Dawn, Umbarger, Pullman, Varnall, Washburn, Lee, Panhandle, Groom, Lark, Conway, Goodnight, Timbercreek Canyon, Lake Tanglewood, Ogg, and Cleta.
42. There are no significant impacts to any communication facilities, private airstrips, or heliports anticipated from construction of the proposed transmission-line project along route 1.
43. There are two Federal Aviation Administration-registered airfields within 20,000 feet of the right-of-way centerline of route 1 (compared to 10 for route SR at the high end).
44. 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.
45. 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, so long as any minor deviations to the approved route shall directly affect only landowners that 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, and so long as any agreed minor deviations shall not delay the transmission-line project beyond its Commission-required completion and shall not add any significant cost to the transmission-line project.

46. 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.
47. Table 6-1 of Attachment 1 (Environmental Assessment) to Sharyland's application listed five habitable structures within 500 feet of the centerline of route 1.
48. At the public meetings, the greatest concerns were expressed in connection with the routes that cross Palo Duro Canyon and Link P of the central-north corridor routes.
49. Community-values evidence in this docket reflects less opposition to route 1 than that expressed in connection with the Palo Duro Canyon routes and the central-north routes.

Recreational and Park Areas

50. There are no parks or recreational areas owned by a governmental body or an organized group, club, or church crossed by any route.
51. There are no parks or recreational areas owned by a governmental body or an organized group, club, or church within 1,000 feet of any of the proposed routes.
52. Route 1 has no negative impact on any park or recreational area.

Historical Values

53. No recorded cultural resources are crossed by any of the proposed routes.
54. One previously recorded cultural-resource site is within 1,000 feet of the centerline of route 1.
55. The cultural-resource site along route 1 is likely to be eligible for inclusion on the National Register of Historic Places.

56. Route 1 passes through the largest number, relative to other proposed routes, of miles of areas of high archeological/historical potential.
57. 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, for Sharyland to report the discovery to the Texas Historical Commission (THC), and for Sharyland to take action as directed by the THC, including mitigating potential damage to such sites by minor deviations in route or structure locations.

Aesthetic Values

58. Route 1 does not have any length of its route within the foreground visual zone of parks and recreational areas, and approximately 6.47 miles lie within the foreground visual zone of a State or U.S. Highway.
59. There are no significant differences among the proposed alternate routes in this case with respect to aesthetic values.

Environmental Integrity

60. The Environmental Assessment prepared by PBS&J analyzed the possible impacts of the project on numerous different environmental factors.
61. Because the northern routes pass through many miles of undeveloped rangeland/grassland, they involve high potential for environmental disturbance.
62. One of the three landowning intervenor families on the northern routes has leased 7,600 acres to a wind-energy developer for installation of 428-foot-tall wind turbines.
63. Several Southwestern Public Service Company (SPS) transmission lines cross areas through which the northern routes pass.
64. The northern routes have far more right-of-way crossing upland woodland and brushland than do any of the routes in any other corridors.
65. Clearing requirements in upland woodland/brushland vary due to variances in relative density and height of woody species.

66. The soils in the Canadian River Basin are fragile and highly susceptible to erosion, and re-vegetation can be extremely difficult in this area of inconsistent rainfall. Disturbance of the land can facilitate the spread of harmful invasive plant species like cholla.
67. The northern routes cross far more streams than do other routes proposed for this project, and many of the streams are tributaries of the Canadian River.
68. Streams will be spanned by the proposed transmission line.
69. Nonetheless, streams may be impacted by road construction and maintenance.
70. Route 1 has one of the lowest numbers of playa-lake crossings among the proposed routes for this project.
71. PBS&J appropriately performed an evaluation of the impacts of the proposed transmission-line project on endangered and threatened species.
72. Route 1 would be unlikely to affect federally listed threatened or endangered animal species. Any effect the project will have on any such species will be mitigated by Sharyland's standard practices.
73. Route 1 does not cross any known locations of threatened or endangered plant species.
74. Route 1 passes through lands in which the Bald Eagle and Texas Horned Lizard, both of which are state-listed threatened species, occur.
75. Route 1 passes through an area northwest of the White Deer station identified by the TPWD as being the location of one or more incidental sightings of the Lesser Prairie Chicken, a federal candidate for listing as a threatened species. However, TPWD staff has indicated that a review of aerial photographs suggests the area northwest of the proposed White Deer substation is mostly cropland, and therefore less likely to be habitat for the Lesser Prairie Chicken.
76. The substantial degree to which route 1 parallels existing compatible right-of-way means that significant portions of the route go through already disturbed terrain.
77. To protect raptors and migratory birds, it is reasonable for Sharyland to follow the procedures outlined in the following publications 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. It is further reasonable for Sharyland to determine if any active nests protected by the Migratory Bird Treaty Act are present within areas designated for clearing during the nesting season, and to protect or relocate the nest as warranted, under the supervision of a permitted biologist.

78. 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. It is further reasonable for Sharyland to ensure that herbicide use complies with rules and guidelines established in the Federal Insecticide, Fungicide and Rodenticide Act and with the Texas Department of Agriculture regulations.
79. 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. In addition, it is reasonable for Sharyland to re-vegetate using site-specific native species, and to consider landowner preferences in doing so. Furthermore, it is reasonable for Sharyland, to the extent practicable, to avoid adverse environmental impacts to sensitive plant and animal species and their habitats as identified by the TPWD and the United States Fish and Wildlife Service.
80. It is reasonable for Sharyland to implement erosion-control measures as appropriate and return each affected landowner's property to its original contours and grades unless otherwise agreed to by the landowners, except to the extent necessary to establish the appropriate right-of-way, structure sites, setup sites, and access, including access roads for the transmission line.
81. It is reasonable for Sharyland and its contractors, where practicable, to use the right-of-way, or routes suggested by the landowner, for ingress and egress to private property for construction and maintenance activities.

82. It is reasonable for Sharyland, to the extent practicable, to avoid impacts to grass, cactus, and scattered brush, due to the possible occurrence of the Texas Horned Lizard. Disturbed areas should be re-vegetated with site-specific native, patchy vegetation.
83. It is reasonable for Sharyland, to the extent practicable, to avoid impacts to prairie-dog towns and the wildlife species that depend on those towns. If prairie-dog burrows would be disturbed as a result of the project, Sharyland should use non-harmful exclusion methods.
84. It is reasonable for Sharyland to use a biological monitor during clearing and construction activities to survey the area before disturbance and to try and relocate Texas Horned Lizards if found.
85. If the line is placed in the vicinity of water resources, it is reasonable for Sharyland to mark the line to reduce the risk of bird collisions. To the extent practicable, creeks should be spanned and crossings should be located in previously disturbed areas.

Engineering Constraints

86. None of Sharyland's proposed routes present any engineering constraints that cannot be resolved with additional consideration during the proposed transmission-line project's design and construction phase.
87. The northern routes are favorable from a construction standpoint because they cross terrain predominantly in use as range and crop land in generally undeveloped areas, they do not involve major canyon crossings, and they do not involve construction of a line in a congested area with traffic, multiple buildings, and various concentrated human activities.
88. Sharyland's project will cross and/or parallel existing transmission and distribution lines operated by other utilities in the Panhandle and South Plains region, including SPS. Crossings and/or paralleling of other utilities' facilities will require coordination between Sharyland and such utilities to avoid adverse impacts.

89. Existing 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.
90. 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.
91. 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 coupling for transmission lines that share common corridors (although parallel lines connected to grids operating asynchronously may raise special issues).
92. Sharyland's proposed northern routes, including route 1, would cross SPS lines emanating from SPS's Harrington/Nichols generating complex in Potter County approximately three and a half to four miles from the complex, where the SPS lines are separated from each other by half a mile or more. Engineering techniques and coordination with SPS will permit Sharyland to cross SPS's lines from the Harrington/Nichols complex in a reasonably prudent and safe manner.
93. Sharyland's proposed northern routes would not unduly affect SPS's ability to route potential future transmission lines into SPS's Potter County Substation. Many of the lines identified by SPS are speculative and even if built would not be constructed for several years.
94. Concerns regarding crossings and paralleling of existing and planned SPS transmission lines can be addressed through coordination between Sharyland and SPS and the application of common engineering measures.
95. The procedures and commitments made by Sharyland in the letter agreement between Sharyland and SPS contained in Sharyland Ex. 11 are reasonable and adequately address SPS's concerns.

Estimated Costs

96. The overall estimated cost for the proposed transmission-line project along route 1 is \$190,503,197.
97. The estimated cost for the transmission-line portion of route 1 is \$121,881,067.
98. The ERCOT CREZ Transmission Optimization Study (CTO) estimated the proposed transmission-line project would cost \$84,000,000, but this estimate did not include costs for the Hereford or White Deer stations.
99. Although the estimated cost for the transmission-line portion of route 1 is larger than the CTO cost estimate because route 1 is approximately 91 miles, while the CTO cost estimate is based on a route length of 60 miles, the per-mile cost of the proposed transmission line is slightly lower. In addition, the CTO cost estimate does not include the cost of right-of-way and land acquisition.

Compatible ROW

100. Route 1 parallels compatible rights-of-way (transmission lines, highways, pipelines, and railways) and apparent property lines for 61 percent of its length, the fifth-highest percentage of the 12 proposed routes.
101. Route 1 parallels compatible rights-of-way (transmission lines, highways, pipelines, and railways) for 44 percent of its length, the third-highest percentage of the 12 proposed routes.
102. Route 1 parallels existing transmission-line rights-of-way for just under 20 percent of its length, the fourth-highest percentage of the 12 proposed routes.

Prudent Avoidance

103. Sharyland's preferred route 1 has only five habitable structures located within 500 feet of the centerline of the proposed transmission-line project.
104. Route 1 complies with the Commission's policy of prudent avoidance to a much greater degree than do some of the routes proposed in this docket.

Goal for Renewable Energy

105. To fulfill the renewable-energy goals established by the Legislature in Section 39.904(a) of the Public Utility Regulatory Act (PURA), TEX. UTIL. CODE ANN. §§ 11.001-66.017, the Commission adopted, in *Commission Staff's Petition for Designation of Competitive Renewable Energy Zones*, Docket No. 33672 (Oct. 7, 2008), 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.
106. In Docket No. 33672, the Commission determined that the transmission facilities identified in its final order, including the Hereford-to-White Deer transmission line, were necessary to deliver to customers renewable energy generated in the CREZ.
107. The construction of any of the routes proposed by Sharyland in this docket will facilitate the delivery of renewable energy to market.

Proposed Modifications to the Scope of Work Contained in the CTO

108. The CTO proposed constructing the line using 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.
109. Consistent with ERCOT's opinion that the locations of the Hereford and White Deer collection stations could be adjusted from those locations provided in the CTO based on additional information not available at the time of the CTO, Sharyland located the Hereford and White Deer stations so as to avoid, as much as possible, certain siting and routing constraints.
110. ERCOT recommends Sharyland's proposed modifications to conductor type and station locations.
111. Sharyland's proposed changes are cost-effective, consistent with the CTO, and are reasonable.
112. The final order in Docket No. 35665 and the CTO specify 50-MVAR reactive compensation at the Hereford station and no reactive compensation at the White Deer station. ERCOT currently is 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 either the Hereford or White Deer stations.

Alternative Routes with Less Negative Effect

113. There are no alternative routes or facility configurations that would have a less negative effect on landowners than the routes proposed by Sharyland.
114. Sharyland plans to work with landowners to make minor deviations to the final route after it is approved by the Commission, consistent with the Commission's policy concerning minor route deviations.
115. The concerns raised by Cielo Wind Services, Inc. concerning Link B1 of Sharyland's preferred route 1 can be reasonably addressed by minor route deviations through the planned Wildorado Two Wind Farm.

TPWD's Written Comments and Recommendations

116. On August 12, 2010, the TPWD filed a letter containing comments and recommendations regarding the project. The letter also referenced, and recommended consideration of the suggestions in, an earlier June 23, 2009 letter.
117. Sharyland must comply with all environmental laws and regulations governing threatened and endangered species.
118. 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 the Texas Natural Diversity Database (TXNDD) to identify known occupied habitat of threatened and endangered species.
119. Once a transmission line route has been selected by the Commission, qualified individuals will conduct a field assessment of the entire length of the proposed transmission-line project to identify water resources, cultural resources, potential bird-migratory issues, and threatened or endangered species habitat 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.

120. The TPWD's factors of concern in identifying route 3 as preferred are narrower than the factors that the Commission is required to consider under Section 37.056 of PURA and P.U.C. SUBST. R. 25.101.
121. Mitigation measures relating to raptor protection, herbicide use, flora and fauna disturbance, and erosion control are part of Sharyland's standard practice.
122. Adoption and implementation of the measures set out under the above findings of fact concerning "Routing: Environmental Integrity" are reasonable responses to the concerns expressed by the TPWD.

Financial Commitment

123. Pursuant to the Commission's order in Commission Staff's Petition for Determination of Financial Commitment for the Panhandle A and Panhandle B Competitive Renewable Energy Zones, Docket No. 37567, the level of financial commitment for the Panhandle A and Panhandle B CREZs is sufficient under PURA § 39.904(g)(3).

Commission Modification

124. It is appropriate to use monopoles on Links B1 and B5 for approximately two miles across the Frying Pan Ranch in an area identified by the landowner.

II. Conclusions of Law

1. Sharyland is an electric utility as defined in PURA §§ 11.004 and 31.002(6).
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).
3. SOAH has jurisdiction over this proceeding pursuant to PURA § 14.053 and TEX. GOV'T CODE ANN. § 2003.049.
4. Sharyland provided proper notice of the application in compliance with PURA § 37.054 and P.U.C. PROC. R. 22.52(a).
5. Sharyland's application meets the filing requirements set forth in P.U.C. SUBST. R. 25.216(g)(2) and (3).
6. Sharyland's application is sufficient.

7. This docket was processed in accordance with the requirements of PURA and the Administrative Procedure Act, TEX. GOV'T CODE ANN. Chapter 2001.
8. The proposed transmission-line project will accomplish the intended results for the CREZ project designated and ordered by the Commission in Docket Nos. 37902 and 36802.
9. Sharyland is entitled to approval of the application as described in the findings of fact, using route 1, taking into consideration the factors set out in PURA § 37.056 and P.U.C. SUBST. R. 25.101.
10. Route 1 complies with all aspects of PURA § 37.056 and P.U.C. SUBST. R. 25.101, including the Commission's policy of prudent avoidance.
11. Route 1 satisfies the goal for renewable energy established in PURA § 39.904(a).
12. The proposed transmission-line project is consistent with and in furtherance of the goals and mandates of PURA § 39.904.
13. 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.
14. 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.

III. Ordering Paragraphs

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

1. Sharyland's CCN Nos. 30026, 30114, 30191, and 30192 are amended, and Sharyland's application to build a new single-circuit 345-kV transmission line on double-circuit-capable lattice towers from Sharyland's new Hereford station to Sharyland's new White Deer station is approved. The project will follow route 1 as described in the application.
2. In the event Sharyland or its contractors encounter any artifacts or other cultural resources during construction, all work shall cease immediately in the vicinity of the resource, Sharyland shall report the discovery to the THC, and Sharyland shall take action as directed by the THC, including mitigating potential damage to such sites by minor deviations in route or structure locations.
3. To protect raptors and migratory birds, 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*, APLIC, 2006, and the Avian Protection Plan Guidelines published by the APLIC in April 2005. Sharyland shall determine if any active nests protected by the Migratory Bird Treaty Act are present within areas designated for clearing during the nesting season, and shall protect or relocate the nest as warranted, under the supervision of a permitted biologist.
4. 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. Sharyland shall ensure that herbicide use complies with rules and guidelines established in the Federal Insecticide, Fungicide and Rodenticide Act and with the Texas Department of Agriculture regulations.
5. 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. Sharyland shall re-vegetate using site-specific native species, and shall consider landowner preferences in doing so. To the extent practicable, Sharyland shall avoid adverse environmental impacts to sensitive plant and animal

species and their habitats as identified by the TPWD and the United States Fish and Wildlife Service.

6. Sharyland shall implement erosion-control measures as appropriate and return each affected landowner's property to its original contours and grades unless otherwise agreed to by the landowners, except to the extent necessary to establish the appropriate right-of-way, structure sites, setup sites, and access, including access roads for the transmission line.
7. Sharyland and its contractors, where practicable, shall use the right-of-way or routes suggested by the landowner for ingress and egress to private property for construction and maintenance activities.
8. Sharyland shall, to the extent practicable, avoid impacts to grass, cactus, and scattered brush, due to the possible occurrence of the Texas Horned Lizard. Any such disturbed areas shall be re-vegetated with site-specific native, patchy vegetation.
9. Sharyland shall, to the extent practicable, avoid impacts to prairie-dog towns and the wildlife species that depend on those towns. If prairie-dog burrows would be disturbed as a result of the project, Sharyland should use non-harmful exclusion methods.
10. Sharyland shall use a biological monitor during clearing and construction activities to survey the area before disturbance and to try and relocate Texas Horned Lizards if found.
11. Sharyland shall mark the line to reduce the risk of bird collisions. To the extent practicable, creeks should be spanned and crossings should be located in previously disturbed areas.
12. Sharyland shall cooperate with directly affected landowners, lessors, or both, including Cielo Wind Services, Inc., to implement minor deviations in the approved route to minimize the impact of the transmission line. Any minor deviations in the approved route shall directly affect only landowners who were sent 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.

13. 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. 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.
14. Sharyland shall be permitted to monopole if it is more cost-effective. In addition, Sharyland shall endeavor to use the monopole structures in situations where the 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, in consultation with the landowner, shall monopole a two-mile portion of the transmission line through the Frying Pan Ranch.
16. 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.
17. Sharyland shall file in P.U.C. Project No. 37858 information pursuant to P.U.C. SUBST. R. 25.216(f) and the order on rehearing in Docket No. 35665.
18. Sharyland shall be permitted to use right-of-way wider than 175 feet should engineering requirements and/or compliance with relevant codes and standards for construction and/or operation of the transmission line necessitate a wider right-of-way.
19. Sharyland shall coordinate with other utilities, including SPS, with regard to each crossing of an existing SPS electric-transmission facility by the proposed transmission-line project and in each instance where an existing SPS electric-transmission line is paralleled by the Sharyland transmission line.

20. Sharyland shall route the proposed transmission-line project to the extent practicable in a manner that minimizes potential adverse impacts on other utilities, including SPS. 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.
21. Sharyland shall work in good faith with other utilities, including SPS, 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.
22. Sharyland shall conduct a study in coordination with SPS, ERCOT, and SPP to evaluate the effect of mutual coupling between transmission lines in asynchronous grids and to determine reasonable mitigation measures to address any adverse effects. The study will be filed with the Commission no later than 180 days after the issuance of the final order granting Sharyland's application.
23. Sharyland shall comply with the terms and conditions of its letter agreement with SPS dated September 17, 2010 and filed in this docket.
24. 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 13th day of December 2010


PUBLIC UTILITY COMMISSION OF TEXAS



BARRY T. SMITHERMAN, CHAIRMAN



DONNA L. NELSON, COMMISSIONER



KENNETH W. ANDERSON, JR., COMMISSIONER