



Control Number: 38829



Item Number: 419

Addendum StartPage: 0

PUC DOCKET NO. 38829
SOAH DOCKET NO. 473-11-1267

RECEIVED
11 MAY -9 PM 1:42
PUBLIC UTILITY COMMISSION
FILING CLERK

APPLICATION OF SHARYLAND	§	PUBLIC UTILITY COMMISSION
UTILITIES, LP TO AMEND ITS	§	OF TEXAS
CERTIFICATE OF CONVENIENCE	§	
AND NECESSITY FOR THE	§	
PROPOSED WHITE DEER TO	§	
SILVERTON 345-KV CREZ	§	
TRANSMISSION LINE IN	§	
ARMSTRONG, BRISCOE, CARSON,	§	
DONLEY, GRAY AND SWISHER	§	
COUNTIES, TEXAS	§	

ORDER

This Order addresses the application of Sharyland Utilities, LP to amend its certificate of convenience and necessity (CCN) to include the White Deer-to-Silverton 345-kV CREZ transmission line in Armstrong, Briscoe, Carson, Donley, Gray, and Swisher counties, Texas.

On March 8, 2011, the State Office of Administrative Hearings administrative law judge (ALJ) issued a proposal for decision in which the ALJ recommended granting Sharyland's application. The ALJ found that the route agreed to by the parties in their unanimous settlement adequately comports with the CCN criteria set forth in PURA¹ § 37.056 and P.U.C. SUBST. R. 25.101 and recommended selection of settlement route SR. The ALJ also found that the use of monopoles for a portion of the project, supported by all but two parties and opposed by none, was not appropriate and recommended that the entirety of the project be completed using lattice towers. As discussed in this Order, the Commission adopts in part and modifies in part the proposal for decision issued by the ALJ in this proceeding. Specifically, the Commission adopts the ALJ's recommendation to select the settlement route for the project, but sets aside the ALJ's recommendation regarding the use of monopoles. The Commission concludes that it is appropriate to use monopoles for the portions of route SR described by Sharyland in a map

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

attached to its filing with the Commission of April 22, 2011,² which was admitted into evidence without objection.³

In its filing of April 22, 2011, Sharyland, in concert with certain intervenor-landowners to this docket, proposed that approximately 13 miles of route SR be completed using monopoles. This compares to using monopoles for nearly 32 miles of route SR in the parties' original proposal. The Commission finds that the parties' revised proposal regarding the use of monopoles reflects an appropriate balance of the factors the Commission must weigh in deciding the monopole issue.

To reflect the Commission's acceptance of Sharyland's April 22, 2011 proposal regarding the use of monopoles, the Commission deletes findings of fact 67, 68, 69, 70, 88, 92, 93, and 94, and adds new findings of fact 20A, 67A, 88A, and 93A. The Commission also adds new finding of fact 114A to reflect that this Order only addresses comments and recommendations of the Texas Parks and Wildlife Department that are supported by record evidence. With the modifications noted above, the Commission adopts the ALJ's proposal for decision, including 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 November 10, 2010, Sharyland filed with the Commission an application to amend its certificate of convenience and necessity for the proposed White Deer-to-Silverton 345 kV CREZ transmission line in Armstrong, Briscoe, Carson, Donley, Gray, and Swisher counties, Texas.
3. In its application, Sharyland requested approval to construct a new 345-kilovolt (kV) double-circuit CREZ transmission line on lattice towers that extends from the White Deer

² Response of Sharyland Utilities, L.P. to Request by Commissioners at April 6, 2011 Open Meeting, (Apr. 22, 2011).

³ April 29, 2011 Open Meeting at 60.

station in Carson County to the Silverton station in Briscoe County. The name of the project is the White Deer-to-Silverton transmission line project.

4. On November 10, 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 November 10, 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 the following entities: (1) each neighboring utility providing the same utility service within five miles of the requested facilities, including AEP Texas North Company, Cross Texas Transmission, LLC, Golden Spread Electric Cooperative, Inc., Lighthouse Electric Cooperative, Inc., Southwestern Public Service Company, and Swisher Electric Cooperative, Inc.; (2) each municipality located within five miles of the requested facilities, including the Cities of Claude, Groom, Panhandle, Quitaque, and Silverton, and the District 1 Texas Farm Bureau; and (3) each county in which any portion of the requested facilities could be located, including the Counties of Armstrong, Briscoe, Carson, and Donley.
6. 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 Amarillo Globe-News*, *The Briscoe County News*, *The Clarendon Enterprise*, *The Claude News*, and the *Panhandle Herald/White Deer News* on November 11, 2010, and *The Valley Tribune* on November 16, 2010.
7. On November 12, 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).
8. On November 12, 2010, the Commission referred this matter to the State Office of Administrative Hearings (SOAH). This matter was designated SOAH Docket No. 473-

- 11-1267. The Commission's order of referral included a list of issues to be addressed and a deadline for decision.
9. On December 3, 2010, Sharyland filed an affidavit attesting to the delivery of notice of the application to directly affected landowners and neighboring utilities, municipalities, and counties, and publication of notice in newspapers having general circulation in counties where the requested facilities could be located.
 10. On December 8, 2010, the ALJ issued Order No. 2, which, among other things, found the application materially sufficient and advised that the ALJ would hear evidence and arguments at the prehearing conference on issues raised by JA Cattle Company regarding the adequacy of routes proposed in Sharyland's application.
 11. On December 17, 2010, the ALJ issued Order No. 4, which, among other things, found Sharyland's notice to be sufficient.
 12. On December 21, 2010, a prehearing conference was held, during which evidence and arguments were heard regarding the adequacy of routes proposed in Sharyland's application.
 13. On December 27, 2010, the ALJ issued Order No. 5, which gave notice of the hearing on the merits to be held on February 14-16, 2011, and admitted certain intervenors.
 14. On January 11, 2011, TPWD filed a letter containing comments and recommendations regarding the project.
 15. On January 20, 2011, the ALJ issued Order No. 6, which denied JA Cattle Company's challenge to the adequacy of routes proposed in Sharyland's application.
 16. The following intervenors filed direct testimony, statements of position, or both in this docket: Smith Ranch Partnership, Armstrong County Museum, Anthony V. Bass, Ronald and Sharon Berndt, Bradley Ranch, L.P., Edward Bradley, Daniel Bradley, Caviness Joint Venture, Terry Caviness, Regan Caviness, Trevor Caviness, Emery and Lemonte Hubbard Goodin, Louva A. Hunt, JJTK, L.L.C., Jesse and Amy Lovell, Joe T. Lovell, John H. Lovell, Benjamin T. Ware, III, Tom and Karen Walters, 4 Point Land Co., Ltd., 4 Point Management, LLC, W.L. and Joy Foster, JA Cattle Company, Kenneth Eugene Scivally, Mickey W. and Debra Jo Smith, Gary J. Fletcher, Chermac Energy Corporation,

Red River Salt Fork Wind, LLC, Jim Cogdell, Bette Cogdell, Cogdell Marital Trust, Tule Ranch, L.P., Dick Cogdell, Kippi Cogdell, RimRock Cattle, L.P., Dennis L. Babcock, Michael J. and Stephanie L. Friemel, Friemel Brothers, LLC, Friemel Bros. Partnership, Allen Currie Smith Farm Trust, Penny Carpenter, Kent Carpenter, Ryder Carpenter, Candy Carpenter, Cash Carpenter, Dinner Creek Ranch, L.P., O. Dale Smith-Allen Currie Smith Trust, Palo Duro Oil & Gas Co., Birkbeck Ritchie Grandchildren Trust, Birkbeck Ritchie Testamentary Trust, Wilks Ranch Texas, Ltd., Michael Long, Jay Long, David Miller, Billy Rank Cogdell, Cee Nothing Cattle, L.P., Byron and Shelley Brock, Rex Johnson, Derrel Johnson, Goodnight Wind Energy Project, LLC, Georgann Hinson, William Hinson, Lynn Britten, Patrick C. Simek, Martin L. Vance, Jr., D.M. Cogdell, Jr., Land Company, Ltd., Southwestern Public Service Company, ODS-ACS Properties, Ltd., William Gordon Hayter, Cross Texas Transmission, LLC, O. Dale Smith-Sinclair Smith Siragusa Trust, Bill Helton, Patrick Sr. and Margaret Weinheimer, Benjamin Sr. and Jennifer Weinheimer, Raymond Conrad, and Joe David Brown.

17. On January 31, 2011, the ALJ issued Order No. 7, which granted intervention to specified parties, dismissed specified intervenors for not filing direct testimony or a statement of position, and gave notice of the location of the hearing on the merits.
18. On February 11, 2011, the signatories filed a joint notice of unanimous stipulation and agreement and joint motion to admit evidence, hold a limited hearing on the merits, reserve an issue for decision by the Commission, and remand proceeding. In this filing, the signatories notified the ALJ that they had entered into the stipulation, which resolved all contested issues in this docket. Pursuant to the stipulation, the signatories agreed they would seek the Commission's approval of route SR, as described in the stipulation, and would request that the ALJ conduct a limited hearing on the sole issue of whether the project would be constructed using monopole structures along the following portions of route SR: (a) from one-quarter mile north of where route SR enters the Palo Duro Canyon (as represented by Point B on page 8 of the maps attached as Exhibit B to the stipulation) to one-quarter mile south of where route SR exits the Tule Creek Canyon (as represented by Point A on page 14 of Exhibit B to the stipulation); and (b) from State Highway 86 to County Road K along Link FFF. These portions of route SR cross property owned by Jim Cogdell, Dick Cogdell, or entities represented by Jim or Dick

Cogdell in this proceeding (collectively, Cogdell entities), and Michael and Jay Long, respectively.

19. On February 14, 2011, a hearing on the merits was held on the monopole issue as described above.
20. The record in this matter closed with the filing of briefs on February 18, 2011.
- 20A. On April 22, 2011, Sharyland filed a response to the Commission concerning the use of monopoles for the project. Attached to Sharyland's response was a map entitled "Monopole and Tower Locations of the Settlement Route," which depicted Sharyland's proposal for the use of monopoles on route SR. The Commission admitted this map into evidence at its open meeting of April 29, 2011.

Application

21. Sharyland's application is sufficient and contains an adequate number of reasonably differentiated alternative routes to conduct a proper evaluation.
22. Sharyland submitted its application in compliance with the orders in *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) (Docket No. 37902) and *Proceeding to Sequence Certificate of Convenience and Necessity Applications for the Subsequent Projects for the Competitive Renewable Energy Zones*, Docket No. 36802, Order Setting Revised Schedule (June 4, 2010) (Docket No. 36802) assigning Sharyland responsibility for a CREZ transmission plan facility.
23. As a CREZ transmission-line project identified in *Commission Staff's Petition for Selection of Entities Responsible for Transmission Improvements Necessary to Deliver Renewable Energy from Competitive Renewable-Energy Zones*, Docket No. 35665 (Mar. 30, 2009) and Docket No. 37902, route SR will accomplish the intended result for the CREZ project designated as "Panhandle BA to Panhandle AC double-circuit 345 kV

line” in the CREZ transmission plan and ordered by the Commission in Docket Nos. 37902 and 36802.

Routing of the Project

24. Sharyland retained PBS&J to delineate and evaluate alternative routes and to perform an environmental assessment.
25. Sharyland’s application proposed one preferred route (route 3) and 12 alternative routes.
26. Sharyland considered and submitted a sufficient number of geographically diverse routes for the project.
27. Pursuant to the stipulation, the signatories agreed they would seek the Commission’s approval of route SR.
28. No party to this docket contests the use of route SR for the project.
29. No alternative routes or facility configurations have been proposed that would have a less negative impact on landowners.
30. Route SR consists of the following links that were proposed in Sharyland’s application: A, D, G, J, O, X, X’, X’’, BBB, BBB’, CCC, JJ, II, DDD, II’, EEE, and FFF. Pursuant to the stipulation, the signatories agreed to modify the links contained in route SR as depicted and described in the maps attached to the stipulation as Exhibit B to more closely follow property boundaries and avoid areas of concern identified by affected landowners.
31. Pursuant to the stipulation, where modified Links II, DDD, and II’ cross property owned by the Cogdell entities, Sharyland agreed to not place structures within 1,500 feet of barns or corrals or within 300 feet of water wells. If Sharyland is unable to satisfy this commitment, Sharyland agreed to, in consultation with the Cogdell entities, use all reasonable efforts to build route SR along the property owned by the Cogdell entities in a manner that achieves the outcomes regarding placement of structures set forth above, taking into account potential engineering constraints and compliance with relevant codes and statutes.

32. Pursuant to the stipulation, the signatories agreed that a portion of route SR may follow the property line between the JA Ranch and property owned by the Cogdell entities. In this circumstance, the signatories agreed that the project, the associated easement, and any necessary access roads will be situated entirely on property owned by the Cogdell entities and will not cross over the property line onto the JA Ranch. Sharyland agreed to not cause any structures, roads, construction equipment, or traffic associated with construction or maintenance of the project to be placed on or cross the JA property (as defined in the stipulation) without the consent of JA Ranch.
33. All landowners, neighboring utilities, municipalities, and counties directly affected by route SR were provided notice of this proceeding.
34. Route SR will not diminish the electric efficiency or reliability of the project.
35. The right-of-way (ROW) for route SR will be 175 feet wide, but Sharyland will have the ability to require a wider ROW should engineering requirements and compliance with relevant codes and standards for construction and operation of the transmission line necessitate a wider ROW.
36. Route SR is the most desirable route because it best meets the considerations set forth in the Commission's preliminary order in this docket.

Effect on Other Utilities

37. Route SR will cross, parallel, or both 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.
38. Some utilities in the area where the project will be constructed are members of the Southwest Power Pool (SPP). The project will be connected to the Electric Reliability Council of Texas (ERCOT) electrical grid, which is asynchronous with SPP.
39. 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

40. 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.
41. Crossings and paralleling of existing and planned transmission lines by route SR can be addressed through coordination between Sharyland and the appropriate utilities and the application of common engineering measures.

Community Values

42. Sharyland and PBS&J sought input regarding the routing of the project from landowners, public officials, and other interested parties. In connection with their work, PBS&J sent letters to public officials of the cities of Claude, Groom, Panhandle, and Silverton, as well as to county officials in Armstrong, Briscoe, Carson, Donley, Gray, and Swisher counties, and other state and federal officials.
43. Sharyland held two public open-house meetings. These meetings were held in Silverton, Texas, on October 19, 2009, and in Claude, Texas, on October 20, 2009. A total of 223 people attended the two public meetings.
44. Based on information received at the public meetings held in October 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 station.
45. Information received from the public meetings and from local, state, and federal agencies was considered and incorporated into the selection of preferred and alternative routes by Sharyland.
46. PBS&J personnel conducted extensive reviews of the study area to identify sensitive environmental and land-use features and other constraints, including habitable structures, cemeteries, churches, and schools.

47. Sharyland considered and avoided population centers and other locations where people gather and live when routing all of its proposed routes for the project.
48. Route SR avoids all cities in the study area, including Panhandle, Groom, Claude, Silverton, and Quitaque.
49. There are no significant impacts to any communication facilities, airports, airstrips, or heliports anticipated from construction of the project along route SR.
50. There are no commercial AM radio transmitters within 10,000 feet of the centerline of route SR, and there are two FM radio transmitters, microwave towers, or other electronic installations within 2,000 feet of the centerline of route SR.
51. There is one FAA-registered airfield within 20,000 feet of the centerline of route SR. There are two active private airstrips within 10,000 feet of the centerline of route SR. There are no heliports within 5,000 feet of the centerline of route SR.
52. Route SR does not traverse cropland or pastureland with mobile irrigation systems. Route SR will be routed so as not to affect farming operations following construction of the project. This will include the positioning of transmission structures so that the structures span the traveling arc of mobile-irrigation systems.
53. 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 route SR.
54. 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.
55. Four habitable structures are within 500 feet of the centerline of route SR.

Recreational and Park Areas

56. Route SR will not significantly impact the use or enjoyment of park and recreational facilities.
57. There are no parks or recreational areas owned by a governmental body or an organized group, club, or church crossed by route SR.
58. There are no parks or recreational areas owned by a governmental body or an organized group, club, or church within 1,000 feet of the centerline of route SR.

59. Route SR is not anticipated to have a negative impact on any park or recreational area.

Historical Values

60. No significant impacts to archaeological or historical resources are anticipated as a result of the construction of route SR.
61. Route SR crosses three recorded cultural-resource sites.
62. Twelve recorded cultural-resource sites are within 1,000 feet of the centerline of route SR.
63. 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

64. Aesthetic impacts of route SR have been considered and minimized to the extent practicable.
65. Route SR 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 route SR.
66. Route SR does not have any length of its route within the foreground visual zone of parks or recreational areas owned by a governmental body or an organized group, club, or church, and approximately 3.24 miles of route SR lie within the foreground visual zone of a state or federal highway.
67. Deleted.
- 67A. If monopoles are used as proposed in finding of fact 20A, the transmission line will be aesthetically superior to the transmission line if it was constructed exclusively using lattice towers.
68. Deleted.
69. Deleted.

70. Deleted.

Environmental Integrity

71. The EA prepared by PBS&J analyzed the possible impacts of the project on numerous different environmental factors.
72. Construction of route SR will not have significant effect on the physiographic or geologic features of the area.
73. No significant impact to soils is anticipated from construction of route SR.
74. Impacts on prime farmland will be insignificant because of the small footprint of the tower structures.
75. Construction of route SR should have little adverse impact on the surface or ground water resources of the area.
76. The project is not located either in whole or in part within the Texas Coastal Management program boundary.
77. PBS&J appropriately performed an evaluation of the impacts of the project on endangered and threatened plant and wildlife species.
78. Route SR does not cross any known locations of threatened or endangered plant species.
79. Route SR 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.
80. 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.
81. It is reasonable for Sharyland to minimize the amount of flora and fauna disturbed during construction of the project, except to the extent necessary to establish appropriate ROW clearance for the transmission line.

82. 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.
83. Pursuant to the stipulation, Sharyland agreed to implement appropriate erosion-control measures to avoid erosion to all properties that may be affected by the project, including the JA Ranch. If any damage to the JA property (as defined in the stipulation) occurs as a result of the construction, operation, or maintenance of the project, JA Ranch agreed to notify Sharyland promptly once discovered and Sharyland agreed to take appropriate actions to address the issue. JA Ranch reserved the right to assert any legal claims against Sharyland for damages caused by the construction, operation, or maintenance of the project.
84. 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 ROW.

Goal for Renewable Energy

85. To fulfill the renewable-energy goals established by the Legislature in PURA § 39.904(a), 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.
86. In Docket No. 33672, the Commission determined that the transmission facilities identified in its final order, including the White Deer-to-Silverton transmission line, were necessary to deliver to customers renewable energy generated in the CREZ.

Engineering Constraints

87. There are no known engineering constraints along route SR that cannot be resolved with additional consideration during the design and construction phase of the project.

Estimated Costs

88. Deleted.

- 88A. The estimated cost of construction of route SR, including the use of monopole structures as described in Finding of Fact 20A, is \$136,376,000.
89. If monopole structures are not used to construct any portion of route SR, the estimated cost of construction is \$131,750,000.
90. The estimated cost for the most expensive route proposed in Sharyland's application is \$158,330,000.
91. The ERCOT CREZ transmission optimization study (CTO Study) estimated the project would cost \$94,080,000. However, this estimate did not include the cost of ROW and land acquisition, which is estimated to be \$3,660,000, and was based upon construction of a 56-mile transmission line. The estimated length of route SR is 68.2 miles.

Findings Relating to Monopole Structures

92. Deleted.
93. Deleted.
- 93A. The use of monopoles as proposed in Finding of Fact No. 20A is reasonable.
94. Deleted.

Compatible ROW

95. Route SR parallels compatible ROW and apparent property lines for approximately 76 percent of its length.

Prudent Avoidance

96. Route SR complies with the Commission's policy of prudent avoidance.
97. Route SR has four habitable structures located within 500 feet of its centerline.

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

98. The CTO Study proposed constructing the project using a 2-wire bundled 1590 Aluminum Conductor Steel Reinforced conductor. Sharyland proposes using a 2-wire bundled 1939-kcmil Aluminum Conductor Steel Reinforced/Trapezoidal Wire conductor.
99. ERCOT recommends Sharyland's proposed modification to conductor type.

100. Sharyland's proposed change is cost-effective, consistent with the CTO Study, and reasonable.

Alternative Routes with Less Negative Effect

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

TPWD's Written Comments and Recommendations

102. On January 11, 2011, TPWD filed a letter dated January 6, 2011, containing comments and recommendations regarding the project.
103. No modifications to the project are required as a result of the recommendations and comments made by TPWD in its January 6, 2011 letter.
104. TPWD's factors of concern in identifying route 1 as its preferred route are narrower than the factors the Commission is required to consider under Section 37.056 of PURA and P.U.C. SUBST. R. 25.101.
105. Sharyland must comply with all environmental laws and regulations governing threatened, endangered, and state-listed species.
106. Because of Sharyland's inability to access private properties to conduct on-the-ground surveys during the development of the EA, PBS&J relied on various sources, including information provided by TPWD and the U.S. Fish and Wildlife Service (USFWS).
107. Qualified individuals will conduct a field assessment of the entire length of route SR to identify water resources; cultural resources; potential migratory bird issues; threatened, endangered, and state-listed species habitat; caves and other bat roosts; and habitat of the black-tailed prairie dog that may be impacted as a result of the 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 project.
108. Sharyland will use best management practices to minimize the potential impact to migratory birds, threatened, endangered, or state-listed species, bat colonies, and black-tailed prairie dog towns.

109. Sharyland's current best management practices are sufficient and thus no permitted biological monitor is necessary during clearing and construction activities.
110. 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.
111. 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.
112. An absolute restriction on vegetation-clearing activities during the general bird-nesting season is neither reasonable nor operationally practical.
113. Mitigation measures relating to raptor protection, herbicide use, flora and fauna disturbance, re-vegetation, and erosion control are part of Sharyland's standard practice.
114. 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.
- 114A. This Order addresses only those TPWD recommendations and comments for which there is record evidence.

Need for the Proposed Transmission Line

115. 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

116. 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 by generators for the Panhandle A CREZ and Panhandle B CREZ is sufficient under PURA § 39.904(g)(3).

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. This docket was processed in accordance with the requirements of PURA, the Administrative Procedure Act, TEX. GOV'T CODE ANN. Chapter 2001 and Commission rules.
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. Route SR complies with all aspects of PURA § 37.056 and P.U.C. SUBST. R. 25.101, including the Commission's policy of prudent avoidance.
8. The 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 SR, taking into consideration the factors set out in PURA § 37.056 and P.U.C. SUBST. R. 25.101.
10. Route SR is consistent with and in furtherance of the goals and mandates for renewable energy established in PURA § 39.904(a).
11. The 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.

III. Ordering Paragraphs

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

1. Consistent with the stipulation and this Order, 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 White Deer station to the Silverton station is approved.
2. The project will follow route SR, as described in the stipulation. If there is a need to deviate from the modifications described in the stipulation, then Sharyland shall, in consultation with the affected property owners, construct the project in a manner that most closely aligns with route SR.
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 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 *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 ROW, 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.

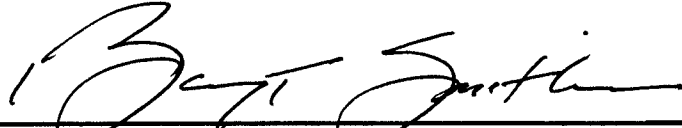
7. Sharyland shall minimize the amount of flora and fauna disturbed during construction of the transmission line, except to the extent necessary to establish appropriate ROW clearance for the transmission line. In addition, Sharyland shall re-vegetate using native species and shall consider landowner 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 ROW, 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 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 of 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 project on its monthly construction progress report prior to the start of construction to reflect final estimated costs 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 P.U.C. 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 ROW wider than 175 feet should engineering requirements or compliance with relevant codes and standards for construction or operation of the transmission line necessitate a wider ROW.
14. Sharyland shall be permitted to use monopole structures to the extent described in the map entitled, "Monopole and Tower Locations of the Settlement Route," which was attached to Sharyland's April 22, 2011 filing with the Commission.
15. Sharyland shall also be permitted to use monopole structures if it is more cost effective. In addition, Sharyland shall endeavor to use monopole structures in situations where the ROW is extremely constrained, the ROW could disproportionately affect a particular landowner, or the cost of the ROW acquisition is extremely high.
16. Sharyland shall coordinate with other utilities with regard to each crossing of an existing electric transmission facility by route SR and in each instance where an existing electric transmission line is paralleled by route SR.
17. Sharyland shall route the 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.

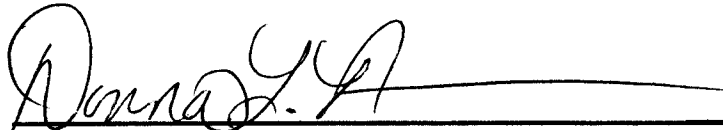
19. All other motions, requests for entry of specific findings of fact or conclusions of law, and any other requests for general or specific relief, if not expressly granted, are denied.

SIGNED AT AUSTIN, TEXAS the 9th day of May 2011.

PUBLIC UTILITY COMMISSION OF TEXAS



BARRY T. SMITHERMAN, CHAIRMAN



DONNA L. NELSON, COMMISSIONER



KENNETH W. ANDERSON, JR., COMMISSIONER