

PUC DOCKET NO. 47691  
SOAH DOCKET NO. 473-18-1796

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APPLICATION OF BRAZOS §  
ELECTRIC COOPERATIVE, INC. AND §  
AEP TEXAS, INC. TO AMEND §  
CERTIFICATES OF CONVENIENCE §  
AND NECESSITY FOR THE GYP TO §  
BENJAMIN 138-KV TRANSMISSION §  
LINE IN KING AND KNOX COUNTIES §

PUBLIC UTILITY COMMISSION  
OF TEXAS  
FILING CLERK

**ORDER**

This Order addresses the application of Brazos Electric Power Cooperative, Inc. and AEP Texas, Inc. (applicants) to amend their certificates of convenience and necessity (CCN) to construct, own, and operate the Gyp-to-Benjamin 138-kilovolt (kV) transmission line in King and Knox counties. There is a unanimous agreement resolving all of the issues between the parties to this proceeding. The Commission amends Brazos Electric's CCN number 30016 and AEP Texas's CCN number 30170 as provided by this Order.

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

**I. Findings of Fact**

**1. Applicants**

1. Brazos Electric is an electric cooperative corporation that owns electric generation and transmission facilities.
2. Brazos Electric provides transmission services and wholesale electricity under CCN number 30016 to its 16-member distribution cooperatives that in turn supply retail electric service to their retail members from near Childress in the north to Conroe in the south and from Brownwood in the west to Fairfield in the east.
3. AEP Texas owns and operates facilities to transmit and distribute electricity in the Electric Reliability Council of Texas (ERCOT) region.
4. AEP Texas provides electric service under CCN number 30170.

**2. Application**

5. On November 14, 2017, applicants filed an application to amend their respective CCNs for authority to build, own, and operate the proposed transmission line located in King and Knox counties.
6. Applicants retained POWER Engineers, Inc. to prepare an environmental assessment and routing analysis for the proposed transmission line.
7. In Order No. 1 issued on November 16, 2017, the Commission administrative law judge (ALJ) required Commission Staff to comment on the sufficiency of the application and notice and required the applicants to provide proof of notice and answers to certain issues related to potential options to the proposed transmission line. Additionally, the ALJ set a procedural schedule for filing proof of notice, finding the application sufficient, intervention, requesting a hearing, and processing the application administratively.
8. On December 12, 2017, Commission Staff filed a recommendation that the application was sufficient.
9. In Order No. 2 issued on December 27, 2017, the Commission ALJ deemed the application sufficient.

**3. Description of Proposed Transmission Line**

10. The proposed transmission line is a single-circuit 138-kV transmission line connecting the proposed new Brazos Electric Gyp switching station to the expanded AEP Texas Benjamin substation.
11. Under ERCOT Nodal Protocols § 3.11.4.8, ERCOT Staff designated Brazos Electric and AEP Texas as the default providers for the proposed transmission line. The applicants will each own approximately one-half of the proposed transmission line, depending upon the approximate mid-point location on a landowner's property. Brazos Electric will own the southwestern portion of the transmission line connected to the proposed new Gyp switching station and AEP Texas will own the northeastern portion of the transmission line connected to the expanded AEP Texas Benjamin substation.

12. The right-of-way width will typically be 100 feet. Construction of the proposed transmission line will consist of single-circuit single-pole steel structures using 1433 ACSS/TW (Brazos Electric) and 795.6 ACSR T-2 Drake (AEP Texas) conductors.
13. The routes filed in the application range from 19.23 miles to 24.58 miles in length.
14. In the application, applicants identified route N as the route that best addresses the routing requirements in PURA<sup>1</sup> and the Commission's substantive rules, and stated that all 16 of the alternative routes comply with the Commission's routing criteria and are acceptable from a design and constructability perspective.
15. Brazos Electric proposes to use United States Department of Agriculture Rural Utilities Service loans to fund its portion of the transmission line. AEP Texas proposes to use short-term borrowing and owner equity to fund its portion of the transmission line.

**4. Public Input**

16. A notice of public meeting was submitted to landowners who own property located within 300 feet of the preliminary alternative link centerlines. A total of 59 notices were mailed to landowners and entities for the public meeting. Applicants obtained the property owners' names and addresses from the tax rolls in the counties traversed by the preliminary alternative routing links.
17. Applicants, with the assistance of POWER Engineers, held public meeting in Benjamin, on April 25, 2017, to solicit public input about the proposed transmission line. A total of 18 individuals attended the public meeting and 15 submitted questionnaire responses at the meeting.

**5. Notice of Application**

18. The notice required for an application to amend a CCN for an electric transmission line and the manner to prove such notice is contained in 16 Texas Administrative Code (TAC) § 22.52(a).

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<sup>1</sup> Public Utility Regulatory Act, Tex. Util. Code Ann. §§ 11.001–58.302 (West 2016 & Supp. 2017), §§ 59.001–66.016 (West 2007 & Supp. 2017) (PURA).

19. On November 14, 2017, applicants mailed notice of the application, by first-class mail, to the owners of land as stated on the current county tax rolls in King and Knox counties who would be directly affected by the CCN amendments. The notice sent to landowners included a map and a written description of the alternative routing options, the Commission brochure entitled *Landowners and Transmission Line Cases at the PUC*, and forms for submitting comments or a request to intervene.
20. On November 14, 2017, applicants mailed notice of the application by first-class mail, including a map and written description of the alternative routing options, to all electric utilities providing the same utility service within five miles of the requested facilities.
21. On November 14, 2017, applicants mailed notice of the application, including a map and written description of the alternative routing options, by first-class mail to the county judges and county commissioners of King and Knox counties and to the mayor of the City of Benjamin.
22. On November 14, 2017, applicants sent notice of the application to the Office of Public Utility Counsel by first-class mail. The notice sent to the Office of Public Utility Counsel included a map and a written description of the alternative routing options.
23. On November 14, 2017, applicants sent a copy of the application, including the environmental assessment and routing analysis and all other attachments, to the Texas Parks and Wildlife Department by first-class mail.
24. On November 14, 2017, applicants emailed notice of the application, including a map of the alternative routing options, to the Department of Defense Siting Clearinghouse.
25. On November 20, 2017, notice of the application was published in the *Paducah Post*, a newspaper having general circulation in King County and on November 23, 2017, in the *Knox County News-Courier*, a newspaper having general circulation in Knox County.
26. On December 4, 2017, applicants filed the affidavit of Mel L. Eckhoff, a regulatory consultant for American Electric Power Service Corporation, attesting that notice of the application was sent by first-class priority mail, as described in finding of fact 19, to owners of all land within 300 feet of the proposed centerline of any route and that before filing the

application, the applicants' representatives had some formal and informal contact concerning the proceeding with landowners, other than the notice of application. Mr. Eckhoff's affidavit further stated that notice of the application was sent by first-class priority mail, as described in findings of fact 20, 21, and 22, to utilities providing similar service within five miles of the alternative routing options; county officials in King and Knox counties and to the mayor of the City of Benjamin; the Office of Public Utility Counsel, and by first-class mail, as described in finding of fact 23 to the Texas Parks and Wildlife Department.

27. On December 11, 2017, applicants filed the affidavit of Mel L. Eckhoff, a regulatory consultant for American Electric Power Service Corporation, attesting that notice of the application was published on November 20, 2017 in the *Paducah Post* and on November 23, 2017 in the *Knox County News-Courier*, and that both are newspapers having general circulation in King and Knox counties, respectively.
28. In Order No. 2 issued on December 27, 2017, the Commission ALJ approved the text and provision of notice in accordance with Commission Staff's recommendation and established a procedural schedule.
29. August 10, 2018, applicants filed the affidavit of Mel L. Eckhoff, a regulatory consultant for American Electric Power Service Corporation, attesting that notice of the application was sent as described in finding of fact 24 to the Department of Defense Siting Clearinghouse.
30. In Order No. 4 issued on August 21, 2018, the Commission ALJ admitted into evidence the affidavit filed by the applicants regarding proof of notice to the Department of Defense Siting Clearinghouse.

**6. Intervenors**

31. In Order No. 3 issued on January 8, 2018, the Commission ALJ granted, without objection, the requests to intervene filed by Finnice Turnbow, Greg Collier, and Rock Royalty, Inc.
32. During the pendency of the docket, J.M. Carnes Family Ltd. and Duane and Nancy Daniel filed comments.

33. In SOAH Order No. 4 issued on May 3, 2018, the State Office of Administrative Hearings (SOAH) ALJs dismissed intervenor Finnice Turnbow for failure to file direct testimony or a statement of position.

**7. Alignment of Intervenors**

34. No voluntary alignment of parties was noticed, nor was any alignment requested or ordered.

**8. Route Adequacy**

35. Applicants' application presented 16 alternative routes utilizing a combination of 54 routing links for Commission consideration.
36. No party filed testimony or a position statement challenging route adequacy and no party requested a hearing on route adequacy.
37. The routes contained in the application provide an adequate number of reasonably differentiated alternative routes to conduct a proper evaluation.

**9. Pre-filed Testimony**

38. On March 27, 2018, the applicants filed the direct testimonies of Richard W. Chambers, Lisa B. Meaux, and John D. Pulay in support of the application.

**10. Referral to SOAH for Hearing**

39. On December 29, 2017, Rock Royalty, Inc. filed a request for a hearing on the merits.
40. On January 11, 2018, the Commission issued an order of referral and preliminary order referring this application to SOAH for assignment of an ALJ to conduct a hearing and issue a proposal for decision, if necessary. The Commission also specified the issues to be addressed in this proceeding.
41. In SOAH Order No. 1 issued on January 30, 2018, the SOAH ALJs included a statement of the facts asserted in the application, ruled that the Commission has jurisdiction over the application and that SOAH has jurisdiction over all matters related to the hearing on the application, referenced the statutes and rules involved, noticed a prehearing conference, established filing and service requirements, and informed parties they were required to file written testimony or a statement of position, and that any party that failed to file written

testimony or a statement of position would be dismissed from the proceeding and prohibited from participating further.

42. In SOAH Order No. 2 issued on February 28, 2018, the SOAH ALJs adopted a procedural schedule, suspended traditional service, adopted a standard protective order, addressed other matters, and gave notice of the convening of the hearing on the merits at the SOAH offices in Austin at 9:00 a.m. on July 9, 2018, to continue day-to-day until completed.

**11. Agreement of the Parties**

43. On March 27, 2018, the applicants filed a notice of agreement.
44. On April 20, 2018, a nonunanimous settlement agreement was filed in which the signatory parties agreed to amendment of the applicants' CCNs for the proposed transmission line using filed-route C (the settlement route). The applicants also filed a proposed order.
45. On April 30, 2018, intervenors Greg Collier filed direct testimony and Rock Royalty, Inc. filed a statement of position.
46. Intervenor Finnice Turnbow did not join in the agreement, but was dismissed on May 3, 2017, for failure to file direct testimony or a statement of position.
47. On April 20, 2018, Commission Staff filed the direct testimony of Tom Sweatman in support of the agreement.
48. On April 26, 2018, Commission Staff filed errata to the direct testimony of Tom Sweatman.
49. On May 7, 2018, applicants filed an unopposed motion to admit evidence and remand the docket to the Commission.
50. In SOAH Order No. 5 issued on May 8, 2018, the SOAH ALJs granted the applicants' motion to admit evidence and remand the docket to the Commission. The ALJs admitted the applicants' application and all attachments filed on November 14, 2017, the applicants' proof of notice filed on December 4, 2017, applicants' direct testimonies of John D. Pulay, Richard W. Chambers, and Lisa B. Meaux filed on March 27, 2018, the agreement and its attachment filed on April 20, 2018, Commission Staff's direct testimony of Tom Sweatman in support of the agreement filed on April 20, 2018, and the first errata to the direct testimony of Tom Sweatman filed on April 26, 2018.

**12. Description of the Settlement Route**

51. The settlement route agreed upon by the parties for the proposed transmission line consists of the following routing links: 58, 59, 3, 5, 10, 13, 18, 23, 28, 48, 33, 37, 38, 44, and 45. Each of these links is described in the application.
52. The settlement route comprises noticed links that were not changed or modified from the links in the application and identified as filed-route C.
53. The settlement route is 19.66 miles in length.
54. The settlement route ranks better than route N in some of the routing criteria. The following table identifies the criteria in which the settlement route ranks better than route N and demonstrates its reasonableness for selection by the Commission:

<b>ROUTING CRITERIA</b>	<b>ROUTE N</b>	<b>ROUTE C</b>
Estimated cost of the route	\$ 21,577,000	\$ 20,040,000
Length of the route (miles)	20.11	19.66
Number of habitable structures within 300 feet of the centerline of the route	1	0
Length of right-of-way parallel and adjacent to existing transmission line right-of-way (miles)	0.04	1.30
Length of right-of-way parallel and adjacent to apparent property lines (miles)	1.49	2.24
Length of right-of-way within foreground visual zone of United States and State Highways (miles)	5.95	3.91
Length of right-of-way across open waters, lakes, and ponds, etc. (feet)	222.00	0.00
Length of right-of-way across areas of high archeological site potential (miles)	9.03	8.68

**13. Adequacy of Existing Service and Need for Additional Service**

55. The proposed transmission line is needed to address reliability issues and future load growth in the West Texas area north and east of the City of Aspermont.
56. The proposed transmission line was included in the *ERCOT Report on Existing and Potential Electric System Constraints and Needs*, December 2016, filed under PURA § 39.155(b). The report states: “In 2016, ERCOT and the Regional Planning Group evaluated and endorsed six major proposed transmission lines related to oil and gas load



growth in West Texas.” Among those proposed transmission lines is the transmission line that is the subject of this application.

57. The 2020 north and north central summer-peak case from ERCOT’s 2015 Regional Transmission Plan was used to create the base case for the study of applicants’ maintenance-outage conditions. The 2020 spring-peak case was derived from the corresponding summer peak case using ERCOT 2015 Steady State Working Group’s data set A. These studies have shown that adequate voltage cannot be maintained during an outage of a 138/69-kV autotransformer in either the Aspermont or the East Monday substations, or the respective Brazos Electric 69-kV transmission line when another system component in the area is out of service (N-1-1). A maintenance outage of any these system components will result in the need for load shedding so that N-1 security can be maintained.
58. ERCOT conducted an independent review of the proposal submitted to the ERCOT Regional Planning Group by the applicants. In addition to the proposal submitted by the applicants, ERCOT also evaluated three other options, which included adding additional autotransformers, upgrading existing lines, and constructing other new transmission lines. ERCOT determined that only option 4, which is the option proposed by the applicants and includes this proposed transmission line, resolved all of the N-1-1 reliability issues.
59. The proposed transmission line is the best option of the options evaluated to address the reliability issues in the area.
60. Distribution alternatives are not a viable solution to address the transmission related reliability issues.
61. AEP Texas is not a bundled utility and cannot control the amount or location of distributed generation and by law cannot provide distributed generation.

**14. Effect of Granting the Application on AEP Texas and Brazos Electric and Other Utilities and Probable Improvement of Service or Lowering of Cost**

62. Other than the applicants, no other electric utility is involved in the construction of the project.

63. Construction of the proposed transmission line will result in a more reliable transmission system for the reasons described in the findings of fact addressing the need for the proposed transmission line.

**15. Estimated Costs**

64. The estimated cost for the 16 alternative routes filed in the application ranged from \$19,465,000 to \$26,990,000. The settlement route has an estimated cost of \$20,040,000.
65. The estimated cost for the settlement route is the second least expensive route of the 16 alternative routes proposed by applicants. The cost of the settlement route is reasonable considering the range of the cost estimates of the alternative routes filed.
66. The estimated cost of AEP Texas's additional station facilities that are required to connect the proposed transmission line at the existing Benjamin substation is \$3,401,000. The estimated cost to construct the new Brazos Electric switching station is \$5,676,000.
67. The total estimated cost for the proposed transmission line using route C, plus the substation's estimated costs, is \$29,117,000. This estimated cost is reasonable when compared to similar proposed transmission lines.

**16. Prudent Avoidance**

68. Prudent avoidance is defined in 16 TAC § 25.101(a)(6) as the "limiting of exposures to electric and magnetic fields that can be avoided with reasonable investments of money and effort."
69. There are no habitable structures within 300 feet of the centerline of the settlement route.
70. Routing of the proposed transmission line is in accordance with the Commission's policy of prudent avoidance.

**17. Community Values**

71. Information was received from the public meeting and from local, state, and federal agencies and incorporated into POWER Engineers' routing analysis and the applicants' eventual selection of the alternative routes filed in the application.
72. Of those public-meeting attendees that ranked the factors taken into consideration for a routing study, the results were as follows: minimizing the impacts on streams and rivers

(60%), maximizing distance from residences (53%), maximizing the paralleling along highways or other roads (53%), maximizing the length across cropland (47%), and minimizing the total length of line (reduces cost of line) (47%). Another routing concern voiced by attendees was the view of transmission lines from residences.

**18. Using or Paralleling Compatible Rights-of-Way and Paralleling of Property Boundaries**

73. The settlement route parallels existing transmission line rights-of-way or other compatible rights-of-way, or apparent property lines for 14.74 miles of the 19.66-mile long route.
74. The settlement route uses or parallels existing compatible corridors and apparent property lines to a reasonable extent.

**19. Engineering Constraints**

75. No engineering constraints have been identified along the settlement route that would prevent construction of the proposed transmission line along the settlement route.

**20. Other Comparisons of Land Uses and Land Types**

**a. Radio Towers and Other Electronic Installations**

76. There are no AM radio transmitters located within 10,000 feet of the centerline of the settlement route. There are no FM radio transmitters within 2,000 feet of the centerline of the settlement route. There is one other electronic installation located within 2,000 feet of the centerline of the settlement route and centerlines of all other alternative routes.

**b. Airstrips and Airports**

77. There are no Federal Aviation Administration (FAA)-registered airports with runways more than 3,200 feet in length within 20,000 feet of the centerline of the settlement route.
78. There are no FAA-registered airports with runways less than 3,200 feet in length within 10,000 feet of the centerline of the settlement route.
79. There are no heliports located within 5,000 feet of the centerline of the settlement route.
80. There is one known private airstrip located within 10,000 feet of the centerline of the settlement route.
81. There are no significant impacts to any airports, airstrips, or heliports anticipated from construction of the proposed transmission line.

**c. Irrigation Systems**

82. The settlement route does not traverse any pasture or cropland irrigated by traveling irrigation systems.

**d. Other Route Attributes**

83. The application routes cross between 8.9 and 16.1 miles of pasture and between 6.8 and 11.7 miles of cropland. The settlement route traverses 9.96 miles of pasture and 9.4 miles of cropland.

84. The application routes cross between 6.3 and 11.8 miles of upland woodlands and brush lands. The settlement route crosses 6.5 miles of upland woodlands and brush lands.

85. The application routes cross as many as six pipelines. The settlement route crosses four pipelines.

**21. Recreational and Park Areas**

86. There are no parks or recreational areas crossed by the settlement route and there are no parks or recreational areas located within 1,000 feet of the centerline of the settlement route.

87. The proposed transmission line will not have a significant impact to parks or recreational areas.

**22. Historical Values**

88. The settlement route does not cross any recorded cultural resource sites and comes within 1,000 feet of three known cultural resource sites.

89. The settlement route does not cross and is not located within 1,000 feet of any listed property in the National Register of Historic Places.

90. The settlement route crosses 8.68 miles of areas of high archeological-site potential.

91. The proposed transmission line is not expected to have a significant impact on historical or archaeological resources.

**23. Aesthetic Values**

92. Less than 160 feet of the settlement route is located within the foreground visual zone of parks or recreation areas.

93. There are 3.91 miles of the settlement route located within the foreground visual zone of United States and state highways.
94. The settlement route is not located within the foreground visual zone of farm-to-market roads.
95. While the settlement route will generally create a new visual feature across the landscape, other man-made features, including extensive recent oil and gas developments, are common throughout the area.
96. From an aesthetics perspective, the proposed transmission line will not present a view dissimilar to other rights-of-way throughout the area following completion of construction and restoration activities.

**24. Environmental Integrity**

97. The study area traversed by the alternative routes evaluated for this proposed transmission line is oriented in a southwest to northeast direction from the southeast corner of King County to the central portion of Knox County. The study area is located in the north central plains region and is characterized by cuestas or parallel low north-south ridges. The study area is primarily rural with residential development concentrated in the City of Benjamin. The predominant land use within the study area is rangeland and pastureland. Impacts to a majority of the study area occurred by land improvements associated with agriculture, residential structures, roadways, oil and gas activities, and various utility corridors. Overall, the study area viewscape consists of open rangeland and pastureland.
98. POWER Engineers obtained information from the United States Fish and Wildlife Service and the Texas Parks and Wildlife Department regarding the possibility of encountering any endangered or threatened species in the area affected by the proposed transmission line.
99. The applicants and POWER Engineers evaluated the potential impacts of the proposed transmission line on endangered and threatened species.
100. POWER Engineers evaluated potential impacts to soil and water resources, ecology (including endangered and threatened vegetation and fish and wildlife), and land use within the study area.

101. Neither applicant anticipates significant impacts to wetland resources, ecological resources, endangered and threatened species, or land use as a result of construction of the proposed transmission line.
102. The settlement route does not cross known or occupied habitat of federally listed endangered or threatened species.
103. To protect raptors and migratory birds, applicants committed to follow the procedures outlined in the following publications: *Suggested Practices for Avian Protection on Power Lines: The State of the Art in 2006*, Edison Electric Institute and Avian Power Line Interaction Committee (APLIC), and the *Avian Protection Plan Guidelines* published by the APLIC in 2005, and *Reducing Avian Collisions with Power Lines: The State of the Art in 2012*, APLIC, 2012.
104. It is appropriate that applicants minimize the amount of flora and fauna disturbed during construction of the proposed transmission line.
105. It is appropriate that applicants revegetate cleared and disturbed areas using native species and must consider landowner preferences and wildlife needs in doing so.
106. It is appropriate that applicants avoid causing, to the maximum extent practicable, adverse environmental impacts to sensitive plant and animal species and their habitats as identified by the Texas Parks and Wildlife Department (TPWD) and the United States Fish and Wildlife Service.
107. It is appropriate that applicants implement erosion control measures and return each affected landowner's property to its original contours unless otherwise agreed to by the landowners. It is appropriate that applicants not be required to restore original contours and grades where different contour or grade is necessary to ensure the safety or stability of the proposed transmission line's structures or the safe operation and maintenance of the transmission line.
108. It is appropriate that applicants exercise extreme care to avoid affecting non-targeted vegetation or animal life when using chemical herbicides to control vegetation within the rights-of-way and such herbicide use must comply with the rules and guidelines established

in the Federal Insecticide Fungicide and Rodenticide Act and with the Texas Department of Agriculture regulations.

109. It is appropriate that applicants use best management practices to minimize the potential impact to migratory birds and threatened or endangered species.

**25. Texas Parks and Wildlife Department's Comments and Recommendations**

110. TPWD provided recommendations and comments on the proposed transmission line in a letter dated January 11, 2018, and filed in this docket on January 17, 2018. The TPWD letter primarily addressed mitigation of potential impacts to wildlife and natural resources.
111. TPWD recommended that the Commission select a route that would minimize impacts to natural resources, such as route N. The settlement route also comprises similar attributes as route N to minimize impacts on natural resources as raised by TPWD.
112. TPWD's January 11, 2018 letter advocates consideration of recommendations in previous TPWD correspondence dated March 21, 2017, addressed to POWER Engineers. Applicants and their routing consultant, POWER Engineers, followed many of the recommendations in TPWD's March 21, 2017 correspondence.
113. Before beginning construction, it is appropriate that each applicant undertake appropriate measures to identify whether a potential endangered or threatened species habitat exists and respond as required.
114. In accordance with TPWD's recommendation in its January 11, 2018 letter, each applicant commits to work with the United States Fish and Wildlife Service to reduce the potential for bird collisions near wetland and stream areas.
115. The standard mitigation requirements included in the ordering paragraphs in this Order, coupled with applicants' current practices, are reasonable measures for a utility to undertake when constructing a transmission line, and are sufficient to address the TPWD's comments and recommendations.
116. This Order addresses only those TPWD recommendations and comments for which there is record evidence.

117. No modifications to the proposed transmission line are required as the result of the recommendations and comments made by TPWD.

**26. Permits**

118. The applicants state that they will obtain floodplain development and road-crossing permits from the counties in which the approved route is located depending on the location of the transmission-line structures.
119. The applicants state that permits for crossing roads, highways, and other properties owned or maintained by the Texas Department of Transportation will be obtained as necessary.
120. The applicants state that permits will be obtained from the Texas Historical Commission for the proposed transmission line right-of-way as necessary.
121. If a storm-water pollution-prevention plan is required by the Texas Commission on Environmental Quality, each applicant will submit a notice of intent to the Texas Commission on Environmental Quality at least 48 hours before construction begins and will have a storm-water pollution-prevention plan on site when clearing and construction activities begin.
122. The applicants state that easements required from the Texas General Land Office will be obtained as necessary for any right-of-way that crosses a state-owned riverbed or navigable stream.
123. The applicants state they will give notification to the FAA, if required, depending on the alignment of the approved route, structure locations, and structure designs. The applicants also state that they will comply with any requirements of the FAA to alter the design of the structures or potential requirements to mark and or illuminate the line.
124. The applicants state that permits or other requirements due to possible impacts to endangered or threatened species will be obtained from the United States Fish and Wildlife Service as necessary.
125. The applicants state that none of the routing links for the proposed transmission line cross property that is owned by the United States Army Corps of Engineers and no easements on United States Army Corps of Engineers' property will be necessary.



**27. Coastal Management Program**

126. The “commission may grant a certificate for the construction of generating or transmission facilities within the coastal boundary as defined in 31 TAC § 503.1 only when it finds that the proposed facilities are as required under the applicable goals and policies of the Coastal Management Program specified in 31 TAC § 501.14(a), or that the proposed facilities will not have any direct and significant impacts on any of the applicable coastal natural resource areas specified in 31 TAC § 501.3(b).”<sup>2</sup>
127. No part of the proposed transmission line is located in the boundary of the Coastal Management Program as defined in 31 TAC § 501.3(b).

**28. Effect on the State’s Renewable Energy Goal**

128. The Texas Legislature established a goal in PURA § 39.904(a) for 10,000 megawatts of renewable capacity to be installed in Texas by January 1, 2025. This goal has already been met.
129. The proposed transmission line cannot adversely affect the goal for renewable energy development established in PURA § 39.904(a).

**29. Limitation of Authority**

130. It is reasonable and appropriate for a CCN order not to be valid indefinitely, because it is issued based on the facts known at the time of issuance.
131. Seven years is a reasonable and appropriate limit to place on the authority granted in this Order to construct the proposed transmission line.

**30. Good Cause**

132. It is appropriate to consider this Order at the earliest open meeting available; therefore, good cause exists to waive the requirement in 16 TAC § 22.35(b)(2) that a proposed order be served on parties 20 days before the Commission is scheduled to consider the application in open meeting.

**II. Conclusions of Law**

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

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<sup>2</sup> 16 TAC § 25.102(a).

2. Brazos Electric Power Cooperative, Inc. is an electric utility as defined in PURA § 37.001(2).
3. Brazos Electric and AEP Texas must obtain the approval of the Commission to construct the proposed transmission line and provide service to the public using that line.
4. The Commission has jurisdiction over this application under PURA §§ 14.001, 32.001, 37.051, 37.053, 37.054, and 37.056.
5. SOAH exercised jurisdiction over this proceeding in accordance with PURA § 14.053 and Texas Government Code § 2003.049.
6. The application is sufficient under 16 TAC § 22.75(d).
7. Brazos Electric and AEP Texas provided notice of the application in compliance with PURA § 37.054 and 16 TAC § 22.52(a).
8. Additional notice of the settlement route is not required.
9. The hearing on the merits was set and notice of the hearing was given in compliance with PURA § 37.054 and Texas Government Code §§ 2001.051 and 2001.052.
10. This docket was processed in accordance with the requirements of PURA, the Administrative Procedure Act,<sup>3</sup> and Commission rules.
11. The proposed transmission line using the settlement route is necessary for the service, accommodation, convenience or safety of the public within the meaning of PURA § 37.056(a).
12. The settlement route complies with PURA § 37.056 and 16 TAC § 25.101, including the Commission's policy of prudent avoidance, to the extent reasonable to moderate the impact on the affected community and landowners.
13. The Texas Coastal Management Program does not apply to the proposed transmission line and the requirements of 16 TAC § 25.102 do not apply to the application.

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<sup>3</sup> Administrative Procedure Act, Tex. Gov't Code Ann. §§ 2001.001–.902 (West 2016 & Supp. 2017).

14. Under 16 TAC § 22.5(b), there is good cause to waive the 20-day notice requirement in 16 TAC § 22.35(b)(2).

### III. Ordering Paragraphs

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

1. The Commission amends Brazos Electric's CCN number 30016 to include the construction and operation of the proposed transmission line along links 58, 59, 3, 5, 10, 13, 18, and approximately 2.9 miles of the southwestern portion of link 23 to the pole structure to be owned by Brazos Electric and to be labeled as the "Gyp-to-Benjamin Terminus" that will establish a new interconnection between Brazos Electric and AEP Texas.
2. The Commission amends AEP Texas's CCN number 30170 to include the construction and operation of the proposed transmission line along approximately 0.7 miles of the northeastern portion of link 23 beginning at the pole structure labeled as the "Gyp-to-Benjamin Terminus" and along links 28, 48, 33, 37, 38, 44, and 45.
3. The applicants must conduct surveys, if not already completed, to identify pipelines that could be affected by the transmission line and cooperate with pipeline owners in modeling and analyzing potential hazards because of alternating-current interference affecting pipelines being paralleled.
4. In the event either applicant encounters any archeological artifacts or other cultural resources during project construction, work must cease immediately in the vicinity of the artifact or resource and the discovery must be reported to the Texas Historical Commission. In that situation, the applicant must take action as directed by the Texas Historical Commission.
5. Each applicant must follow the procedures to protect raptors and migratory birds as outlined in the publications: *Reducing Avian Collisions with Power Lines: The State of the Art in 2012*, Edison Electric Institute and Avian Power Line Interaction Committee (APLIC), Washington, D.C. 2012; *Suggested Practices for Avian Protection on Power Lines: The State of the Art in 2006*, Edison Electric Institute, APLIC, and the California

Energy Commission, Washington, D.C. and Sacramento, CA 2006; and *Avian Protection Plan Guidelines*, APLIC and United States Fish and Wildlife Service, April 2005. Each applicant must take precautions to avoid disturbing occupied nests and will take steps to minimize the impact of construction on migratory birds during the nesting season of the migratory bird species identified in the area of construction.

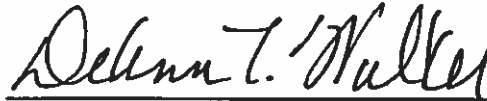
6. Each applicant must exercise extreme care to avoid affecting non-targeted vegetation or animal life when using chemical herbicides to control vegetation within the right-of-way, and must ensure that such herbicide use complies with rules and guidelines established in the Federal Insecticide, Fungicide and Rodenticide Act and with Texas Department of Agriculture regulations.
7. Each applicant must 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, each applicant must revegetate using native species and must consider landowner preferences and wildlife needs in doing so. Furthermore, to the maximum extent practicable, each applicant must 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.
8. Each applicant must implement erosion control measures as appropriate. Erosion control measures may include inspection of the right-of-way before and during construction to identify erosion areas and implement special precautions as determined reasonable to minimize the impact of vehicular traffic over the areas. Each applicant must return each affected landowner's property to its original contours and grades unless otherwise agreed to by the landowner or landowner's representative. The applicants must not be required to restore original contours and grades where different contour or grade is necessary to ensure the safety or stability of the project's structures or the safe operation and maintenance of the line.
9. Each applicant must use best management practices to minimize the potential impact to migratory birds and threatened or endangered species.

10. Each applicant must cooperate with directly affected landowners to implement minor deviations in the approved route to minimize the impact of the transmission line. Any minor deviation to the approved route must only directly affect landowners who were sent notice of the transmission line in accordance with 16 TAC § 22.52(a)(3) and landowners that have agreed to the minor deviation.
11. The applicants are not authorized to deviate from the approved route in any instance in which the deviation would be more than a minor deviation without further amending their CCNs.
12. If possible, and subject to the other provisions of this Order, the applicants must prudently implement appropriate final design for this transmission line so as to avoid being subject to the FAA's notification requirements. If required by federal law, the applicants must notify and work with the FAA to ensure compliance with applicable federal laws and regulations. The applicants are not authorized to deviate materially from this Order to meet the FAA's recommendations or requirements. If a material change would be necessary to comply with the FAA's recommendations or requirements, then the applicants must file an application to amend its CCN as necessary.
13. The applicants must report the transmission line approved by this Order on its monthly construction progress reports before the start of construction to reflect the final estimated cost and schedule in accordance with 16 TAC § 25.83(b). In addition, the applicants must provide final construction costs, with any necessary explanation for cost variance, after completion of construction and when all charges have been identified.
14. Entry of this Order in accordance with the agreement does not indicate the Commission's endorsement or approval of any principle or methodology that may underlie the agreement and must not be regarded as precedential as to the appropriateness of any principle or methodology underlying the agreement.
15. The Commission limits the authority granted by this Order to a period of seven years from the date this order is signed unless the transmission line is commercially energized before that time.

16. All other motions and any other requests for general or specific relief, if not expressly granted, are denied.

Signed at Austin, Texas the 30<sup>th</sup> day of August 2018.

**PUBLIC UTILITY COMMISSION OF TEXAS**



DEANN T. WALKER, CHAIRMAN



ARTHUR C. D'ANDREA, COMMISSIONER



SHELLY BOTKIN, COMMISSIONER