

PUC DOCKET NO. 49347  
SOAH DOCKET NO. 473-19-5729

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APPLICATION OF AEP TEXAS INC. §  
TO AMEND ITS CERTIFICATE OF §  
CONVENIENCE AND NECESSITY FOR §  
THE THREE RIVERS TO BORGLUM §  
TO TULETA 138-KV TRANSMISSION §  
LINE IN LIVE OAK AND BEE §  
COUNTIES §

PUBLIC UTILITY COMMISSION  
OF TEXAS

**ORDER**

This Order addresses the application of AEP Texas Inc. to amend its certificate of convenience and necessity (CCN) to construct, own, and operate the Three Rivers-to-Borglum-to-Tuleta 138-kilovolt (kV) transmission line in Live Oak and Bee counties. AEP Texas and all the intervenors filed an unopposed agreement to route the Three Rivers-to-Borglum line along route TRB-19A and the Borglum-to-Tuleta line along route BT-1B. The Commission approves the agreed routes and amends AEP Texas's CCN number 30028 to the extent provided by this Order.

**I. Findings of Fact**

The Commission makes the following findings of fact.

**Applicant**

1. AEP Texas is an investor-owned electric utility providing service under CCN number 30028.

**Application**

2. On April 5, 2019, AEP Texas filed an application to amend its CCN to build, own, and operate a new 138-kV transmission line in Live Oak and Bee counties. The transmission line will connect AEP Texas's Three Rivers, Borglum, and Tuleta substations (the transmission facilities).
3. AEP Texas retained POWER Engineers, Inc. to prepare an environmental assessment and routing analysis, which AEP Texas attached to the application.

4. In Order No. 3 filed on May 8, 2019, the Commission administrative law judge (ALJ) found the application sufficient.

**Description of the Transmission Facilities**

5. The transmission facilities proposed in the application include a single-circuit 138-kV transmission line between the existing Three Rivers substation in Live Oak County and the proposed Borglum substation in Bee County (the Three Rivers line), the new Borglum substation, and a double-circuit 138-kV transmission line between the proposed Borglum substation and the existing Tuleta substation in Bee County (the Tuleta line).
6. The Three Rivers line is 28.32 miles to 46.70 miles in length depending on the route selected.
7. The Tuleta line is 21.66 to 37.52 miles in length depending on the route selected.
8. AEP Texas's application included one route for the Three Rivers line, route TRB-19, which AEP Texas contended best addressed the requirements of the Public Utility Regulatory Act (PURA)<sup>1</sup> and the Commission's rules. AEP Texas also filed 20 additional routes for the Three Rivers line.
9. AEP Texas's application included one route for the Tuleta line, route BT-1, which AEP Texas contended best addressed the requirements of PURA and the Commission's rules. AEP Texas also filed 10 additional routes for the Tuleta line.
10. AEP Texas will construct the Three Rivers line on single-circuit, single-pole steel structures from the Three Rivers substation to the new Borglum substation. AEP Texas will construct the Tuleta line on double-circuit, single-pole steel structures from the new Borglum substation to the Tuleta substation.
11. In this Order, the transmission facilities include the Three Rivers and Tuleta transmission lines and the proposed Borglum substation as well as station work to terminate the transmission lines at the Three Rivers substation and the Tuleta substation.
12. AEP Texas will own, operate, and maintain all the transmission facilities.

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<sup>1</sup> Public Utility Regulatory Act, Tex. Util. Code §§ 11.001–66.016.

13. The routes are based on a right-of-way width of approximately 100 feet. Segments C, H, L, U6, P, T, Y, J1, K1, W6, R1, A2, F2, M2, P2, D3, and L3 proposed for the Three Rivers line consist of rebuilding an existing 69-kV transmission line in the existing right-of-way. Segments that use existing easements represent right-of-way that has already been acquired. Segments F7, Z5, W5, U5, A6, and Y5 proposed for the Borglum-to-Tuleta line will be able to accommodate a future rebuild of the existing 69-kV Tuleta-to-Normanna-to-Beeville line. However, the Borglum-to-Tuleta line will not use existing easements.
14. AEP Texas estimated that it would acquire all right-of-way and land by June 2021, finalize engineering and design by October 2021, procure material and equipment by January 2022, and complete construction and energize the proposed transmission facilities by August 2022.

**Public Input**

15. To develop information on community values for the transmission facilities, AEP Texas held a public meeting in the city of Three Rivers on May 22, 2019 and in the city of Beeville on May 23, 2019.
16. AEP Texas directly mailed 685 individual written notices of the public meeting to landowners who own property located within 300 feet of the proposed routes' centerlines. The notice included a map of the study area depicting the preliminary route segments, a document with frequently asked questions, and a diagram of typical 138-kV transmission-line structures.
17. At the time the public meetings were conducted, AEP Texas was not required to send notice of the public meeting to the Department of Defense Siting Clearinghouse.
18. A total of 41 people signed in as attending the public meeting in Three Rivers, with 38 submitting questionnaire responses at the meeting. A total of 109 people signed in as attending the public meeting in the city of Beeville, with 80 submitting questionnaire responses at the meeting.
19. Information from the public meetings and from local, state, and federal agencies was considered and incorporated into the selection of recommended and alternative routes by AEP Texas.

Notice of Application

20. On April 5, 2019, AEP Texas sent written notice of the application by first-class priority mail to the mayors of the cities of Three Rivers and Beeville.
21. On April 5, 2019, AEP Texas sent written notice of the application by first-class priority mail to county officials in Live Oak and Bee counties.
22. On April 5, 2019, AEP Texas sent written notice of the application by first-class priority mail to each neighboring utility providing similar utility service within five miles of the proposed routes.
23. On April 5, 2019, AEP Texas sent written notice of the application by first-class priority mail to each landowner, as stated on current county tax rolls in Live Oak and Bee counties, who could be directly affected by the transmission facilities on any of the filed routes. The notice that was sent to the landowners included a map and a written description of the alternative routing options, the Commission's brochure entitled *Landowners and Transmission Line Cases at the PUC*, and forms for submitting comments or a request to intervene.
24. On April 5, 2019, AEP Texas sent notice of the application by first-class priority mail to the Office of Public Utility Counsel.
25. On April 5, 2019, AEP Texas sent written notice of the application by email to the Department of Defense Siting Clearinghouse.
26. On April 5, 2019, AEP Texas sent a copy of the application, including the environmental assessment and routing analysis and all other attachments, by first-class priority mail to the Texas Parks and Wildlife Department.
27. On April 23, 2019, AEP Texas filed the affidavit of Mel L. Eckhoff, a regulatory consultant for American Electric Power Service Corporation, who attested that notice of the application had been provided as described above in findings of fact 20 through 26.
28. On April 10, 2019, AEP Texas published notice of the application in *The Progress* in the city of Three Rivers, which has general circulation in Live Oak county. On April 10, 2019,

AEP Texas also published notice of the application in the *Beeville Bee-Picayune* in the city of Beeville, which has general circulation in Bee county.

29. On April 30, 2019, AEP Texas filed the affidavit of Mel L. Eckhoff, a regulatory consultant for American Electric Power Service Corporation, attesting that notice had been published as described in finding of fact 28.
30. In State Office of Administrative Hearings (SOAH) Order No. 3 filed on May 8, 2019, the SOAH ALJ found the notice of the application sufficient.

**Intervenors**

31. In Order No. 2 filed on May 1, 2019, the Commission ALJ granted the motions to intervene filed by the following parties: Jennifer Shepherd and Rodney Shepherd, Ralph Groenhuyzen, Johnnie A. Sachtleben, William Ordner, and Superior Natural Gas Corporation and Laguna Family Partnership, Ltd.
32. In Order No. 4 filed on May 8, 2019, the Commission ALJ granted the motions to intervene filed by the following parties: Herbert Krause (Estate of Valeta Joy Krause); Marion E. Williams, Jr.; Albert Kessler; Wicker Family Properties, Ltd.; Breidenbach Family Properties, L.P.; J.M. O'Brien Family Ltd.; Damien W. Welder; Sandra Liska; and Roy Jones.
33. In Order No. 5 filed on May 16, 2019, the Commission ALJ granted the motions to intervene filed by the following parties: Charles and Crystal Hyde, Martin Brophy, and Karen Savage and Old Medio Ranch, LP.
34. In Order No. 6 filed on May 30, 2019, the Commission ALJ granted the motions to intervene filed by the following parties: Tari Goebel; Howard Horn, Jr.; Jerry Folman; Kuhn Holdings, Ltd. and Medio Sanctuary, L.L.C.; Sandra Brophy; Billie Dawn Lansford and Matt Allen Lansford; Robert Caldarera; Herbert and Katharina McKinzie; Traylor Land & Cattle, Ltd.; Julie Harwell; Jo Anna Davis; and Greg Goebel.
35. In Order No. 7 filed on June 5, 2019, the Commission ALJ granted the motions to intervene filed by the following parties: Robert Caldarera; Jane Chapa; Dennis Clark; Mark Dragon; Jennifer Dragon; and Alene Sugarek; Darlene Goebel; Dan Houston; Matthew Huie and

Shambryn Huie; James Landrum and Beverly Landrum; George P. Morrill III and Jessica A. Morrill; Robert Shroyer and Terry Shroyer; Julia Stridde; Sally Sugarek Hodon, Shala Sugarek Sturgeon, Sarah Sugarek Baker, Betty Sugarek, and Shona Sugarek Preston; Nancy J. Sugarek; William Sugarek and Jason Sugarek; Candice Sugarek-Dixon; Jean Tomerlin and Diamond T Ranch; Sandra Trevino; Kimberly Louise Johnson Wood; Huie & Huie Farm & Ranch, LLC; Luker Partnership, Ltd.; MHW Operations, Ltd.; Scott Family Ranch, Ltd.; SS Ranch LP; the Jean Bissett Fiegel Trust; and Teresa Kozar.

36. In SOAH Order No. 4 filed on September 17, 2019, the SOAH ALJ dismissed the following parties for failure to file direct testimony or a statement of position by the September 6, 2019 deadline: Breidenbach Family Properties LP; Martin Brophy; Sandra Brophy; Robert Caldarrera; Jana Chapa; Joanna Davis; Jerry L. Folmar; Darlene Goebel; Tari Goebel; Julie Harwell; Howard Horne, Jr.; Dan Houston; Charles and Crystal Hyde; J.M. Obrien Family Ltd.; Roy Jones; Albert Kessler; Steve Luker; Medio Sanctuary LLC; Ralph Groenhuyzen; Teresa Kozar; Herbert Krause; Kuhn Holdings Ltd.; Scott E. Landreth; Sandra Liska; Herbert and Katharina McKinzie; William Ordner; Johnnie A. Sachtleben; Rodney Shepard; Jennifer Shepherd; Julia Stridde; Candace Sugarek-Dixon; Jason Sugarek; Nancy J. Sugarek; William (Bill) Sugarek; Wicker Family Properties Ltd.; Damian W. Welder; Milton H. West III; and Kimberly Louise Wood.

**Alignment of Intervenors**

37. No parties provided notice of a voluntary alignment, nor was any alignment requested or ordered.

**Route Adequacy**

38. AEP Texas's application presented 21 geographically diverse routes for the Three Rivers line and 11 geographically diverse routes for the Tuleta line. The 32 routes use a combination of 156 routing segments.
39. No party filed testimony or a statement of position challenging whether the application provided an adequate number of reasonably differentiated routes to conduct a proper evaluation, and no party requested a hearing on route adequacy.

40. The application's 32 routes are an adequate number of reasonably differentiated routes to conduct a proper evaluation.

**Statements of Position and Testimony**

41. On August 2, 2019, AEP Texas filed the direct testimonies of Dave L. Goetz, Daniel N. Lyons, and Lisa B. Meaux.
42. On September 3, 2019, Marion E. Williams, Jr. filed direct testimony on his own behalf.
43. On September 4, 2019, Billie Dawn Lansford and Matt Allen Lansford filed direct testimony on their own behalf.
44. On September 6, 2019, the following parties filed direct testimony: Beverly Landrum, James Landrum, Dennis Clark, Sandra Trevino, Jennifer Dragon, Mark Dragon, Martha Aleene Sugarek, Shambryn Huie, Matthew Huie, Betty Sugarek, Sally Sugarek Hodon, Shala Sugarek Sturgeon, Sarah Sugarek Baker, Terry Shroyer, Robert Shroyer, Jessica Morrill, and George Morrill III each filed direct testimony on their own behalf. John Croft filed direct testimony on behalf of Superior Natural Gas Corporation and Laguna Family Partnership, Ltd.; Karen Savage filed direct testimony on behalf of Old Medio Ranch, LP; Jean Tomerlin filed direct testimony on behalf of Diamond T Ranch; Champion T. Traylor III filed direct testimony on behalf of Traylor Land & Cattle, Ltd.; Matthew Huie filed direct testimony on behalf of Huie & Huie Farm & Ranch, LLC; John Richard Scott IV filed direct testimony on behalf of Scott Family Ranch, Ltd.; Jean Bissett Fiegel filed direct testimony on behalf of the Jean Bissett Fiegel Trust; and SS Ranch LP filed direct testimony.
45. On October 11, 2019, Commission Staff filed the direct testimony of its witness, John Poole.
46. On October 22, 2019, AEP Texas filed the rebuttal testimonies of its witnesses Dave L. Goetz and Lisa B. Meaux, which provide support for the settlement routes and another settlement route that was considered.

**Referral to SOAH for Hearing**

47. On May 16, 2019, intervenor Traylor Land and Cattle, Ltd. requested a hearing on the merits. On May 20, 2019, intervenors Superior Natural Gas Corp. & Laguna Family Partnership, Ltd., Charles Hyde, Crystal Hyde, and Jerry Folmar requested a hearing on the merits. On May 29, 2019, Commission Staff requested a hearing on the merits.
48. On June 25, 2019, the Commission referred this docket to SOAH and filed a preliminary order specifying issues to be addressed in this proceeding.
49. In SOAH Order No. 2 filed on July 17, 2019, the SOAH ALJ provided notice of a hearing on the merits set for 9:00 a.m. on November 18, 2019 at SOAH's hearing facility in Austin, Texas.
50. In SOAH Order No. 3 filed on July 29, 2019, the SOAH ALJ granted Commission Staff's motion to amend the procedural schedule by delaying the start of the hearing on the merits by one day and provided notice of the hearing on the merits for November 19, 2019 through November 21, 2019.
51. On January 8, 2020, AEP Texas and the following intervenors filed an unopposed agreement agreeing on route TRB-19A for the Three Rivers line and route BT-1B for the Tuleta line: Marion E. Williams, Jr.; Billie Dawn Lansford and Matt Allen Lansford; Superior Natural Gas Corporation and Laguna Family Partnership, Ltd.; Karen Savage and Old Medio Ranch, LP; Jean Tomerlin and Diamond T Ranch; Traylor Land & Cattle, Ltd.; SS Ranch LP; Mark Dragon, Jennifer Dragon, and Alene Sugarek; Sally Sugarek Hodon, Shala Sugarek Sturgeon, Sarah Sugarek Baker, and Betty Sugarek; Huie & Huie Farm & Ranch, LLC; Matthew Huie and Shambryn Huie; Robert Shroyer and Terry Shroyer; Sandra Trevino; James Landrum and Beverly Landrum; Dennis Clark; George Morrill III and Jessica Morrill; Scott Family Ranch, Ltd.; and the Jean Bissett Fiegel Trust. Commission Staff did not sign, but does not oppose, the agreement.
52. On January 8, 2020, Commission Staff filed a memorandum regarding the agreement of the parties.
53. In SOAH Order No. 6 filed on January 21, 2020, the SOAH ALJ admitted the following into the evidentiary record: the application of AEP Texas, filed on April 5, 2019; the proof

of notice, filed by AEP Texas on April 23, 2019; the proof of publication filed by AEP Texas on April 30, 2019; the direct testimonies of AEP Texas's witnesses Dave L. Goetz, Daniel N. Lyons, and Lisa B. Meaux, filed on August 2, 2019; the direct testimony of Commission Staff's witness John Poole, filed on July 23, 2019; the rebuttal testimony of AEP Texas's witnesses Dave L. Goetz and Lisa B. Meaux, filed on October 22, 2019; Commission Staff's memorandum regarding the parties' agreement, filed on January 8, 2020; and the parties' agreement and attachments, filed on January 8, 2020.

54. In SOAH Order No. 6 filed on January 21, 2020, the SOAH ALJ dismissed the case from SOAH's docket and remanded it to the Commission.

**Description of the Agreed Route**

55. The agreed route for the Three Rivers-to-Borglum line is route TRB-19A. Three Rivers route TRB-19A is 28.95 miles long and consists of routing segments A, C, H, L, U6, P, T, Y, J1, K1, R1, A2, F2, M2, P2, D3, F3, H3, G3, Q3, V3-modified, and O6.
56. Three Rivers route TRB-19A is the same as filed route TRB-19, except that the alignment of routing segment V3 is altered as it crosses the property of Huie & Huie Farm & Ranch, LLC, a signatory to the parties' agreement.
57. Tuleta route BT-1A is the same as filed route BT-1, except that the alignment of routing segment E4 is altered as it crosses the property of Robert and Terry Shroyer, signatories to the parties' agreement.
58. The agreed route for the Tuleta-to-Borglum line is route BT-1B. Tuleta route BT-1B is 22.53 miles long and consists of routing segments X3, E4-modified, F4, B7, I4, J4, L4, N4, C7, D7, Z5, U5, A6, Y5, and R5.
59. Tuleta route BT-1B is the same as filed route BT-1, except that it incorporates the same modification to segment E4 as does route BT-1A and also substitutes segments F4, B7, and I4 for segment G4 to circumvent the property of Marion E. Williams, Jr., a signatory to the parties' agreement.
60. The agreed route consists entirely of noticed segments that were not changed or modified from the segments proposed in the application except for V3-modified on Three Rivers

route TRB-19A and E4-modified on Tuleta route BT-1B. Those modifications do not require any additional landowner notices or consents.

61. The majority of the length along routes TRB-19 and TRB-19A involves removing the existing 69-kV Three Rivers-to-Beeville transmission line and constructing the new 138-kV Three Rivers-to-Borglum transmission line in its place.
62. A large portion of routes BT-1, BT-1A, and BT-1B will be constructed in new easements that are parallel and adjacent to the existing 69-kV Tuleta-to-Normanna-to-Beeville transmission line. Double-circuit-capable structures will accommodate the new 138-kV circuit along routes BT1, BT-1A, and BT-1B and will be able to accommodate the existing 69-kV Tuleta-to-Normanna-to-Beeville line, although the existing 69-kV Tuleta-to-Normanna-to-Beeville line would not be relocated until the Borglum-to-Tuleta line can be placed in service.

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

63. The current transmission system in Live Oak County near Three Rivers, Texas is not able to reliably serve the area if either one of two existing transmission lines in the area is removed from service to perform scheduled maintenance or as the result of other outage conditions. The reliability issue in the area served by AEP Texas necessitates the construction of transmission facilities along the Three Rivers-to-Borglum and Tuleta-to-Borglum routes.
64. In an independent review of AEP Texas's proposed transmission facilities in Live Oak County, the Electric Reliability Council of Texas (ERCOT) determined there is a need to improve the transmission system in the Three Rivers, Texas area to support the reliability of the ERCOT regional transmission system.
65. ERCOT's independent review of AEP Texas's proposed transmission facilities in Live Oak County eliminated several alternatives due to the inability of some alternatives to adequately address the reliability issues and the higher cost of some alternatives.
66. No party challenged the need for the transmission line.

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

67. AEP Texas is the only electric utility involved in the construction of the transmission facilities.
68. The Three Rivers line begins at the existing Three Rivers substation owned by AEP Texas and terminates at the new Borglum substation to be owned by AEP Texas. The Tuleta line begins at the existing Tuleta substation owned by AEP Texas and also terminates at the new Borglum substation.
69. AEP Texas can address crossings and paralleling of existing transmission lines by the new transmission facilities along the agreed route through coordination between AEP Texas and the applicable utilities and the application of well-established engineering measures.
70. The Commission does not expect the construction of the proposed transmission facilities along the agreed route to adversely affect service by other utilities in the area.
71. The proposed transmission facilities will provide additional transmission capacity necessary for AEP Texas and other transmission utilities in the area to perform maintenance on the existing transmission system without introducing reliability limitations.
72. The proposed transmission facilities represent ERCOT's recommended solution to reliability issues in the Three Rivers, Texas area.
73. The Commission expects construction of the transmission facilities to result in a more reliable transmission system.

**Estimated Costs**

74. The estimated construction costs of the 21 filed routes for the Three Rivers line range from \$34,311,000 to \$56,190,000, excluding station costs.
75. The estimated cost to construct Three Rivers route TRB-19A is \$36,691,000.
76. Three Rivers route TRB-19A is the fourth least expensive of the Three Rivers line routes, costing \$19,499,000 less than the most expensive Three Rivers filed route and \$2,380,000 more than the least expensive Three Rivers filed route. Because of the modification to the

alignment of routing segment V3 as it crosses the property of Huie & Huie Farm & Ranch, LLC, the estimated cost of Three Rivers route TRB-19A is \$158,000 more than alternative route TRB-19, the Three Rivers route that AEP Texas determined best addressed the requirements of PURA and the Commission's substantive rules.

77. The estimated construction costs of the 11 filed routes for the Tuleta line range from \$39,539,000 to \$63,635,000, excluding station costs.
78. The estimated cost to construct Tuleta route BT-1B is \$41,298,000.
79. Tuleta route BT-1B is the fourth least expensive of the Tuleta-line routes, costing \$22,337,000 less than the most expensive filed route for the Tuleta line and \$1,759,000 more than the least expensive filed route for the Tuleta line.
80. Tuleta route BT-1B's modification to the alignment of routing segment E4 as it crosses the property of Robert and Terry Shroyer reduces the estimated cost of Tuleta route BT-1B by \$270,000.
81. Tuleta route BT-1B's use of filed route segments F4, B7, and I4 instead of segment G4 to circumvent the property of Marion E. Williams, Jr. increases the estimated cost of Tuleta route BT-1B by \$2,046,000.
82. The estimated cost of Tuleta route BT-1B is \$1,759,000 more than alternative route BT-1, the Tuleta route AEP Texas determined best addressed the requirements of PURA and the Commission's substantive rules.
83. The estimated total cost of Three Rivers route TRB-19A and Tuleta route BT-1B is a net 2.5% increase of \$1,917,000 over the estimated total cost of routes TRB-19 and BT-1.
84. The estimated cost to terminate the transmission line at the existing Three Rivers substation is \$1,578,000, and the estimated cost to terminate the transmission line at the existing Tuleta substation is \$51,000. The estimated cost of the new intermediate Borglum substation for any route, including Three Rivers route TRB-19A and Tuleta route BT-1B, is \$15,397,000. The total estimated cost of the Three Rivers' line and the Tuleta line using Three Rivers route TRB-19A and Tuleta route BT-1B, the line terminations at the existing substations, and the new intermediate substation is \$95,015,000.

85. The cost of the agreed route is reasonable considering the range of the cost estimates for the routes.

86. The transmission facilities will be financed through a combination of debt and equity.

**Prudent Avoidance**

87. Prudent avoidance, as defined in 16 Texas Administrative Code (TAC) § 25.101(a)(6), is the “limiting of exposures to electric and magnetic fields that can be avoided with reasonable investments of money and effort.”

88. The number of habitable structures within 300 feet of the centerlines of the application’s routes ranges for the Three Rivers line from 10 to 46 and for the Tuleta line from 6 to 44.

89. Three Rivers route TRB-19A has 38 habitable structures within 300 feet of its centerline. Tuleta route BT-1B has 34 habitable structures within 300 feet of its centerline.

90. The construction of transmission facilities along the agreed route complies with the Commission’s policy of prudent avoidance.

**Community Values**

91. The principal concerns expressed in the questionnaire responses from the public meetings were to maximize the distance of the lines from residences, maximize the length along existing transmission lines, minimize the loss of trees, maximize the length along property boundaries, maximize the distance from public facilities, minimize the length through grassland or pasture, and minimize impacts to archeological and historical sites.

92. POWER Engineers’ routing analysis and AEP Texas’s eventual selection of the routes filed in the application incorporated information received from the public meetings and from local, state, and federal agencies.

93. Three Rivers route TRB-19A and Tuleta route BT-1B adequately address the expressed community values.

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

94. AEP Texas evaluated the use and paralleling of existing compatible rights-of-way and apparent property boundaries when developing routes.

95. The routes in the application for the Three Rivers line parallel existing transmission lines, other existing rights-of-way, or apparent property boundaries for 48% to 90% of the length of the route, depending on the route selected.
96. Three Rivers route TRB-19A parallels existing transmission lines, other existing rights-of-way, and apparent property boundaries for 87% of its length.
97. Three Rivers route TRB-19A uses 21.6 miles of existing transmission-line easement and will require 7.3 miles of new right-of-way.
98. The routes in the application for the Tuleta line parallel existing transmission lines, other existing rights-of-way, or apparent property boundaries for 64% to 81% of the length of the route, depending on the route selected.
99. Tuleta route BT-1B parallels existing transmission lines, other existing rights-of-way, and apparent property boundaries for 72% of its length.
100. Tuleta route BT-1B does not use any existing transmission-line easement and will require 22.5 miles of new right-of-way.
101. The agreed route uses or parallels existing compatible rights-of-way and apparent property boundaries to a reasonable extent.

**Engineering Constraints**

102. AEP Texas evaluated engineering and construction constraints when developing routes.
103. AEP Texas did not identify any engineering constraints that would prevent the construction of transmission facilities along the agreed route.

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

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

104. One commercial AM radio transmitter was identified within 10,000 feet of the centerline of Three Rivers route TRB-19A and Tuleta route BT-1B.
105. Two FM radio transmitters, microwave relay stations, or other electronic installations were identified within 2,000 feet of Three Rivers route TRB-19A's centerline. One FM radio transmitter, microwave relay station, or other electronic installation was identified within 2,000 feet of Tuleta route BT-1B's centerline.

106. The Commission does not expect the presence of transmission facilities along the agreed route to adversely affect any communication operations in the proximity of the agreed route.

***b. Airstrips and Airports***

107. There are no airports registered with the Federal Aviation Administration and equipped with runways shorter than or exactly 3,200 feet within 10,000 feet of the centerline of either Three Rivers route TRB-19A or Tuleta route BT-1B.

108. There is one airport registered with the Federal Aviation Administration and equipped with at least one runway longer than 3,200 feet within 20,000 feet of the centerline of Three Rivers route TRB-19A, and there are two such airports within 20,000 feet of the centerline of Tuleta route BT-1B.

109. There is one private airstrip within 10,000 feet of the centerline of Three Rivers route TRB-19A. There is another private airstrip within 10,000 feet of the centerline of Tuleta route BT-1B.

110. There are no heliports within 5,000 feet of the centerline of either Three Rivers route TRB-19A or Tuleta route BT- 1B.

111. The Commission does not expect the presence of transmission facilities along the agreed route to adversely affect any airports, airstrips, or heliports.

***c. Irrigation Systems***

112. Neither Three Rivers route TRB-19A nor Tuleta route BT-1B crosses any agricultural lands with known mobile irrigation systems.

113. The Commission does not expect the presence of transmission facilities along the agreed route to adversely affect any agricultural lands with known mobile irrigation systems.

***d. Other Route Attributes***

114. There are a variety of land uses within the study area including residential, commercial, industrial, agricultural, recreational and park areas, and oil and gas development.

**Recreational and Park Areas**

115. Neither Three Rivers route TRB-19A nor Tuleta route BT-1B crosses any recreational or park areas.
116. There are no additional recreational or park areas within 1,000 feet of the centerline of either Three Rivers route TRB-19A or Tuleta route BT-1B.
117. The Commission does not expect the presence of transmission facilities along the agreed route to adversely affect the use and enjoyment of any recreational or park areas.

**Historical and Archaeological Values**

118. Neither Three Rivers route TRB-19A nor Tuleta route BT-1B crosses recorded historical or archaeological sites.
119. There are no recorded historical or archaeological sites within 1,000 feet of the centerline of either Three Rivers route TRB-19A or Tuleta route BT-1B.
120. There are no properties listed on or determined eligible for listing on the National Register of Historic Places within 1,000 feet of the centerline of either Three Rivers route TRB-19A or Tuleta route BT-1B.
121. Three Rivers route TRB-19A crosses areas with a high potential for historical or archeological sites for 10.2 miles. Tuleta route BT-1B crosses areas with a high potential for historical or archeological sites for 11.5 miles.
122. The Commission does not expect the presence of transmission facilities along the agreed route to adversely affect historical or archeological resources.

**Aesthetic Values**

123. Three Rivers route TRB-19A is located within the foreground visual zone of United States or state highways for 5.5 miles and farm-to-market or county roads for 13.2 miles. Tuleta route BT-1B is located within the foreground visual zone of United States or state highways for 4.7 miles and farm-to-market or county roads for 2.2 miles.
124. Three Rivers route TRB-19A is located within the foreground visual zone of a park or recreational area for 0.8 miles. No part of Tuleta route BT-1B is located within the foreground visual zone of recreational or park areas.

125. The Commission does not expect the presence of transmission facilities along the agreed route to adversely affect the aesthetic quality of the surrounding landscape.

**Environmental Integrity**

126. The environmental assessment and routing analysis analyzed the possible effects of the transmission facilities on numerous environmental factors.
127. AEP Texas and Power Engineers evaluated the effects of the transmission facilities on the environment, including endangered and threatened species.
128. Three Rivers route TRB-19A crosses upland woodlands for 10 miles and bottomland or riparian woodlands for 0.4 miles. Tuleta route BT-1B crosses upland woodlands for 9.6 miles and bottomland or riparian woodlands for 0.3 miles.
129. Neither Three Rivers route TRB-19A nor Tuleta route BT-1B crosses wetlands mapped by the National Wetland Inventory.
130. Neither Three Rivers route TRB-19A nor Tuleta route BT-1B crosses the known habitat of a federally listed endangered or threatened species of plant or animal.
131. AEP Texas will cooperate with the United States Fish and Wildlife Service to the extent that field studies identify threatened or endangered species' habitats.
132. AEP Texas will mitigate any effect on federally listed plant or animal species according to standard practices and measures taken in accordance with the Endangered Species Act.
133. It is appropriate for AEP Texas to minimize the amount of flora and fauna disturbed during construction of the transmission facilities.
134. It is appropriate for AEP Texas to re-vegetate cleared and disturbed areas using native species and consider landowner preferences and wildlife needs in doing so.
135. It is appropriate for AEP Texas to avoid, to the maximum extent reasonably possible, causing adverse environmental effects on sensitive plant and animal species and their habitats as identified by the Texas Parks and Wildlife Department and the United States Fish and Wildlife Service.

136. It is appropriate for AEP Texas to implement erosion-control measures and return each affected landowner's property to its original contours and grades unless the landowners agree otherwise. However, it is not appropriate for AEP Texas to restore original contours and grades where different contours and grades are necessary to ensure the safety or stability of any transmission line's structures or the safe operation and maintenance of any transmission line.
137. It is appropriate for AEP Texas to exercise extreme care to avoid affecting non-targeted vegetation or animal life when using chemical herbicides to control vegetation within rights-of-way. The use of chemical herbicides to control vegetation within rights-of-way is required to comply with the rules and guidelines established in the Federal Insecticide, Fungicide, and Rodenticide Act and with Texas Department of Agriculture regulations.
138. It is appropriate for AEP Texas to protect raptors and migratory birds by following the procedures outlined in the following publications: *Reducing Avian Collisions with Power Lines: State of the Art in 2012*, Edison Electric Institute and Avian Power Line Interaction Committee, Washington, D.C. 2012; *Suggested Practices for Avian Protection on Power Lines: The State of the Art in 2006*, Edison Electric Institute, Avian Power Line Interaction Committee, and California Energy Commission, Washington, D.C. and Sacramento, CA 2006; and the *Avian Protection Plan Guidelines*, Avian Power Line Interaction Committee and United States Fish and Wildlife Service, April 2005. It is appropriate for AEP Texas to take precautions to avoid disturbing occupied nests and take steps to minimize the burden of construction on migratory birds during the nesting season of the migratory bird species identified in the area of construction.
139. It is appropriate for AEP Texas to use best management practices to minimize any potential harm that the agreed route presents to migratory birds and threatened or endangered species.
140. The Commission does not expect the presence of transmission facilities along the agreed route to adversely affect the environmental integrity of the surrounding landscape.

**Texas Parks and Wildlife Department's Written Comments and Recommendations**

141. On June 7, 2019, the Texas Parks and Wildlife Department filed a comment letter making various comments and recommendations regarding the transmission facilities.
142. The Texas Parks and Wildlife Department's comment letter addressed issues relating to effects on ecology and the environment but did not consider the other factors the Commission and utilities must consider in CCN applications.
143. The Texas Parks and Wildlife Department identified Three Rivers route TRB-19 and Tuleta route BT-1 as the routes that best minimize adverse effects on natural resources.
144. Before beginning construction, it is appropriate for AEP Texas to undertake appropriate measures to identify whether a potential habitat for endangered or threatened species exists and to respond as required.
145. AEP Texas will comply with all applicable environmental laws and regulations, including those governing threatened and endangered species.
146. AEP Texas will comply with all applicable regulatory requirements in constructing the transmission facilities, including any applicable requirements under section 404 of the Clean Water Act.
147. If construction affects federally listed species or their habitat or affects water under the jurisdiction of the United States Army Corps of Engineers or the Texas Commission on Environmental Quality, AEP Texas will cooperate with the United States Fish and Wildlife Service, United States Army Corps of Engineers, and the Texas Commission on Environmental Quality as appropriate to coordinate permitting and perform any required mitigation.
148. POWER Engineers relied on habitat descriptions from various sources, including the Texas Natural Diversity Database, other sources provided by the Texas Parks and Wildlife Department, and observations from field reconnaissance to determine whether habitats for some species are present in the area surrounding the transmission facilities.

149. AEP Texas will cooperate with the United States Fish and Wildlife Service and the Texas Parks and Wildlife Department if field surveys identify threatened or endangered species' habitats.
150. The standard mitigation requirements included in the ordering paragraphs of this Order, coupled with AEP Texas's current practices, are reasonable measures for a transmission service provider to undertake when constructing a transmission line and sufficiently address the Texas Parks and Wildlife Department's comments and recommendations.
151. This Order addresses only those recommendations by the Texas Parks and Wildlife Department for which there is record evidence.
152. The recommendations and comments made by the Texas Parks and Wildlife Department do not necessitate any modifications to the proposed transmission facilities.

**Permits**

153. Before beginning construction of the proposed transmission facilities, AEP Texas will obtain any necessary permits from the Texas Department of Transportation or any other applicable state agency if the facilities cross state-owned or -maintained properties, roads, or highways.
154. Before beginning construction of the proposed transmission facilities, AEP Texas will obtain a miscellaneous easement from the General Land Office if the transmission line crosses any state-owned riverbed or navigable stream.
155. Before beginning construction of the proposed transmission facilities, AEP Texas will obtain any necessary permits or clearances from federal, state, or local authorities.
156. It is appropriate for AEP Texas, before commencing construction, to obtain a general permit to discharge under the Texas pollutant discharge elimination system for stormwater discharges associated with construction activities as required by the Texas Commission on Environmental Quality. In addition, because more than five acres will be disturbed during construction of the transmission facilities, it is appropriate for AEP Texas, before commencing construction, to prepare the necessary stormwater-pollution-prevention plan,

to submit a notice of intent to the Texas Commission on Environmental Quality, and to comply with all other applicable requirements of the general permit.

157. It is appropriate for AEP Texas to conduct a field assessment of the agreed route before beginning construction of the proposed transmission facilities to identify water resources, cultural resources, potential migratory bird issues, and threatened and endangered species' habitats disrupted by the transmission line before beginning construction of the proposed transmission facilities. As a result of these assessments, AEP Texas will identify all necessary permits from Live Oak and Bee counties and federal and state agencies. AEP Texas will comply with the relevant permit conditions during construction and operation of the transmission facilities along the agreed route.
158. After designing and engineering the alignments, structure locations, and structure heights, AEP Texas will determine the need to notify the Federal Aviation Administration based on the final structure locations and designs. If necessary, AEP Texas will use lower-than-typical structure heights, line marking, or line lighting on certain structures to avoid or accommodate requirements of the Federal Aviation Administration.

**Coastal Management Program**

159. Under 16 TAC § 25.102(a), the Commission may grant a certificate for the construction of transmission facilities within the coastal management program boundary only when it finds that the proposed facilities comply with the goals and applicable policies of the Coastal Management Program or that the proposed facilities will not have any direct and significant effect on any of the applicable coastal natural resource areas as defined under Texas Natural Resources Code § 33.203 and 31 TAC § 501.3(b).
160. No part of the proposed transmission facilities is located within the coastal management program boundary as defined in 31 TAC § 503.1(b).

**Effect on the State's Renewable Energy Goal**

161. 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.

162. The presence of transmission facilities along the agreed route cannot adversely affect the goal for renewable energy development established in PURA § 39.904(a).

**Limitation of Authority**

163. 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.

164. Seven years is a reasonable and appropriate limit to place on the authority granted in this Order to construct the transmission facilities.

**Good Cause Exception**

165. 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 at an open meeting.

**Informal Disposition**

166. More than 15 days have passed since the completion of notice provided in this docket.

167. Intervenors Traylor Land & Cattle Ltd., Superior Natural Gas Corporation, Laguna Family Partnership, Ltd., Charles Hyde, Crystal Hyde, and Jerry Folmar originally requested a hearing in this proceeding but effectively withdrew their requests by joining the agreement.

168. No hearing is necessary.

169. Commission Staff does not oppose the parties' agreement.

170. This decision is not adverse to any party.

171. All of the parties are signatories to or do not oppose the agreement.

**II. Conclusions of Law**

The Commission makes the following conclusions of law.

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

2. AEP Texas is required to obtain the approval of the Commission to construct the proposed transmission line and to provide service to the public using the line.

3. The Commission has authority over the application under PURA §§ 14.001, 32.001, 37.051, 37.053, 37.054, and 37.056.
4. SOAH exercised jurisdiction over the proceeding under PURA § 14.053 and Texas Government Code §§ 2003.021 and 2003.049.
5. The application is sufficient under 16 TAC § 22.75(d).
6. AEP Texas provided notice of the application according to PURA § 37.054 and 16 TAC § 22.52(a).
7. Additional notice of the approved routes is not required under 16 TAC § 22.52(a)(2) because they consist entirely of properly noticed segments contained in the original CCN application, except for V3-modified and E4-modified. Segments V3-modified and E4-modified were agreed to by the respective affected landowners.
8. AEP Texas provided notice of the public meetings in compliance with 16 TAC § 22.52(a)(4).
9. The hearing on the merits was set, and notice of the hearing was provided, in compliance with PURA § 37.054 and Texas Government Code §§ 2001.051 and 2001.052.
10. The Commission processed this docket in accordance with the requirements of PURA, the Administrative Procedure Act,<sup>2</sup> and Commission rules.
11. The transmission facilities using the agreed route are necessary for the service, accommodation, convenience, or safety of the public within the meaning of PURA § 37.056(a).
12. The Texas Coastal Management Program does not apply to any of the transmission facilities proposed in the application, and the requirements of 16 TAC § 25.102 do not apply to the application.
13. The proceeding meets the requirements for informal disposition under 16 TAC § 22.35.

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<sup>2</sup> Administrative Procedure Act, Tex. Gov't Code §§ 2001.001–.902.

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

### III. Ordering Paragraphs

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

1. The Commission amends AEP Texas's CCN number 30028 to include the construction and operation of the Three Rivers-to-Borglum and Borglum-to-Tuleta lines along the agreed routes, comprising the following: TRB-19A segments A, C, H, L, U6, P, T, Y, J1, K1, R1, A2, F2, M2, P2, D3, F3, H3, G3, Q3, V3-modified, and O6; the Borglum substation; and BT-1B segments X3, E4-modified, F4, B7, I4, J4, L4, N4, C7, D7, Z5, U5, A6, Y5, and R5.
2. AEP Texas must consult with pipeline owners or operators in the vicinity of the approved route regarding the pipeline owners' or operators' assessment of the need to install measures to mitigate the effects of alternating-current interference on existing pipelines that are paralleled by the proposed electric transmission facilities.
3. AEP Texas must conduct surveys, if not already completed, to identify metallic pipelines that could be affected by the proposed transmission line and cooperate with pipeline owners in modeling and analyzing potential hazards because of alternating-current interference affecting metallic pipelines being paralleled.
4. AEP Texas must obtain all permits, licenses, plans, and permission required by state and federal law that are necessary to construct the proposed transmission facilities, and if AEP Texas fails to obtain any such permit, license, plan, or permission, it must notify the Commission immediately.
5. AEP Texas must identify any additional permits that are necessary, consult any required agencies (such as the United States Army Corps of Engineers and United States Fish and Wildlife Service), obtain all necessary environmental permits, and comply with the relevant conditions during construction and operation of the proposed transmission facilities.

6. If AEP Texas encounters any archaeological artifacts or other cultural resources during construction, work must cease immediately in the vicinity of the artifact or resource, and AEP Texas must report the discovery to, and act as directed by, the Texas Historical Commission.
7. Before beginning construction, AEP Texas must undertake appropriate measures to identify whether a potential habitat for endangered or threatened species exists and must respond as required.
8. AEP Texas must use best management practices to minimize the potential harm to migratory birds and threatened or endangered species that is presented by the agreed route.
9. AEP Texas must follow the procedures to protect raptors and migratory birds as outlined in the following publications: *Reducing Avian Collisions with Power Lines: State of the Art in 2012*, Edison Electric Institute and Avian Power Line Interaction Committee, Washington, D.C. 2012; *Suggested Practices for Avian Protection on Power Lines: The State of the Art in 2006*, Edison Electric Institute, Avian Power Line Interaction Committee, and the California Energy Commission, Washington, D.C. and Sacramento, CA, 2006; and the *Avian Protection Plan Guidelines*, Avian Power Line Interaction Committee and the United States Fish and Wildlife Service, April 2005. AEP Texas must take precautions to avoid disturbing occupied nests and take steps to minimize the burden of the construction of the transmission facilities on migratory birds during the nesting season of the migratory bird species identified in the area of construction.
10. AEP Texas must exercise extreme care to avoid affecting non-targeted vegetation or animal life when using chemical herbicides to control vegetation within the rights-of-way. Herbicide use must comply with rules and guidelines established in the Federal Insecticide, Fungicide, and Rodenticide Act and with Texas Department of Agriculture regulations.
11. AEP Texas must minimize the amount of flora and fauna disturbed during construction of the transmission facilities, except to the extent necessary to establish appropriate right-of-way clearance for the transmission line. In addition, AEP Texas must re-vegetate using native species and must consider landowner preferences and wildlife needs in doing so. Furthermore, to the maximum extent practicable, AEP Texas must avoid adverse

environmental effects on sensitive plant and animal species and their habitats, as identified by the Texas Parks and Wildlife Department and the United States Fish and Wildlife Service.

12. AEP Texas must implement erosion-control measures as appropriate. Erosion-control measures may include inspection of the rights-of-way before and during construction to identify erosion areas and implement special precautions as determined reasonable to minimize the effect of vehicular traffic over the areas. Also, AEP Texas must return each affected landowner's property to its original contours and grades unless otherwise agreed to by the landowner or the landowner's representative. However, the Commission does not require AEP Texas to restore original contours and grades where a different contour or grade is necessary to ensure the safety or stability of the structures or the safe operation and maintenance of the line.
13. AEP Texas must cooperate with directly affected landowners to implement minor deviations in the approved route to minimize the disruptive effect of the proposed transmission line. Any minor deviations from 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 have agreed to the minor deviation.
14. The Commission does not permit AEP Texas to deviate from the approved route in any instance in which the deviation would be more than a minor deviation without first further amending the relevant CCN.
15. If possible, and subject to the other provisions of this Order, AEP Texas must prudently implement appropriate final design for the transmission line to avoid being subject to the Federal Aviation Administration's notification requirements. If required by federal law, AEP Texas must notify and work with the Federal Aviation Administration to ensure compliance with applicable federal laws and regulations. The Commission does not authorize AEP Texas to deviate materially from this Order to meet the Federal Aviation Administration's recommendations or requirements. If a material change would be necessary to meet the Federal Aviation Administration's recommendations or requirements, then AEP Texas must file an application to amend its CCN as necessary.

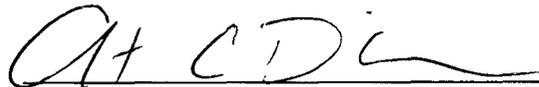
16. AEP Texas must include the transmission facilities approved by this Order on its monthly construction progress reports before the start of construction to reflect the final estimated cost and schedule in accordance with 16 TAC § 25.83(b). In addition, AEP Texas must provide final construction costs, with any necessary explanation for cost variance, after the completion of construction when AEP Texas identifies all charges.
17. Entry of this Order 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.
18. The Commission limits the authority granted by the Order to a period of seven years from the date the Order is signed unless, before that time, the transmission line is commercially energized.
19. The Commission denies all other motions and any other requests for general or specific relief that the Commission has not expressly granted.

Signed at Austin, Texas the 20<sup>th</sup> day of March 2020.

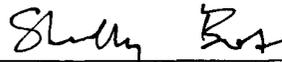
**PUBLIC UTILITY COMMISSION OF TEXAS**



**DEANN T. WALKER, CHAIRMAN**



**ARTHUR C. D'ANDREA, COMMISSIONER**



**SHELLY BOTKIN, COMMISSIONER**