

ATTACHMENT 11
WRITTEN DIRECT NOTICE TO THE DEPARTMENT OF DEFENSE
MILITARY AVIATION AND INSTALLATION ASSURANCE SITING
CLEARINGHOUSE

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Daniela Hammons
Director of Policy and Compliance
713 207 3954
daniela.hammons@centerpointenergy.com

December 17, 2020

Mr. Ron Tickle
Executive Director
Military Aviation and Installation Assurance Siting Clearinghouse
3400 Defense Pentagon, Room 5C646
Washington, D.C. 20301-3400

RE: PUC Docket No. 51568: Application of CenterPoint Energy Houston Electric, LLC to Amend a Certificate of Convenience and Necessity for a Proposed 345 kV Transmission line within Wharton County, Texas

Pursuant to the Rules of the Public Utility Commission of Texas (PUC), please find enclosed a copy of the Notice for CenterPoint Energy Houston Electric, LLC's (CenterPoint Energy) application for certification of the above-referenced 345 kilovolt (kV) transmission line project in Wharton County, Texas, filed at the PUC on December 17, 2020 in PUC Docket No. 51568.

This project concerns the request for approval for CenterPoint Energy to construct a 345 kV single-circuit transmission line on double-circuit capable structures from CenterPoint Energy's Hillje Substation in Wharton County, at 10973 CR 403 (29.029634° - -96.235950°) approximately 1.7 miles west of State Highway 71, to the planned Space City Solar Interconnection Substation that will be located in Wharton County at the northeast corner of FM 3086 and CR 434 (29.013450° - -96.288531°).

CenterPoint Energy respectfully requests to be copied on any correspondence that the Clearinghouse might send to the PUC regarding this project. Please contact me if you have any questions regarding this transmittal or the proposed project.

Sincerely,

A handwritten signature in black ink that reads "Daniela Hammons".

Daniela Hammons

Enclosures: Notice
Route Descriptions
Notice Maps
Landowners and Transmission Line Cases at the PUC
State of Texas Landowner Bill of Rights
Comment Form
Request to Intervene

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Application of CenterPoint Energy Houston Electric, LLC to Amend a Certificate of Convenience and Necessity for a Proposed 345 kV Transmission Line within Wharton County, Texas

PUBLIC UTILITY COMMISSION OF TEXAS DOCKET NO. 51568

This notice is provided to inform you of CenterPoint Energy Houston Electric, LLC's (CenterPoint Energy) intent to construct a 345 kilovolt (kV) single-circuit transmission line on double-circuit capable structures from CenterPoint Energy's Hillje Substation located in Wharton County, at 10973 CR 403(29.029634° - 96.235950°) approximately 1.7 miles west of State Highway 71, to the planned Space City Solar Interconnection Substation, that will be located in Wharton County at the northeast corner of FM 3086 and CR 434 (29.013450° - 96.288531°). The proposed transmission line will be approximately 3.5 to 8 miles long depending upon the route certificated by the Public Utility Commission of Texas (PUC). The estimated cost of this project ranges from approximately \$23,000,000 to \$71,000,000 depending upon the route approved.

If you have questions about the transmission line, you can visit our Space City Solar project website at <https://www.centerpointenergy.com/SpaceCitySolar> or contact Mr. Wes Padgett at (713) 207-7155, e-mail spacecitysolar@centerpointenergy.com.

All routes and route segments included in this notice are available for selection and approval by the Public Utility Commission of Texas.

The enclosed brochure entitled "Landowners and Transmission Line Cases at the PUC" provides basic information about how you may participate in this docket, and how you may contact the PUC. Please read this brochure carefully. The brochure includes sample forms for making comments and for making a request to intervene as a party in this docket. ***The only way to fully participate in the PUC's decision on where to locate the transmission line is to intervene in the docket. It is important for an affected person to intervene, because the utility is not obligated to keep affected persons informed of the PUC's proceedings and cannot predict which route may or may not be approved by the PUC.***

Due to the COVID-19 pandemic, your request for intervention should be filed electronically and you will be required to serve the request on other parties by email. Therefore, please include your own email address on the intervention form. Instructions for electronic filing via the "PUC Filer" on the Commission's website can be found here: <https://interchange.puc.texas.gov/filer> Instructions for using the PUC Filer are available at http://www.puc.texas.gov/industry/filings/New_PUC_Web_Filer_Presentation.pdf. Once you obtain a tracking sheet associated with your filing from the PUC Filer, you may email the tracking sheet and the document you wish to file to: centralrecords@puc.texas.gov. For assistance with your electronic filing, please contact the Commission's Help Desk at (512) 936-7100 or helpdesk@puc.texas.gov. You can review materials filed in this docket on the PUC Interchange at: <https://interchange.puc.texas.gov/>.

In addition to the contacts listed in the brochure, you may call the PUC's Customer Assistance Hotline at (888) 782-8477. Hearing- and speech-impaired individuals with text telephones (TTY)

may contact the PUC's Customer Assistance Hotline at (512) 936-7136 or toll free at (800) 735-2989.

If you wish to participate in this proceeding by becoming an intervenor, the deadline for intervention in the proceeding is **February 1, 2021**, and the PUC should receive a letter from you requesting intervention by that date.

While the preferred method is for you to submit your request for intervention electronically, if you are unable to do so you may mail 10 copies of the request to:

Public Utility Commission of Texas
Central Records
Attn: Filing Clerk
1701 N. Congress Ave.
P.O. Box 13326
Austin, Texas. 78711-3326
Email: centralrecords@puc.texas.gov

Persons who wish to intervene in the docket must also mail a copy of their request for intervention to all parties in the docket and all persons that have pending motions to intervene, at or before the time the request for intervention is mailed to the PUC. In addition to the intervention deadline, other important deadlines may already exist that affect your participation in this docket. You should review the orders and other filings already made in the docket. The enclosed brochure explains how you can access these filings.

Enclosures: Route Descriptions
Notice Map
Landowners and Transmission Line Cases at the PUC
State of Texas Landowner Bill of Rights
Comment Form
Request to Intervene Form

**CenterPoint Energy Houston Electric, LLC
345 kV Space City Solar Project in
Wharton County, Texas
PUCT Docket No. 51568
Description of the Alternative Routes**

CenterPoint Energy Houston Electric, LLC (“CenterPoint Energy”) has filed an application with the Public Utility Commission of Texas (“PUC”) to obtain a Certificate of Convenience and Necessity (“CCN”) to construct the proposed 345 kV Space City Solar Project in Wharton County, Texas. In its CCN application for this project, CenterPoint Energy has presented seven alternative routes comprised of 16 segments for consideration by the PUC. The following table lists the segment combinations that make up CenterPoint Energy’s seven alternative routes and the length of each alternative route in miles. **All routes and route Segments are available for selection and approval by the PUC. Only one multi-segment transmission line route will ultimately be constructed. Alternative Routes are not listed in any order of preference or priority.**

Proposed Alternative Route Number	Segment Composition	Length (Miles)
1	A-N-P	4.2
2	B-C-G-J-N-P	4.1
3	B-C-G-K-O-P	3.5
4	B-C-H-L-O-P	3.6
5	B-C-H-I-M	6.2
6	B-D-E-I-M	6.9
7	B-D-F-M	8.0

Note: All distances of the routes above are approximate and rounded to the nearest tenths of a mile. The distances of individual Segments described below are rounded to the hundredths of a mile and may not sum to the total length of route presented above due to rounding.

The following narrative, along with the enclosed map, provides a detailed description of the Segments that form the seven alternative routes for consideration by the PUC for the 345 kV Space City Solar Project.

Note: A “pipeline corridor”, as referenced in the segment descriptions below, may contain more than one pipeline.

Segment A

Segment A begins at the proposed Space City Solar Interconnection Substation, which is located on the northeast corner of the intersection of Farm to Market Road (FM) 3086 and County Road (CR) 434 approximately 1.84 miles south of FM 441. Segment A proceeds north for approximately 0.84 mile, paralleling the east side of FM 3086. The segment turns east for approximately 0.74 mile, then angles east-southeast for approximately 0.12 mile, then proceeds east for approximately 0.54 mile. The segment then angles east-northeast for approximately 0.25 mile, crossing an existing pipeline corridor. The segment then angles east for approximately 0.38 mile, crossing three existing pipeline corridors, an existing transmission line, and CR 401. The segment terminates at its intersection with Segments J and N, on the east side of CR 401.

CenterPoint Energy Houston Electric, LLC
345 kV Space City Solar Project in
Wharton County, Texas
PUCT Docket No. 51568
Description of the Alternative Routes

Segment B

Segment B begins at the proposed Space City Solar Interconnection Substation, which is located on the northeast corner of the intersection of FM 3086 and CR 434 approximately 1.84 miles south of FM 441. Segment B proceeds east for approximately 0.83 mile, paralleling the north side of CR 434. The segment terminates at its intersection with Segments C and D, on the north side of CR 434.

Segment C

Segment C begins at its intersection with Segments B and D, on the north side of CR 434, and proceeds east for approximately 0.77 mile, paralleling the north side of CR 434. The segment terminates at its intersection with Segments G and H, on the north side of CR 434.

Segment D

Segment D begins at its intersection with Segments B and C, on the north side of CR 434, and proceeds south for approximately 0.44 mile, crossing CR 434. The segment terminates at its intersection with Segments E and F.

Segment E

Segment E begins at its intersection with Segments D and F. The segment proceeds southeast for approximately 0.15 mile, crossing six existing pipeline corridors. The segment then angles east for approximately 0.52 mile, then angles northeast for approximately 0.71 mile, paralleling the northwest side of an existing transmission line and crossing CR 401. The segment terminates at its intersection with Segments H, I, and L, on the northwest side of an existing transmission line.

Segment F

Segment F begins at its intersection with Segments D and E. The segment proceeds south for approximately 0.5 mile, crossing six existing pipeline corridors, then angles southeast for approximately 0.20 mile, crossing two existing pipeline corridors, an existing transmission line, and Moccasin Creek. The segment then angles east-northeast for approximately 0.38 mile, then angles east for approximately 0.38 mile. The segment angles east-northeast for approximately 0.15 mile, crossing and then paralleling CR 401 on the southeast side and crossing two existing pipeline corridors. The segment turns north for approximately 0.72 mile, paralleling the east side of CR 401 and crossing Moccasin Creek, then angles northeast for approximately 0.28 mile, paralleling the southeast side of an existing transmission line. The segment terminates at its intersection with Segments I and M, on the southeast side of an existing transmission line.

Segment G

Segment G begins at its intersection with Segments C and H, on the north side of CR 434, and proceeds east-northeast for approximately 0.27 mile, paralleling five existing pipeline corridors and crossing CR 401. The segment terminates at its intersection with Segments J and K, on the east side of CR 401.

Segment H

Segment H begins at its intersection with Segments C and G, on the north side of CR 434. The segment proceeds east-southeast for approximately 0.15 mile, crossing CR 434 and five existing pipeline corridors. The segment angles east for approximately 0.10 mile, paralleling CR 434 on the south side and crossing CR 401, then angles east-southeast for approximately 0.15 mile. The segment terminates at its intersection with Segments E, I, and L, on the northwest side of an existing transmission line.

CenterPoint Energy Houston Electric, LLC
345 kV Space City Solar Project in
Wharton County, Texas
PUCT Docket No. 51568
Description of the Alternative Routes

Segment I

Segment I begins at its intersection with Segments E, H, and L, on the northwest side of an existing transmission line, and proceeds east-southeast for approximately 0.06 mile, crossing an existing transmission line. The segment terminates at its intersection with Segments F and M, on the southeast side of an existing transmission line.

Segment J

Segment J begins at its intersection with Segments G and K, on the east side of CR 401. The segment proceeds north for approximately 0.31 mile, paralleling CR 401. The segment angles slightly to the east for approximately 0.25 mile and then angles back to the north for approximately 0.35 mile, crossing Moccasin Creek, four existing pipeline corridors, and an existing transmission line. The segment terminates at its intersection with Segments A and N, on the east side of CR 401 and north of the existing transmission line.

Segment K

Segment K begins at its intersection with Segments G and J, on the east side of CR 401. The segment proceeds east-northeast for approximately 0.84 mile, paralleling five existing pipeline corridors on the north side, and crossing Moccasin Creek. The segment terminates at its intersection with Segments L and O, on the northwest side of an existing transmission line.

Segment L

Segment L begins at its intersection with Segments E, H, and I, on the northwest side of an existing transmission line. The segment proceeds northeast for approximately 0.81 mile, paralleling the northwest side of an existing transmission line, and crossing Moccasin Creek and five existing pipeline corridors. The segment terminates at its intersection with Segments K and O, on the northwest side of an existing transmission line.

Segment M

Segment M begins at its intersection with Segments F and I, on the southeast side of an existing transmission line. The segment proceeds east for approximately 1.55 miles, crossing Moccasin Creek and two existing pipeline corridors, then angles east-northeast for approximately 0.18 mile, crossing three existing transmission lines. The segment angles east for approximately 0.35 mile, crossing an existing pipeline corridor and Juanita Creek then turns north for approximately 0.26 mile, then angles west-northwest for approximately 0.26 mile. The segment turns north for approximately 0.46 mile, angles slightly northwest for approximately 0.16 mile, and angles north for approximately 0.10 mile, crossing two existing pipeline corridors and CR 403. The segment turns west and parallels CR 403 for approximately 0.27 mile, crossing seven pipeline corridors. The segment turns north-northwest for approximately 0.20 mile, then turns west for approximately 0.33 mile, paralleling the south side of an existing transmission line, crossing an existing transmission line. The segment turns south for approximately 0.03 mile and terminates at the existing Hillje Substation, which is located approximately 0.23 miles east of CR 403 and approximately .82 miles south of FM 441.

Segment N

Segment N begins at its intersection with Segments A and J, on the east side of CR 401. The segment proceeds east for approximately 0.81 mile, crossing an existing pipeline corridor. The segment angles south-southeast for approximately 0.13 and angles east for approximately 0.26 mile, paralleling the north side of the existing transmission line and paralleling the south side of CR 403. The segment terminates at its intersection with Segments O and P, on the south side of CR 403.

**CenterPoint Energy Houston Electric, LLC
345 kV Space City Solar Project in
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Description of the Alternative Routes**














Segment O

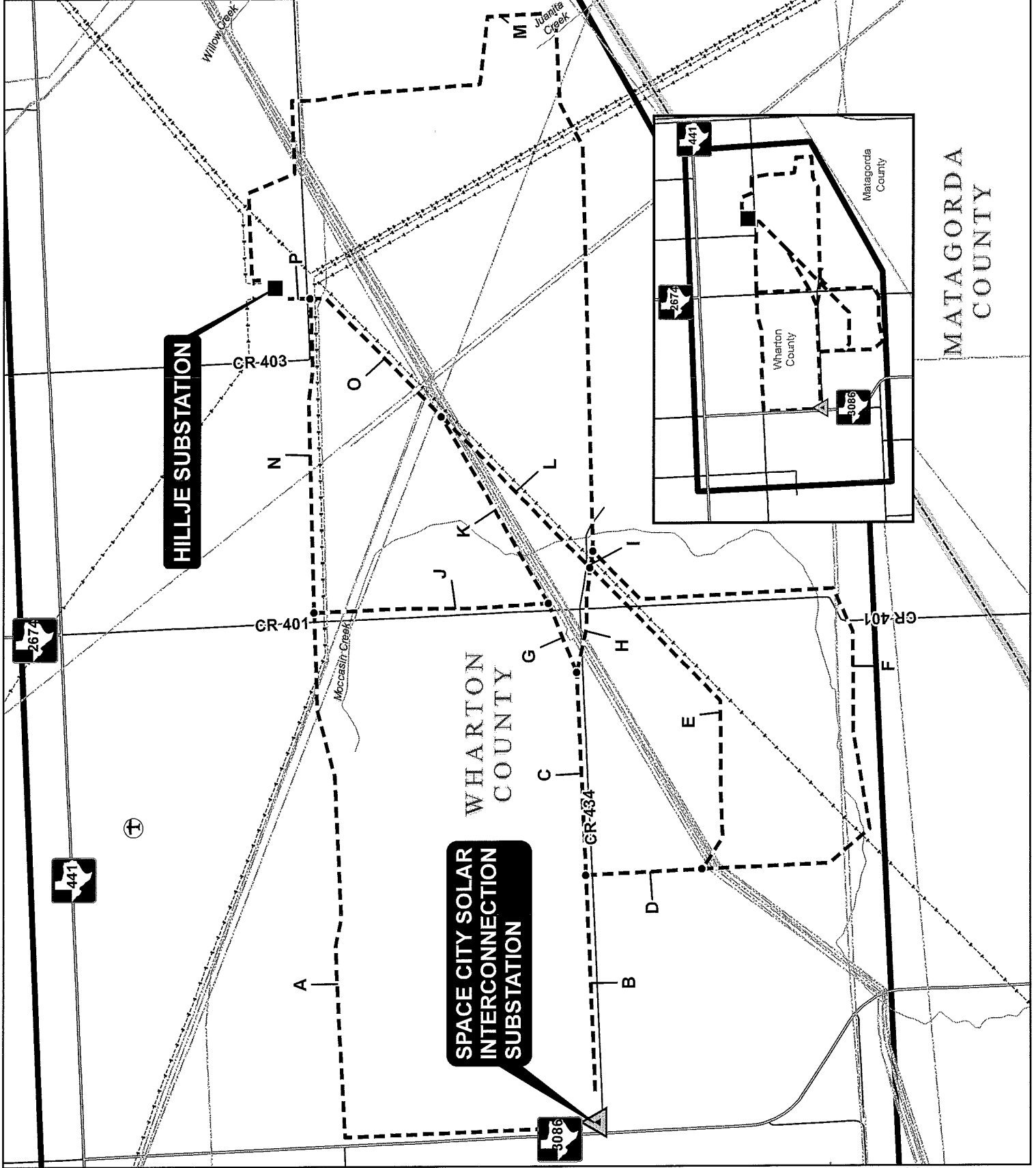
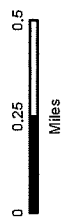
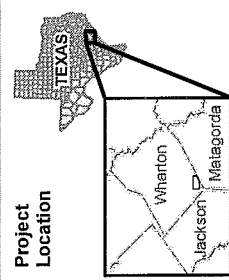
Segment O begins at its intersection with Segments K and L, on the northwest side of an existing transmission line and proceeds northeast for approximately 0.64 mile, paralleling the northwest side of an existing transmission line and crossing five existing pipeline corridors. The segment turns north for approximately 0.06 mile, crossing an existing pipeline corridor and an existing transmission line. The segment terminates at its intersection with Segments N and P, on the south side of CR 403.

Segment P

Segment P begins at its intersection with Segments N and O on the south side of CR 403, and proceeds north for approximately 0.09 mile, crossing CR 403. The segment terminates at the existing Hillje Substation, which is located approximately 0.23 miles east of CR 403 and approximately 0.82 miles south of FM 441.

**345 KV SPACE CITY
SOLAR PROJECT
PROPOSED
ALTERNATIVE
ROUTES**

-  Study Area Boundary
-  Project Substation
-  Existing Substation
-  Alternative Route Nodes
-  Alternative Route Segments
-  Existing Transmission Line
-  Oil / Gas Pipeline
-  Farm-to-Market Road
-  County Road
-  Private Airport
-  River / Stream
-  Waterbody
-  County Boundary



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Landowners and Transmission Line Cases at the PUC

Public Utility Commission of Texas



1701 N. Congress Avenue
P.O. Box 13326
Austin, Texas 78711-3326
(512) 936-7261
www.puc.state.tx.us

Effective: June 1, 2011

Purpose of This Brochure

This brochure is intended to provide landowners with information about proposed new transmission lines and the Public Utility Commission's ("PUC" or "Commission") process for evaluating these proposals. At the end of the brochure is a list of sources for additional information.

The following topics are covered in this brochure:

- How the PUC evaluates whether a new transmission line should be built,
- How you can participate in the PUC's evaluation of a line, and
- How utilities acquire the right to build a transmission line on private property.

You are receiving the enclosed formal notice because one or more of the routes for a proposed transmission line may require an easement or other property interest across your property, or the centerline of the proposed project may come within 300 feet of a house or other habitable structure on your property. This distance is expanded to 500 feet if the proposed line is greater than 230 kilovolts (kV). For this reason, your property is considered **directly affected land**. This brochure is being included as part of the formal notice process.

If you have questions about the proposed routes for a transmission line, you may contact the applicant. The applicant also has a more detailed map of the proposed routes for the transmission line and nearby habitable structures. The applicant may help you understand the routing of the project and the application approval process in a transmission line case but cannot provide legal advice or represent you. ***The applicant cannot predict which route may or may not be approved by the PUC. The PUC decides which route to use for the transmission line, and the applicant is not obligated to keep you informed of the PUC's proceedings. The only way to fully participate in the PUC's decision on where to locate the transmission line is to intervene, which is discussed below.***

The PUC is sensitive to the impact that transmission lines have on private property. At the same time, transmission lines deliver electricity to millions of homes and businesses in Texas, and new lines are sometimes needed so that customers can obtain reliable, economical power.

The PUC's job is to decide whether a transmission line application should be approved and on which route the line should be constructed. The PUC values input from landowners and encourages you to participate in this process by intervening in the docket.

PUC Transmission Line Case

Texas law provides that most utilities must file an application with the PUC to obtain or amend a Certificate of Convenience and Necessity (CCN) in order to build a new transmission line in Texas. The law requires the PUC to consider a number of factors in deciding whether to approve a proposed new transmission line.

The PUC may approve an application to obtain or amend a CCN for a transmission line after considering the following factors:

- Adequacy of existing service;
- Need for additional service;
- The effect of approving the application on the applicant and any utility serving the proximate area;
- Whether the route utilizes existing compatible rights-of-way, including the use of vacant positions on existing multiple-circuit transmission lines;
- Whether the route parallels existing compatible rights-of-way;
- Whether the route parallels property lines or other natural or cultural features;
- Whether the route conforms with the policy of prudent avoidance (which is defined as the limiting of exposures to electric and magnetic fields that can be avoided with reasonable investments of money and effort); and
- Other factors such as community values, recreational and park areas, historical and aesthetic values, environmental integrity, and the probable improvement of service or lowering of cost to consumers in the area.

If the PUC decides an application should be approved, it will grant to the applicant a CCN or CCN amendment to allow for the construction and operation of the new transmission line.

Application to Obtain or Amend a CCN:

An application to obtain or amend a CCN describes the proposed line and includes a statement from the applicant describing the need for the line and the impact of building it. In addition to the routes proposed by the applicant in its application, the possibility exists that additional routes may be developed, during the course of a CCN case, that could affect property in a different manner than the original routes proposed by the applicant.

The PUC conducts a case to evaluate the impact of the proposed line and to decide which route should be approved. Landowners who would be affected by a new line can:

- informally file a protest, or
- formally participate in the case as an intervenor.

Filing a Protest (informal comments):

If you do not wish to intervene and participate in a hearing in a CCN case, you may file **comments**. An individual or business or a group who files only comments for or against any aspect of the transmission line application is considered a “protestor.”

Protestors make a written or verbal statement in support of or in opposition to the utility’s application and give information to the PUC staff that they believe supports their position.

Protestors are **not** parties to the case, however, and **do not have the right to:**

- Obtain facts about the case from other parties;
- Receive notice of a hearing, or copies of testimony and other documents that are filed in the case;
- Receive notice of the time and place for negotiations;
- File testimony and/or cross-examine witnesses;
- Submit evidence at the hearing; or
- Appeal P.U.C. decisions to the courts.

If you want to make comments, you may either send written comments stating your position, or you may make a statement on the first day of the hearing. If you have not intervened, however, you will not be able to participate as a party in the hearing. Only parties may submit evidence and ***the PUC must base its decision on the evidence.***

Intervening in a Case:

To become an intervenor, you must file a statement with the PUC, no later than the date specified in the notice letter sent to you with this brochure, requesting intervenor status (also referred to as a party). This statement should describe how the proposed transmission line would affect your property. Typically, intervention is granted only to directly affected landowners. However, any landowner may request to intervene and obtain a ruling on his or her specific fact situation and concerns. A sample form for intervention and the filing address are attached to this brochure, and may be used to make your filing. A letter requesting intervention may also be used in lieu of the sample form for intervention.

If you decide to intervene and become a party in a case, you will be required to follow certain procedural rules:

- You are required to timely respond to requests for information from other parties who seek information.
- If you file testimony, you must appear at a hearing to be cross-examined.
- If you file testimony or any letters or other documents in the case, you must send copies of the documents to every party in the case and you must file multiple copies with the PUC.
- If you intend to participate at the hearing and you do not file testimony, you must at least file a statement of position, which is a document that describes your position in the case.
- Failure to comply with these procedural rules may serve as grounds for you to be dismissed as an intervenor in the case.
- If you wish to participate in the proceedings it is very important to attend any prehearing conferences.

Intervenors may represent themselves or have an attorney to represent them in a CCN case. If you intervene in a case, you may want an attorney to help you understand the PUC’s procedures and the laws and rules that the PUC applies in deciding whether to approve a transmission line. The PUC encourages landowners to intervene and become parties.

Stages of a CCN Case:

If there are persons who intervene in the case and oppose the approval of the line, the PUC may refer the case to an administrative law judge (ALJ) at the State Office of Administrative Hearings (SOAH) to conduct a hearing, or the Commission may elect to conduct a hearing itself. The hearing is a formal proceeding, much like a trial, in which testimony is presented. In the event the case is referred to SOAH, the ALJ makes a recommendation to the PUC on whether the application should be approved and where and how the line should be routed.

There are several stages of a CCN case:

- The ALJ holds a prehearing conference (usually in Austin) to set a schedule for the case.
- Parties to the case have the opportunity to conduct discovery; that is, obtain facts about the case from other parties.
- A hearing is held (usually in Austin), and parties have an opportunity to cross-examine the witnesses.
- Parties file written testimony before the date of the hearing. Parties that do not file written testimony or statements of position by the deadline established by the ALJ may not be allowed to participate in the hearing on the merits.
- Parties may file written briefs concerning the evidence presented at the hearing, but are not required to do so.
- In deciding where to locate the transmission line and other issues presented by the application, the ALJ and Commission rely on factual information submitted as evidence at the hearing by the parties in the case. In order to submit factual information as evidence (other than through cross-examination of other parties' witnesses), a party must have intervened in the docket and filed written testimony on or before the deadline set by the ALJ.
- The ALJ makes a recommendation, called a **proposal for decision**, to the Commission regarding the case. Parties who disagree with the ALJ's recommendation may file exceptions.
- The Commissioners discuss the case and decide whether to approve the application. The Commission may approve the ALJ's recommendation, approve it with specified changes, send the case back to the ALJ for further consideration, or deny the application. The written decision rendered by the Commission is called a **final order**. Parties who believe that the Commission's decision is in error may file motions for rehearing, asking the Commission to reconsider the decision.
- After the Commission rule on the motion for rehearing, parties have the right to appeal the decision to district court in Travis County.
-

Right to Use Private Property

The Commission is responsible for deciding whether to approve a CCN application for a proposed transmission line. If a transmission line route is approved that impacts your property, the electric utility must obtain the right from you to enter your property and to build, operate, and maintain the transmission line. This right is typically called an easement.

Utilities may buy easements through a negotiated agreement, but they also have the power of eminent domain (condemnation) under Texas law. Local courts, not the PUC, decide issues concerning easements for rights-of-way. The PUC does not determine the value of property.

The PUC final order in a transmission case normally requires a utility to take certain steps to minimize the impact of the new transmission line on landowners' property and on the environment. For example, the order normally requires steps to minimize the possibility of erosion during construction and maintenance activities.

HOW TO OBTAIN MORE INFORMATION

The PUC's online filings interchange on the PUC website provides free access to documents that are filed with the Commission in Central Records. The docket number, also called a control number on the PUC website, of a case is a key piece of information used in locating documents in the case. You may access the Interchange by visiting the PUC's website home page at www.puc.state.tx.us and navigate the website as follows:

- Select "Interchange Retrieval."
- Select "Retrieve Filings."
- Select "Filings Search"
- Enter 5-digit Control (Docket) Number. *No other information is necessary.*
- Select "Search." *All of the filings in the docket will appear in order of date filed.*
- Scroll down to select desired filing.
- Click on a blue "Item" number at left.
- Click on a "Download" icon at left.

Documents may also be purchased from and filed in Central Records. For more information on how to purchase or file documents, call Central Records at the PUC at 512-936-7180.

PUC Substantive Rule 25.101, Certification Criteria, addresses transmission line CCNs and is available on the PUC's website, or you may obtain copies of PUC rules from Central Records.

Always include the docket number on all filings with the PUC. You can find the docket number on the enclosed formal notice. Send documents to the PUC at the following address.

Public Utility Commission of Texas
Central Records
Attn: Filing Clerk
1701 N. Congress Avenue
P.O. Box 13326
Austin, TX 78711-3326

The information contained within this brochure is not intended to provide a comprehensive guide to landowner rights and responsibilities in transmission line cases at the PUC. This brochure should neither be regarded as legal advice nor should it be a substitute for the PUC's rules. However, if you have questions about the process in transmission line cases, you may call the PUC's Legal Division at 512-936-7261. The PUC's Legal Division may help you understand the process in a transmission line case but cannot provide legal advice or represent you in a case. You may choose to hire an attorney to decide whether to intervene in a transmission line case, and an attorney may represent you if you choose to intervene.

Communicating with Decision-Makers

Do not contact the ALJ or the Commissioners by telephone or email. They are not allowed to discuss pending cases with you. They may make their recommendations and decisions only by relying on the evidence, written pleadings, and arguments that are presented in the case.

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THE STATE OF TEXAS LANDOWNER'S BILL OF RIGHTS

This Landowner's Bill of Rights applies to any attempt to condemn your property. The contents of this Bill of Rights are set out by the Texas Legislature in Texas Government Code section 402.031 and chapter 21 of the Texas Property Code. Any entity exercising eminent domain authority must provide a copy of this Bill of Rights to you.

1. You are entitled to receive adequate compensation if your property is condemned.
2. Your property can only be condemned for a public use.
3. Your property can only be condemned by a governmental entity or private entity authorized by law to do so.
4. The entity that wants to acquire your property must notify you that it intends to condemn your property.
5. The entity proposing to acquire your property must provide you with a written appraisal from a certified appraiser detailing the adequate compensation you are owed for your property.
6. The condemning entity must make a bona fide offer to buy the property before it files a lawsuit to condemn the property—meaning the condemning entity must make a good faith offer that conforms with chapter 21 of the Texas Property Code.
7. You may hire an appraiser or other professional to determine the value of your property or to assist you in any condemnation proceeding.
8. You may hire an attorney to negotiate with the condemning entity and to represent you in any legal proceedings involving the condemnation.
9. Before your property is condemned, you are entitled to a hearing before a court-appointed panel of three special commissioners. The special commissioners must determine the amount of compensation the condemning entity owes for condemning your property. The commissioners must also determine what compensation, if any, you are entitled to receive for any reduction in value of your remaining property.
10. If you are unsatisfied with the compensation awarded by the special commissioners, or if you question whether the condemnation of your property was proper, you have the right to a trial by a judge or jury. You may also appeal the trial court's judgment if you are unsatisfied with the result.



PREPARED BY THE OFFICE OF THE ATTORNEY GENERAL OF TEXAS



CONDEMNATION PROCEDURE

Eminent domain is the legal authority certain governmental and private entities have to condemn private property for public use in exchange for adequate compensation. Only entities authorized by law to do so may condemn private property. Private property can include land and certain improvements that are on that property.

WHO CAN I HIRE TO HELP ME?

You can hire an appraiser or real estate professional to help you determine the value of your property as well as an attorney to negotiate with a condemning entity or to represent you during condemnation proceedings.

WHAT QUALIFIES AS A PUBLIC PURPOSE OR USE?

Your property may be condemned only for a purpose or use that serves the general public. This could include building or expanding roadways, public utilities, parks, universities, and other infrastructure serving the public. Texas law does not allow condemning authorities to exercise eminent domain for tax revenue or economic development.



WHAT IS ADEQUATE COMPENSATION?

Adequate compensation typically means the market value of the property being condemned. It could also include certain damages if your remaining property's market value is diminished by the condemnation or the public purpose for which it is being condemned.

OTHER THAN ADEQUATE COMPENSATION, WHAT OTHER COMPENSATION COULD I BE OWED?

If you are displaced from your residence or place of business, you may be entitled to reimbursement for reasonable expenses incurred while moving to a new site. However, reimbursement costs may not be available if those expenses are recoverable under another law. Also, reimbursement costs are capped at the market value of the property.

WHAT DOES A CONDEMNOR HAVE TO DO BEFORE CONDEMNING MY PROPERTY?

- ◆ Provide you a copy of this Landowner's Bill of Rights before, or at the same time as, the entity first represents that it possesses eminent domain authority. It is also required to send this Landowner's Bill of Rights to the last known address of the person listed as the property owner on the most recent tax roll.
- ◆ Make a bona fide offer to purchase the property. A bona fide offer includes an initial written offer as well as a final written offer. This process is described more fully in chapter 21 of the Texas Property Code.
- ◆ Disclose any appraisal reports. When making its initial offer, the condemning entity must share its appraisal reports that relate to the property from the past 10 years. You have the right to discuss the offer with others and to either accept or reject the offer made by the condemning entity.
- ◆ Make a final offer 30 or more days after the initial bona fide offer. The offered compensation must equal or exceed the amount listed in a written, certified appraisal provided to you. The final offer must also provide copies of the instrument conveying the property rights sought (such as the deed transferring title or the easement spelling out the easement rights) and the Landowner's Bill of Rights (if not provided previously). The condemnor must give you at least 14 days to consider the final offer before filing a lawsuit to condemn your property.

WHAT IF I DO NOT ACCEPT AN OFFER BY THE CONDEMNING AUTHORITY?

The condemnor can start the legal condemnation process by filing a lawsuit to acquire your property in the appropriate court of the county where the property is located.

WHAT DOES THE CONDEMNOR HAVE TO INCLUDE IN THE LAWSUIT FILED WITH THE COURT?

The lawsuit must describe the property being condemned and state the following: the public use; your name; that you and the condemning entity were unable to agree on the value of the property; that the condemning entity gave you the Landowner's Bill of Rights; and that the condemning entity made a bona fide offer to voluntarily purchase the property from you.

SPECIAL COMMISSIONERS' HEARING AND AWARD

After the condemning entity files a condemnation lawsuit in court, the judge will appoint three local landowners to serve as special commissioners. The special commissioners are required to schedule a condemnation hearing at the earliest practical time and place and to give you written notice of the hearing.

WHAT DO THE SPECIAL COMMISSIONERS DO?

The special commissioners' role is to determine what is adequate compensation for your property. After hearing evidence from all interested parties, the special commissioners will determine the amount of money that is adequate compensation and file their written decision, known as an "Award," in the court with notice to all parties. Once the Award is filed, the condemning entity may take possession of the property being condemned, even if one or more parties object to the Award of the special commissioners.

ARE THERE LIMITATIONS ON WHAT THE SPECIAL COMMISSIONERS CAN DO?

Yes. The special commissioners are tasked only with determining monetary compensation for the value of the property condemned and the value of any damages to the remaining property. They do not decide whether the condemnation is necessary or if the public use is proper. Further, the special commissioners do not have the power to alter the terms of an easement, reduce the size of the land acquired, or say what access will be allowed to the property during or after the condemnation. The special commissioners also cannot determine who should receive what portion of the compensation they award. Essentially, the special commissioners are empowered only to say how much money the condemnor should pay for the land or rights being acquired.

WHO CAN BE A SPECIAL COMMISSIONER? CAN I OBJECT TO THEM?

Special commissioners must be landowners and residents in the county where the condemnation proceeding is filed, and they must take an oath to assess the amount of adequate compensation fairly, impartially, and according to the law. The judge will give you a reasonable period to object to, or strike, one of the special commissioners. If a commissioner is struck, the judge will appoint a replacement.

WHAT WILL HAPPEN AT THE SPECIAL COMMISSIONERS' HEARING?

The special commissioners will consider any evidence (such as appraisal reports and witness testimony) on the value of your condemned property, the damages or value added to remaining property that is not being condemned, and the condemning entity's proposed use of the property.

WHAT ARE MY RIGHTS AT THE SPECIAL COMMISSIONERS' HEARING?

You have the right to appear or not appear at the hearing. If you do appear, you can question witnesses or offer your own evidence on the value of the property. If you intend to use appraisal reports to support your claim about adequate compensation, you must provide them to the condemning entity 10 days after you receive them or three business days before the hearing, whichever is earlier.

DO I HAVE TO PAY FOR THE SPECIAL COMMISSIONERS' HEARING?

If the special commissioners' award is less than or equal to the amount the condemning entity offered to pay before the proceedings began, then you may be financially responsible for the cost of the condemnation proceedings. But, if the award is more than the condemning entity offered to pay before the proceedings began, then the condemning entity will be responsible for the costs.

WHAT DOES THE CONDEMNOR NEED TO DO TO TAKE POSSESSION OF THE PROPERTY?

Once the condemning entity either pays the amount of the award to you or deposits it into the court's registry, the entity may take possession of the property and put the property to public use. Non-governmental condemning authorities may also be required to post bonds in addition to the award amount. You have the right to withdraw funds that are deposited into the registry of the court, but when you withdraw the money, you can no longer challenge whether the eminent domain action is valid—only whether the amount of compensation is adequate.

OBJECTING TO THE SPECIAL COMMISSIONERS' AWARD

If you, the condemning entity, or any other party is unsatisfied with the amount of the award, that party can formally object. The objection must be filed in writing with the court and is due by the first Monday following the 20th day after the clerk gives notice that the commissioners have filed their award with the court. If no party timely objects to the special commissioners' award, the court will adopt the award amount as the final compensation due and issue a final judgment in absence of objection.

WHAT HAPPENS AFTER I OBJECT TO THE SPECIAL COMMISSIONERS' AWARD?

If a party timely objects, the court will hear the case just like other civil lawsuits. Any party who objects to the award has the

right to a trial and can elect whether to have the case decided by a judge or jury.

WHO PAYS FOR TRIAL?

If the verdict amount at trial is greater than the amount of the special commissioners' award, the condemnor may be ordered to pay costs. If the verdict at trial is equal to or less than the amount the condemnor originally offered, you may be ordered to pay costs.

IS THE TRIAL VERDICT THE FINAL DECISION?

Not necessarily. After trial any party may appeal the judgment entered by the court.

DISMISSAL OF THE CONDEMNATION ACTION

A condemnation action may be dismissed by either the condemning authority itself or on a motion by the landowner.

WHAT HAPPENS IF THE CONDEMNING AUTHORITY NO LONGER WANTS TO CONDEMN MY PROPERTY?

If a condemning entity decides it no longer needs your condemned property, it can file a motion to dismiss the condemnation proceeding. If the court grants the motion to dismiss, the case is over, and you can recover reasonable and necessary fees for attorneys, appraisers, photographers, and for other expenses up to that date.

WHAT IF I DO NOT THINK THE CONDEMNING ENTITY HAS THE RIGHT TO CONDEMN MY PROPERTY?

You can challenge the right to condemn your property by filing a motion to dismiss the condemnation proceeding. For example, a landowner could challenge the condemning entity's claim that it seeks to condemn the property for a public use. If

the court grants the landowner's motion, the court may award the landowner reasonable and necessary fees and expenses incurred to that date.

CAN I GET MY PROPERTY BACK IF IT IS CONDEMNED BUT NEVER PUT TO A PUBLIC USE?

You may have the right to repurchase your property if your property is acquired through eminent domain and:

- ◆ the public use for which the property was acquired is canceled before that property is put to that use,
- ◆ no actual progress is made toward the public use within 10 years, or
- ◆ the property becomes unnecessary for public use within 10 years.

The repurchase price is the price you were paid at the time of the condemnation.

ADDITIONAL RESOURCES

For more information about the procedures, timelines, and requirements outlined in this document, see chapter 21 of the Texas Property Code. The information in this statement is intended to be a summary of the applicable portions of Texas

state law as required by HB 1495, enacted by the 80th Texas Legislature, Regular Session. This statement is not legal advice and is not a substitute for legal counsel.

Comments in Docket No. _____

If you want to be a PROTESTOR only, please complete this form. Although public comments are not treated as evidence, they help inform the PUC and its staff of the public concerns and identify issues to be explored. The PUC welcomes such participation in its proceedings.

Mail this completed form and 10 copies to:

Public Utility Commission of Texas
Central Records
Attn: Filing Clerk
1701 N. Congress Ave.
P.O. Box 13326
Austin, TX 78711-3326

First Name: _____ Last Name: _____

Phone Number: _____ Fax Number: _____

Address, City, State: _____

I am NOT requesting to intervene in this proceeding. As a PROTESTOR, I understand the following:

- I am NOT a party to this case;
- My comments are not considered evidence in this case; and
- I have no further obligation to participate in the proceeding.

Please check one of the following:

- ☐ I own property with a habitable structure located near one or more of the utility's proposed routes for a transmission line.
- ☐ One or more of the utility's proposed routes would cross my property.
- ☐ Other. Please describe and provide comments. You may attach a separate page, if necessary. _____

Signature of person submitting comments:

_____ Date: _____

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Request to Intervene in PUC Docket No.

The following information must be submitted by the person requesting to intervene in this proceeding. This completed form will be provided to all parties in this docket. **If you DO NOT want to be an intervenor, but still want to file comments, please complete the "Comments" page.**

Mail this completed form and 10 copies to:

Public Utility Commission of Texas
Central Records
Attn: Filing Clerk
1701 N. Congress Ave.
P.O. Box 13326
Austin, TX 78711-3326

First Name: _____ Last Name: _____

Phone Number: _____ Fax Number: _____

Address, City, State: _____

Email Address: _____

I am requesting to intervene in this proceeding. As an INTERVENOR, I understand the following:

- I am a party to the case;
- I am required to respond to all discovery requests from other parties in the case;
- If I file testimony, I may be cross-examined in the hearing;
- If I file any documents in the case, I will have to provide a copy of that document to every other party in the case; and
- I acknowledge that I am bound by the Procedural Rules of the Public Utility Commission of Texas (PUC) and the State Office of Administrative Hearings (SOAH).

Please check one of the following:

- ☐ I own property with a habitable structure located near one or more of the utility's proposed routes for a transmission line.
- ☐ One or more of the utility's proposed routes would cross my property.
- ☐ Other. Please describe and provide comments. You may attach a separate page, if necessary.

Signature of person requesting intervention:

_____ Date: _____

Effective: April 8, 2020

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