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| **APPLICATION OF ONCOR ELECTRIC DELIVERY COMPANY LLC TO AMEND ITS CERTIFICATE OF CONVENIENCE AND NECESSITY FOR THE LONGSHORE SWITCH-DRILL HOLE SWITCH 765-KV TRANSMISSION LINE PROJECT IN ANDREWS, CULBERSON, ECTOR, GLASSCOCK, HOWARD, LOVING, MARTIN, MIDLAND, REEVES, AND WINKLER COUNTIES** | §<br>§<br>§<br>§<br>§<br>§<br>§<br>§<br>§<br>§ | **BEFORE THE STATE OFFICE**<br><br>**OF**<br><br>**ADMINISTRATIVE HEARINGS** |

## AMERICAN STEWARDS OF LIBERTY'S STATEMENT OF POSITION

On December 11, 2025, Oncor Electric Delivery Company LLC (Oncor) filed its Application to Amend its Certificate of Convenience and Necessity for the Longshore Switch-Drill Hole Switch 765-KV Transmission Line Project (the Application). On January 7, 2026, the presiding State Office of Administrative Hearings (SOAH) Administrative Law Judge (ALJ) filed SOAH Order No. 3, adopting a procedural schedule and directing intervenors to file testimony or statement of position by January 27, 2026. Therefore, this Statement of Position is timely filed.

## I. STATEMENT OF POSITION

American Stewards of Liberty (ASL) was formed in 2009 to defend property rights from government overreach and to challenge land-use and infrastructure policies that unnecessarily sacrifice private land and impact citizens' ability to produce the food, fiber, minerals, energy, and recreational opportunities necessary for human flourishing. Here, ASL's organizational purpose is directly implicated by Oncor's proposed 765-kilovolt transmission line (the Project) because it would impose permanent burdens on private property while failing to address the actual reliability deficiencies facing the Texas electrical grid.

**A. Texas's Grid Problem is a Reliability Shortage, Not a Transmission Shortage.**

Texas's grid problem is not a shortage of transmission capacity; it is a shortage of reliable, dispatchable power. Since Winter Storm Uri, Texas has not meaningfully increased generation resources that perform during extreme winter conditions, even as winter peak demand has grown substantially. Transmission line facilities do not generate electricity; they merely transport it. As a result, the construction of additional long-distance transmission—particularly facilities as large and intrusive as a 765-kV line—does not improve grid performance during the cold, pre-sunrise hours when outages occur. Simply put, electricity that does not exist cannot be transmitted.

This understanding is consistent with the State's own post-Uri policy direction. In a July 6, 2021 letter to the Public Utility Commission of Texas (PUC or Commission), Governor Greg Abbott emphasized that maintaining grid reliability must remain the Commission's top priority and directed the PUC to focus on increasing reliable, dispatchable power generation, including natural gas, coal, and nuclear resources. The Governor specifically instructed the Commission to reform market incentives to foster adequate and reliable generation, allocate reliability costs to resources that cannot guarantee availability, and ensure that the Electric Reliability Council of Texas (ERCOT) maintains sufficient dispatchable capacity during periods of high demand. While the letter recognizes the importance of transmission that connects dispatchable generation to areas of need, it does so in service of reliable generation—not as a substitute for it.

Approving a 765-kV transmission line that primarily facilitates the movement of intermittent or unavailable power is inconsistent with this reliability-first policy framework and puts the cart before the horse.

**B. Winter Reliability Has Continued to Deteriorate.**

This distinction is critical to the public-interest analysis of the Project. ERCOT's winter reserve margin has declined significantly since 2021 and continues to trend downward, leaving less margin for error even during ordinary winter conditions. Assertions that system reliability has improved rely primarily on revised demand assumptions rather than demonstrable improvements in dispatchable capacity. This shrinking safety buffer underscores the risk of prioritizing transmission expansion over investments that directly improve winter reliability.

**C. Transmission and Storage Are Being Oversold as Reliability Solutions.**

ASL's mission is also implicated by the overselling of transmission expansion and short-duration storage as substitutes for reliable generation. Texas has added significant solar and battery capacity since Uri, but solar provides no output during winter peak demand, which occurs before sunrise. Battery storage, while useful for short-duration balancing, provides only hours of support and depletes quickly during extended cold events absent surplus generation. During winter storms, that surplus does not exist. As a result, neither batteries nor long-distance transmission meaningfully address the reliability failures that have caused widespread outages. The approval of this Project assumes that sufficient reliable power exists at the source to justify the line, an assumption that the data does not support.

**D. Property Rights Are Being Sacrificed for a Strategy That Does Not Work.**

The Project further raises concerns because transmission expansion shifts costs while avoiding accountability. Tens of billions of dollars have flowed into intermittent generation and storage since Uri, while investments in firm, weather-resilient generation have lagged. Large transmission projects allowed policymakers and developers to claim progress while deferring the difficult market reforms necessary to incentivize reliable generation. The financial and physical

burdens of this approach are shifted to ratepayers and, critically, to landowners whose property is permanently encumbered by easements.

The Project's impacts on individual landowners illustrate the disproportionate burden imposed by a transmission-first approach.

The proposed routes would affect fully electronic agricultural operations that depend entirely on electronic systems. The proximity of a 765-kV transmission line raises serious concerns regarding electrical interference and operational reliability for such equipment.

The routes would dissect multiple farming properties, including dryland farms that rely solely on rainfall. In several cases, the transmission line would run through the middle of the property, effectively severing access to substantial portions of the land and leaving no practical way to reach or farm those areas. These dryland properties—valued at approximately $1,500 to $4,000 per acre—would suffer permanent devaluation and loss of productive use.

The routes would also cross or run adjacent to irrigated farmland served by center pivots, creating additional risks. High-voltage lines over or near pivots raise concerns about electrolysis effects, condemnation of pumps beneath pivot systems, and uncertainty regarding whether replacement wells would perform comparably to existing wells. The use of variable frequency drives on pumps heightens these concerns. If irrigation is compromised, the resulting harm is severe, resulting in substantial and permanent economic damage.

Beyond these direct impacts, landowners face ongoing degradation of land productivity. Transmission rights-of-way interfere with GPS-guided farming, disrupt weed management, and create barren corridors—often 60 to 80 feet wide—where vegetation fails to grow but must still be managed to prevent erosion and soil loss. Construction activities introduce invasive weeds,

requiring additional chemical treatments and tillage. The Project would further destroy or materially alter natural watering features by disrupting established surface water flow.

Protecting landowners from these cascading consequences is a core component of ASL's mission. When weighed against a project that does not materially improve energy reliability, the intrusion on private property cannot be justified as necessary or proportionate. Landowners should not be required to bear irreversible regulatory and economic burdens.

**E. Endangered Species Impacts Warrant Heightened Federal Review and Preservation of Issues.**

A central concern raised by the Project is the heightened risk that construction and right-of-way clearing will disrupt and fragment habitat, increasing the likelihood that additional species will be listed as threatened or endangered. For affected landowners, such listings carry severe and often permanent consequences that extend far beyond the footprint of the transmission line itself and is a threshold issue that may require heightened federal review before any incidental or programmatic take authorization may lawfully be issued.

When a species is listed under federal or state law, landowners may face significant new restrictions on the use and management of their property, including limitations on farming, grazing, irrigation, land clearing, development, and routine maintenance activities. These restrictions frequently apply not only to the immediate project area but also to surrounding lands designated as habitat, effectively expanding regulatory control well beyond the transmission corridor. Unlike transmission infrastructure, which may be modified, abandoned, or repurposed over time, the regulatory consequences of an endangered or threatened species listing are effectively permanent. Once habitat protections attach to private land, land-use restrictions persist regardless of whether the underlying infrastructure continues to serve a public need.

Listings also impose long-term mitigation obligations on landowners, including habitat preservation requirements, monitoring, and compliance costs that can persist indefinitely. Even where take permits or incidental take authorizations exist, they are often narrow in scope, impose ongoing reporting requirements, and do not shield landowners from future regulatory changes or enforcement actions. Approval of the Project without full consideration of these impacts risks shifting long-term regulatory burdens from the Project onto private landowners.

Additionally, the economic impacts are substantial. Property values may decline due to reduced development potential, operational constraints, and uncertainty regarding future land use. Agricultural producers may lose flexibility to respond to weather conditions, market demands, or operational needs. When transmission easements and endangered species restrictions overlap, landowners experience compounded harm: permanent loss of control from condemnation combined with additional regulatory limitations that further reduce land value, marketability, and productive use. These layered impacts exceed what could reasonably be anticipated or compensated through the condemnation process alone.

These impacts are particularly acute where infrastructure projects—such as high voltage transmission lines—introduce new disturbances into previously unregulated landscapes. Habitat fragmentation caused by construction and maintenance activities can trigger listings that would not otherwise occur, once again shifting the long-term regulatory burden from the Project to the landowner. Fragmentation isolates populations, disrupts migration and breeding patterns, and reduces resilience to drought and climate variability. These cumulative effects often form the basis for future listing decisions, meaning today's construction can become tomorrow's regulatory trigger for private land.

Raising endangered species impacts in this proceeding is therefore necessary to preserve these issues and to ensure that the Commission does not rely on assumptions of future federal clearance that may not yet exist. Where federal wildlife authorizations remain unresolved—and may require additional environmental review—the Commission should exercise caution before approving or advancing a project that would impose permanent burdens on private property.

ASL's participation ensures that endangered species impacts, habitat fragmentation, and the resulting land-use consequences are fully considered before irreversible commitments of land and resources are made.

**F. A Better, Reliability-Focused Alternative Exists.**

ASL's participation in this proceeding advances its core mission by urging the Commission to align infrastructure decisions with Texas's stated reliability priorities. As Governor Abbott directed, Texas must focus on developing and maintaining reliable, dispatchable generation, reforming market incentives, and ensuring that power is available when Texans need it most. Developing generation closer to load, rather than relying on long-distance transmission from remote resources, would reduce transmission dependency, improve resiliency, and avoid unnecessary condemnation of private land.

These impacts fall squarely within ASL's core purpose. The exercise of eminent domain for transmission lines permanently alters private land, diminishes property value, restricts land use, and disrupts local economies. Once imposed, these burdens are irreversible—even if the underlying grid strategy fails. The condemnation process exacerbates these harms by forcing landowners to individually defend their property interests at substantial personal expense, fracturing communities and pitting neighbors against one another.

ASL's involvement is also formed by Texas's prior experience. Following a major winter storm in 2011, the state emphasized wind development rather than winter resiliency. When Uri occurred in 2021, intermittent resources underperformed, and a lack of firm capacity contributed to catastrophic outages. Subsequent federal findings confirmed that wind generation experienced widespread freezing and prolonged unavailability during the period of firm load shed. Despite this history, Texas is again prioritizing transmission and summer-oriented resources over investments in reliable, dispatchable generation.

For ASL and its members, the relevance of the Project is therefore twofold: (1) it threatens legally protected property interests through permanent easements and land-use restrictions; and (2) it advances a grid strategy that does not meaningfully improve winter reliability, calling into question whether the asserted public necessity justifies the intrusion on private land.

Transmission expansion that does not solve the reliability problem does not serve the public interest. The 765-kV transmission line would impose permanent harm on private property while leaving the grid exposed to the same winter risks that led to prior disasters. ASL was formed to ensure that outcomes like this are subjected to rigorous scrutiny—and that Texans are not asked to give up their land for a strategy that does not work.

## II. CONCLUSION

ASL's organizational purpose is served by participating in this proceeding to ensure that the Commission rigorously evaluates whether the Project is necessary, effective, and proportionate—and whether less intrusive, reliability-focused alternatives exist. A strategy centered on improving generation reliability, correcting market incentives, and siting power closer to load would better protect both Texans' safety and Texans' land. Transmission expansion that fails to solve the reliability problem does not.

Respectfully submitted,

By: _____

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**ATTORNEYS FOR AMERICAN STEWARDS OF LIBERTY, INC.**

## CERTIFICATE OF SERVICE

I hereby CERTIFY that unless otherwise ordered by the presiding officer, notice of the filing of this document was provided to all parties of record via electronic mail on the 27th day of January 2026.

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Shan S. Rutherford