

DOCKET NO. 48724

**APPLICATION OF SOUTHWESTERN § PUBLIC UTILITY COMMISSION
PUBLIC SERVICE COMPANY TO §
AMEND A CERTIFICATE OF § OF TEXAS
CONVENIENCE AND NECESSITY §
FOR A 115-KV TRANSMISSION LINE §
WITHIN YOAKUM AND GAINES §
COUNTIES (MUSTANG TO §
SEMINOLE) §**

NOTICE OF APPROVAL

This Notice approves the application of Southwestern Public Service Company (SPS) to amend its certificate of convenience and necessity (CCN) for the proposed 115-kilovolt (kV) transmission line within Yoakum and Gaines Counties. The Commission amends SPS's CCN No. 30153 to construct and operate the Mustang-to-Seminole 115-kV transmission line.

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

I. Findings of Fact

Applicant

1. SPS is an investor-owned electric utility providing retail electric service in Texas under CCN No. 30153. SPS operates within the Southwest Power Pool (SPP).

Application

2. On October 23, 2018, SPS filed an application to amend its CCN to construct a primarily single-circuit 115-kV transmission line between the existing Mustang substation in Yoakum County and the existing Seminole substation in Gaines County.
3. Burns & McDonnell Engineering Company, Inc. (Burns & McDonnell) produced an environmental assessment and alternative routing study.
4. SPS filed ten geographically diverse routes in the application that range in distance from 17.3 to 21.7 miles. SPS's recommended route, route J, is approximately 17.5 miles long.
5. Route J is comprised of segments 1a-2a-4-6-12-22-26-43a-43b-58-60-52-54-55.

6. Route J represents a relatively direct path from the Mustang substation to the Seminole substation.
7. In Order No. 3 issued on November 20, 2018, the administrative law judge (ALJ) found the application sufficient and materially complete.

Description of the Transmission Line

8. SPS will construct the 115-kV transmission line using primarily single-circuit single-pole steel structures between the existing Mustang substation, located approximately 0.7 mile northeast of the intersection of County Road (CR) 390 and CR 355, and the existing Seminole substation, located southwest of the intersection of CR 205 and CR 208 in Gaines County. SPS may use double-circuit wood or steel H-frames for parts of the proposed routing where there is an existing circuit.
9. The project includes terminal upgrades to the existing substations to accommodate the new transmission line.
10. The typical structure for the transmission line will be between 80 and 140 feet in height, and will require a 70-foot wide right-of-way.

Public Input

11. On June 19, 2018, SPS held a public open-house meeting in accordance with 16 Texas Administrative Code (TAC) § 22.52. SPS mailed written notice of the meeting to approximately 147 landowners of property within 300 feet of the centerline of preliminary route segments for the proposed project, and mailed written notice of the meeting to the Department of Defense Siting Clearinghouse.

Notice

12. On November 8, 2018, SPS filed the affidavit of Bobby J. Jones III, Case Specialist, Regulatory Administration, attesting to the provision of notice to cities, counties, neighboring utilities, the Office of the Public Utility Counsel, the Texas Parks and Wildlife Department (TPWD), Department of Defense Siting Clearinghouse, certain pipeline owners or operators, and landowners, on October 23, 2018.

13. On November 8, 2018, SPS filed the affidavit of Bobby J. Jones III, Case Specialist, Regulatory Administration, attesting to publication of notice on October 26, 2018, in the *Lubbock Avalanche Journal* (with circulation in counties including Yoakum and Gaines Counties).
14. Notice of the application appeared in the *Texas Register* on November 9, 2018.

Intervenors

15. Oxy USA Inc. and Occidental Permian Ltd. (Oxy), Duane or Walter Billings or Red-Land Farms (Billings Intervenors), and Robert and Flor Hurtado filed motions to intervene in this docket.
16. In Order No. 2 issued on November 16, 2018, the ALJ granted the motions to intervene of Oxy and the Billings Intervenors.
17. In Order No. 4 issued on December 17, 2018, the ALJ granted the motion to intervene of Robert and Flor Hurtado.

Evidentiary Record

18. On December 17, 2018, SPS and Commission Staff filed a joint motion to admit evidence. In Order No. 4 issued on January 7, 2019, the ALJ admitted the following evidence into the record: (1) SPS's CCN application and accompanying attachments filed on October 23, 2018; (2) notice of the application published in the *Texas Register* filed on October 24, 2018; (3) SPS's response to issues to be addressed in Order No. 1 filed on November 1, 2018; (4) affidavit of proof of publication filed on November 8, 2018; (5) affidavit of proof of notice by mail filed on November 8, 2018; and (6) Commission Staff's recommendation on final disposition and accompanying memorandum filed on December 11, 2018.

Need for the Proposed Transmission Line

19. SPS is a member of, and its entire transmission system is located within, the SPP. SPP is a Regional Transmission Organization (RTO) approved by the Federal Energy Regulatory Commission (FERC) and meets the requirements of Public Utility Regulatory

Act (PURA) § 39.151 as an independent system operator. As a FERC-designated RTO, SPP is responsible for creating regional transmission expansion plans.

20. In the SPP's 2016 Integrated Transmission Planning Near-Term Assessment (2016 ITPNT Assessment), SPP studied and analyzed local and regional reliability issues for the 2016-2020 planning horizon and identified the proposed project as a needed regional reliability upgrade in the SPS area. The study identified solutions to potential issues for system intact and single contingency (N-1) conditions in compliance with the reliability standards of the North American Electric Reliability Corporation. SPP determined the proposed project was the best solution to mitigate the time-sensitive thermal overload and voltage needs around the San Andreas and Denver City area in West Texas.
21. SPP also issued the 2016 ITPNT Short Term Reliability (STR) Project Report. That report identified the proposed project as needed to address time-sensitive thermal overload and voltage needs.
22. Based on the 2016 ITPNT Assessment and the 2016 ITPNT STR Project Report, the proposed transmission line was identified by SPP as needed for reliability to address: (1) the overload issues of the Denver City substation to San Andres tap to Seminole substation 115-kV line; and (2) the low voltages at the Flannagan 69-kV substation; and the Amerada Hess, Doss, Oxy West-Seminole Tap, Roz, and Seminole 115-kV substations.
23. On August 17, 2016, SPP issued to SPS a notification to construct (NTC) for the proposed project based on the results of the 2016 ITPNT Assessment.
24. SPS demonstrated a reasonable need for the proposed project in order to continue to provide adequate and reliable service. The need for the project is not disputed by the parties to this proceeding.

Probable Improvement of Service or Lowering of Consumer Costs

25. The project is needed to satisfy reliability issues in the project area, and will result in increased capacity and the improvement of service to electric customers, for the reasons described in Findings of Fact 19 through 24 addressing the need for the transmission line.

Project Alternatives

26. SPP evaluated other potential solutions including: (1) constructing a new Mustang to Gaines 230-kV line; (2) constructing a new Seagraves-Seminole 115-kV line; (3) constructing a new substation, constructing a new Seminole-Denver City 230-kV line, and installing a new 230/115-kV transformer at the new substation; and (4) constructing a new Mustang-Gaines 230-kV line and installing a new 230/115-kV transformer at the Gaines substation. The proposed project was determined to be the best solution based on SPP's analysis of the 2016 ITPNT Assessment and the STR Project Report.
27. Distribution alternatives were not considered because the proposed project is a transmission solution to the annual ITPNT transmission reliability process and no distribution voltage level solutions would be capable of meeting the requirements of the NTC.
28. No other alternatives such as higher voltage projects, bundling of conductors of existing facilities, or adding transformers were selected by SPP as meeting their requirements for the requested transmission service.

Effect of Granting the CCN on Other Utilities

29. The proposed transmission line will not adversely affect service by other utilities in the area and will improve system reliability and capacity in the area.

Estimated Costs

30. The estimated total cost of the project along route J is \$16,472,968 consisting of \$11,320,637 for transmission facilities, \$3,563,331 for substation facilities, and \$1,589,000 for costs to modify existing facilities (including costs to modify existing circuits for new lines and double circuit configuration).

Prudent Avoidance

31. There are two habitable structures located within 300 feet of the right-of-way centerline of route J.
32. The project, including route J, has been routed in accordance with the Commission's policy of prudent avoidance.

Community Values

33. SPS and Burns & McDonnell considered information received from the public open-house meeting and from local, state, and federal agencies in the routing analysis.
34. The project will have minimal impact on community values.

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

35. Route J parallels compatible existing right-of-way, such as public highways, roads and apparent property boundaries, but excluding pipelines, for approximately 90.2% of its length.

Engineering Constraints

36. SPS considered engineering and construction constraints, reliability issues, and estimated costs to evaluate the route as it relates to the requirements of PURA and Commission rules.
37. SPS did not identify any engineering constraints that would prevent construction of the project along route J.

Other Comparisons of Land Uses and Land Types

38. Route J is located within an area in Yoakum and Gaines Counties that is predominantly rural, with numerous oil and gas fields, agricultural cropland with prominent pivot irrigation, extensive oil and gas developments and some residential, commercial, and industrial developments.

Radio Towers and Other Electronic Installations

39. There are no commercial AM radio towers located within 10,000 feet of the centerline of route J.
40. There are no FM radio transmitters, microwave towers, or other electronic installations, within 2,000 feet of the centerline of route J.

Airstrips and Airports

41. There are no airports registered with the Federal Aviation Administration (FAA) with a runway greater than 3,200 feet in length identified as being located within 20,000 feet of the centerline of route J.
42. There are no airports registered with the FAA equal or less than 3,200 feet in length identified as being located within 10,000 feet of the centerline of route J.
43. No private airstrips were identified as being located within 10,000 feet of the centerline of route J.
44. No heliports were identified as being located within 5,000 feet of the centerline of route J.

Irrigation Systems

45. Route J crosses 1.36 miles of land irrigated by mobile irrigation systems (rolling or pivot type).

Recreational and Park Areas

46. No parks or recreational areas owned by a government body or an organized group, club, or church were identified as being located within 1,000 feet of the centerline of the route J.
47. The transmission line will have no adverse impact on park and recreational areas.

Historical and Archeological Areas

48. There are no recorded cultural resource sites identified as being crossed by route J.
49. There are no additional cultural resource sites within 1,000 feet of the centerline of route J.
50. The proposed route crosses approximately 0.6 miles of land with high archeological/historical site potential.
51. The proposed transmission line will have no significant impact on historical and archeological values.

Aesthetic Values

52. The aesthetic impacts of the proposed transmission line have been considered and minimized to the extent reasonable.
53. The right-of-way of route J is not located in the foreground visual zone of any known parks or recreational areas.
54. The right-of-way of route J will be in the foreground visual zone of U.S. and state highways for approximately one mile, but it will not be within the foreground visual zone of any farm-to-market and/or ranch-to-market roads.
55. The proposed transmission line will have minimal impact on aesthetic values.

Environmental Integrity

56. Construction of the proposed transmission line will not have a significant effect on the geologic or physiographic features and resources of the area.
57. The transmission line will cause only minimal and short-term impacts to soil, water, and ecological resources.
58. Route J will cross one stream, but will not parallel streams within 100 feet.
59. Route J will cross no open water or playa lakes.
60. Where possible, the transmission line will span all surface water and SPS will avoid placement of supporting structures in the streambed.
61. The proposed transmission line will have no significant impact, if any, on aquatic and hydric habitat.
62. The transmission line will have no significant, long-term impact on soils.
63. SPS will remove vegetation along the right-of-way. SPS committed to construct transmission line structures within the right-of-way in a manner that will minimize the removal of vegetation and retain existing groundcover to the extent practicable. When clearing vegetation, SPS will make efforts to retain native ground cover, where possible, to minimize impacts to local vegetation, and will reseed as required.

64. No federally- or state-listed endangered or threatened plant species have been recorded in the study area; therefore, the project will not adversely impact any threatened or endangered plant species or sensitive plant communities.
65. No federally- or state-listed endangered aquatic species occur in the study area, and no adverse impact to endangered or threatened aquatic species are anticipated.
66. The transmission line will have no significant impact, if any, on unique, sensitive, or protected wildlife habitats.
67. The transmission line will have no significant impact on local wildlife.
68. There are nine federally- or state-listed threatened or endangered species listed in the study area. It is unlikely that any of these species will be affected by the project. Of these species, only two of the state listed species are likely to occur in the study area.
69. The Texas horned lizard is a state-listed threatened species that, if present along the selected route, could experience minor temporal disturbance during construction activities. Overall, the proposed project should not adversely affect this species.
70. SPS will consult with the U.S. Fish and Wildlife Service (USFWS) or TPWD should any federally-listed species be observed during construction.
71. SPS and Burns & McDonnell conducted an adequate evaluation of potential environmental impacts of the transmission line in the impacted area.
72. SPS committed to comply with all environmental laws and regulations independent of any language included by the Commission in this Notice.

TPWD's Comments and Recommendations

73. TPWD was provided a copy of the environmental assessment for the project.
74. TPWD provided information and recommendations regarding the preliminary study area for the project to Burns & McDonnell on May 8, 2018.
75. TPWD recommended certain construction practices as well as protective measures for water resources, migratory birds, prairie dogs, plains spotted skunks, monarchs, and other species tracked by TPWD. TPWD also recommended accounting of impacts to conservation easements.

76. The ordering paragraphs in this Notice coupled with SPS's standard practices, are reasonable measures for SPS to undertake to protect natural resources and to reduce construction impacts.
77. This Notice addresses only those TPWD recommendations and comments for which there is record evidence.

Permits

78. Before beginning construction of the transmission line, it is appropriate for SPS to conduct a field assessment of the entire length of the transmission line to identify water resources, cultural resources, potential migratory bird issues, and threatened- or endangered-species habitat impacted as a result of the transmission line. As a result of these assessments, SPS will identify any additional permits that are necessary, will consult any required agencies, will obtain all necessary environmental permits, and will comply with the relevant permit conditions during construction and operation of the transmission line.
79. It is appropriate that SPS use best management practices to minimize the potential impact to migratory birds and threatened or endangered species.

Coastal Management Program

80. No part of the proposed transmission line is located the boundary of the Texas Coastal Management Program as defined in 31 TAC § 503.1.

Effect on the State's Renewable Energy Goal

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

Conditional Approval

83. 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.

84. Seven years is a reasonable and appropriate limit to place on the authority granted in this Notice to construct the project.

Informal Disposition

85. At least 15 days have passed since the completion of notice in this docket.
86. SPS, Oxy, Billings Intervenors, Robert and Flor Hurtado, and Commission Staff are the only parties to this proceeding.
87. No party requested a hearing and no hearing is needed.
88. The decision is not adverse to any party.
89. On December 11, 2018, Commission Staff recommended approval of the application.

II. Conclusions of Law

1. The Commission has jurisdiction over this application under PURA §§ 14.001, 32.001, 37.051, 37.053, 37.054, and 37.056.
2. SPS is an electric utility as defined in PURA §§ 11.004 and 31.002(6).
3. SPS is not a participant in the retail competition market under PURA, Chapter 39, Subchapter I.
4. SPP is a regional transmission organization approved by FERC that meets the requirements of PURA § 39.151 as an independent system operator.
5. SPS must obtain the approval of the Commission to construct the proposed transmission line and provide service to the public using that line.
6. The application is sufficient under 16 TAC § 22.75(d).
7. SPS's application complies with the requirements of 16 TAC § 25.101.
8. SPS provided notice of the application in compliance with PURA § 37.054 and 16 TAC § 22.52(a).

9. The Commission processed this docket in accordance with the requirements of PURA, the Administrative Procedure Act,¹ and Commission rules.
10. The proposed transmission line using route J is necessary for the service, accommodation, convenience, or safety of the public, within the meaning of PURA § 37.056(a).
11. Route J complies with the criteria of PURA § 37.056(c)(4) and 16 TAC § 25.101(b)(3)(B), including the Commission's policy of prudent avoidance, to the extent reasonable to moderate the impact on the affected community and landowners.
12. The Texas Coastal Management Program does not apply to the proposed transmission line and the requirements of 16 TAC § 25.102 do not apply to the application.
13. The requirements for informal disposition in 16 TAC § 22.35 have been met in this proceeding.
14. The requirements for administrative approval in 16 TAC § 25.101(b)(3)(C) have been met in this proceeding.

III. Ordering Paragraphs

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

1. The Commission amends SPS's CCN No. 30153 to construct and operate the the Mustang-to-Seminole 115-kV transmission line using route J.
2. SPS must conduct surveys, if not already completed, to identify metallic pipelines that could be affected by the transmission line and coordinate with pipeline owners in modeling and analyzing potential hazards because of alternating-current interference affecting pipelines being paralleled.
3. In the event SPS or its contractors encounter any artifacts or other cultural resources during project construction, work must cease immediately in the vicinity of the artifact or

¹ Administrative Procedure Act, Tex. Gov't Code §§ 2001.001—902.

resource and the discovery must be reported to the Texas Historical Commission. In that situation, SPS must take action as directed by the Texas Historical Commission.

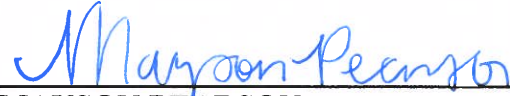
4. SPS must follow the procedures to protect raptors and migratory birds outlined in the following publications: *Reducing Avian Collisions with Power Lines: The State of the Art in 2012*, Edison Electric Institute and Avian Power Line Interaction Committee (APLIC), Washington, D.C. 2012; *Suggested Practices for Avian Protection on Power Lines: The State of the Art in 2006*, Edison Electric Institute, APLIC, and the California Energy Commission, Washington, D.C. and Sacramento, CA 2006; and *Avian Protection Plan Guidelines*, APLIC and the USFWS, April 2005. SPS must take precautions to avoid disturbing occupied nests and must take steps to minimize the impact of construction on migratory birds during the nesting season of the migratory bird species identified in the area of construction.
5. SPS must use best management practices to minimize the potential impact to migratory birds and threatened or endangered species.
6. SPS must exercise extreme care to avoid affecting non-targeted vegetation or animal life when using chemical herbicides to control vegetation within the right-of-way, and must ensure that such herbicide use complies with the rules and guidelines established in the Federal Insecticide, Fungicide and Rodenticide Act and with Texas Department of Agriculture regulations.
7. SPS must minimize the amount of flora and fauna disturbed during construction of the transmission line, except to the extent necessary to establish appropriate right-of-way clearance for the transmission line. In addition, SPS must re-vegetate using native species and must consider landowner preferences and wildlife needs in doing so. Furthermore, to the maximum extent practicable, SPS must avoid adverse environmental impacts to sensitive plant and animal species and their habitats as identified by TPWD and the USFWS.
8. SPS must implement erosion control measures as appropriate. Erosion control measures may include inspection of the right-of-way before and during construction to identify erosion areas and implement special precautions as determined reasonable to minimize the impact of vehicular traffic over the areas. SPS must return each affected landowner's

property to its original contours and grades unless otherwise agreed to by the landowner or landowners' representatives. SPS need not restore original contours and grades where a different contour or grade is necessary to ensure the safety or stability of the project's structures or the safe operation and maintenance of the line.

9. SPS must cooperate with directly affected landowners to implement minor deviations in the approved route to minimize the impact of the transmission line. Any minor deviation to the approved route must only directly affect landowners who were sent notice of the transmission line in accordance with 16 TAC § 22.52(a)(3) and landowners that have agreed to the minor deviation, excluding public rights-of-way.
10. SPS is not authorized to deviate from the approved route in any instance in which the deviation would be more than a minor deviation, without further amending its CCN.
11. SPS must report the transmission line approved by this Notice on its monthly construction progress reports before the start of construction to reflect final estimated cost and schedule in accordance with 16 TAC § 25.83(b). In addition, SPS must provide final construction costs, with any necessary explanation for cost variance, after completion of construction and when all charges have been identified.
12. SPS will identify any additional permits that are necessary, will consult any required agencies (such as the U.S. Army Corps of Engineers and USFWS), will obtain all necessary environmental permits, and will comply with the relevant permit conditions during construction and operation of the transmission line.
13. The Commission limits the authority granted by this Notice to a period of seven years from the date this Notice is signed unless the transmission line is commercially energized before that time.
14. The Commission denies all other motions and any other requests for general or specific relief, if not expressly granted.

Signed at Austin, Texas the 11th day of January 2019.

PUBLIC UTILITY COMMISSION OF TEXAS



MAYSON PEARSON
ADMINISTRATIVE LAW JUDGE