

**SOAH DOCKET NO. 473-10-0672
PUC DOCKET NO. 37104**

APPLICATION OF SOUTHWESTERN	§	BEFORE THE STATE OFFICE
PUBLIC SERVICE COMPANY TO	§	
AMEND ITS CERTIFICATE OF	§	
CONVENIENCE AND NECESSITY	§	OF
FOR A PROPOSED TRANSMISSION	§	
LINE WITHIN DALLAM AND	§	
SHERMAN COUNTIES, TEXAS	§	ADMINISTRATIVE HEARINGS

**STIPULATION, MOTION FOR APPROVAL OF STIPULATION AND REMAND, AND
MOTION TO GRANT INTERVENOR’S REQUEST TO WITHDRAW INTERVENTION**

The parties to this Stipulation, dated April 19, 2010, are: the Staff of the Public Utility Commission of Texas (“Staff”), Southwestern Public Service Company (“SPS”) and Intervenor Debra Brennan on behalf of Nevada Porter. The aforementioned are all the parties to this docket and shall be referred to collectively as the “Signatories.” The Signatories submit the Stipulation to the Public Utility Commission of Texas (“Commission”) as representing a just and reasonable disposition of the issues in this docket consistent with the public interest. The Signatories request approval of the Stipulation and entry of the proposed order attached as *Exhibit A*. The only other party to this docket, Intervenor James Hutchinson, filed a Motion to Withdraw his Request to Intervene in this proceeding on April 19, 2010. The Signatories request that Mr. Hutchinson’s request to withdraw his intervention be granted.

On June 25, 2009, under authority of Chapter 37 of the Public Utility Regulatory Act (“PURA”), TEX. UTIL. CODE ANN. Title 2 (Vernon 2007 and Supp. 2009), SPS filed an *Application For a Certificate of Convenience and Necessity for a Proposed Transmission Line in Dallam and Sherman Counties, Texas* (“Application”). In its Application, SPS requested approval to construct a single circuit, 115 kV transmission line of approximate length of 37 to 47

miles, extending from the Dallam County Substation near Dalhart, Texas to the Sherman County Substation, approximately two miles east of Stratford, Texas. (“Proposed Transmission Line”).

A hearing on the merits was held in this docket on March 30, 2010. SPS announced the terms of a settlement reached between all parties present at the hearing. Mr. Hutchinson was the only party not present at the hearing. All parties present at the hearing announced their consent to the settlement on the record. This Stipulation is filed to further memorialize the parties’ agreement. By this Stipulation, the Signatories resolve all issues between them with respect to this docket and agree as follows:

I. STIPULATION

In order to settle all outstanding issues in this docket, the Signatories stipulate to the following:

Section 1. The Commission should amend SPS’s Certificate of Convenience and Necessity (CCN) to allow the construction of the Proposed Transmission Line along SPS’s Preferred Route, which is described in SPS’s Application along with all amendments and errata to same. The parties further agree that SPS’s Preferred Route, “Alternative #5 XX-VV-TT-OO-NN-RR-H-QQ-M-N-P-T-Y-CC-HH-II,” as described in the Application, is the best alternative route, after weighing the factors set forth in PURA §37.056.

Section 2. The Commission should allow the construction of the Proposed Transmission Line along SPS’s Preferred Route, with the following modifications:

a. Along Nevada Porter’s property with U.S. Highway 54 frontage located northeast of Dalhart, Texas, SPS’s new transmission line will be combined with SPS’s existing distribution lines by building the lines on a single, shared centerline;

b. The existing distribution lines and new transmission line will be combined along Nevada Porter's U.S. Highway 54 frontage by installing eight (8) new steel transmission and distribution pole structures approximately five (5) feet southeast of the U.S. Highway 54 right-of-way line, along the existing distribution line, beginning on the southwest side of the Porter property;

c. One (1) steel pole structure will be installed on the northeast side of Nevada Porter's U.S. Highway 54 frontage, approximately forty five (45) feet from the U.S. Highway 54 right of way, to facilitate the transition and alignment of the Proposed Transmission Line from the northeast section of the Porter property to the adjacent landowner's property.

d. The new transmission and distribution poles will replace every third existing distribution pole and thus, two (2) intermediate distribution poles will remain between each new transmission and distribution pole.

e. SPS's Preferred Route originally sought a 70-foot wide easement along Nevada Porter's U.S. Highway 54 frontage for the Proposed Transmission Line; however, in connection with the above-described modifications to the Preferred Route, SPS agrees to take no more than a 50-foot wide easement along Nevada Porter's U.S. Highway 54 frontage.

Section 3. The Signatories request the Commission adopt an order consistent with the terms of this Stipulation and the proposed order attached hereto as *Exhibit A*. The Signatories agree that they will take all reasonable steps to ensure the Commission adopts the Order, or such other order consistent with the terms of the Stipulation.

Section 4. Although the Stipulation represents a settlement among the Signatories with respect to issues presented in this docket, the Stipulation is merely a proposal submitted to the Commission, who has the authority to enter an order resolving this docket. The Stipulation is the

result of negotiation, compromise, settlement, and accommodation. The Signatories agree that the Stipulation is in the public interest and its terms and conditions are interdependent. No provision of the Stipulation shall become fully operative unless the Commission has entered a final order approving the Stipulation.

Section 5. The Stipulation is binding on each Signatory only for the purpose of settling the issues set forth in the Stipulation and for no other purposes. Except to the extent that the Stipulation expressly governs a Signatory's rights and obligations for future periods, the Stipulation shall not be binding or precedential on a Signatory outside of this proceeding or a proceeding to enforce the terms of the Stipulation. The Stipulation shall have no effect on any Signatory's right to raise any issue other than those specifically addressed in the Stipulation. It is acknowledged that a Signatory's support of the matters contained in the Stipulation may differ from the position taken or testimony presented by it in other dockets and jurisdictions.

Section 6. If the Commission does not adopt an order consistent with the terms of the Stipulation, the Signatories will have the right to withdraw from the Stipulation and assume any position, not inconsistent with any other agreements between the parties, which they deem appropriate with respect to any issue in this docket. Consistent with Texas Rule of Evidence 408, the terms of the Stipulation may not be used as evidence in any administrative or judicial proceeding.

Section 7. The Signatories have entered into this Stipulation strictly for the purpose of resolving disputed issues, and to avoid the expense and uncertainty of further litigation. The Signatories agree that no party is bound by the Stipulation's position, theories, or principle on any issue in a future proceeding. It is expressly acknowledged that a Signatory's support of the

matters contained in this Stipulation may differ from its position or testimony in other proceedings.

Section 8. The Signatories hereby agree that all of the facts and matters stated in this Stipulation and in the proposed order attached hereto as *Exhibit A*, are true and correct and may be relied upon by the Commission in resolving this Docket.

Section 9. Each person executing this Stipulation represents that he or she is authorized to sign on behalf of the party represented. Facsimile copies of signatures are valid for purposes of evidencing such execution. This Stipulation may be executed in multiple counterparts, each of which is deemed an original but all of which constitute one and the same instrument.

II. MOTION FOR APPROVAL OF STIPULATION AND REMAND TO COMMISSION

The Signatories respectfully move for an order remanding this case to the Public Utility Commission of Texas, dismissing this case from the active docket of the State Office of Administrative Hearings, and that this Stipulation be approved by the Commission and an order be expeditiously issued consistent with this Stipulation and proposed order attached hereto as *Exhibit A*.

III. REQUEST TO WITHDRAW JAMES HUTCHINSON'S INTERVENTION

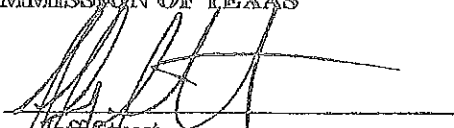
Mr. Hutchinson filed his Request to Withdraw Intervention on April 19, 2010. The Signatories request that the Administrative Law Judge grant his request, and dismiss him as a party from further proceedings in this docket.

IV. PRAYER

WHEREFORE, PREMISES CONSIDERED, the Signatories respectfully pray for an order consistent in all respects with this Stipulation, granting the relief requested herein and such other and further relief to which they are justly entitled.

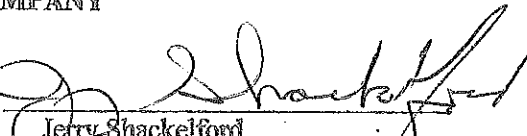
STAFF OF THE PUBLIC UTILITY
COMMISSION OF TEXAS

By:


Jeff Stuart
Attorney of Record

SOUTHWESTERN PUBLIC SERVICE
COMPANY

By:


Jerry Shackelford
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NEVADA PORTER

By:

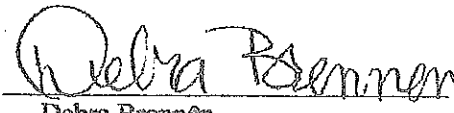

Debra Brennan,
on behalf of Nevada Porter

EXHIBIT A – Proposed Order

This Order addresses Southwestern Public Service Company's Application for a Certificate of Convenience and Necessity for a Proposed Transmission Line in Dallam and Sherman Counties, Texas, and amendments/errata to same. The following parties (collectively, Signatories) executed a Stipulation that resolved all issues in this docket: the Staff of the Public Utility Commission of Texas (Staff); Southwestern Public Service Company (SPS); and Intervenor Debra Brennen, on behalf of Nevada Porter. The Stipulation and SPS's request to construct a single circuit, 115 kV transmission line from the Dallam County Substation near Dalhart, Texas to the Sherman County Substation, approximately two miles east of Stratford, Texas ("Proposed Transmission Line") is approved. The Commission adopts the following Findings of Fact and Conclusions of Law:

I. Findings of Fact

Procedural History

1. SPS is an investor-owned electric utility providing retail electric service in Texas under Certificate of Convenience and Necessity (CCN) No. 30153.
2. On June 25, 2009, under authority of Chapter 37 of the Public Utility Regulatory Act ("PURA"), TEX. UTIL. CODE ANN. Title 2 (Vernon 1998 and Supp. 2009), SPS filed its Application for a CCN for a Proposed Transmission Line in Dallam and Sherman Counties, Texas, and amendments/errata to same (Application). The Proposed Transmission Line consists of a single circuit, 115 kV transmission line, approximately 37 to 47 miles in length, extending from the Dallam County Substation near Dalhart, Texas to the Sherman County Substation, approximately two miles east of Stratford, Texas.

3. On November 20, 2009, SPS filed the direct testimony of Kelli Boren, John Fulton and Jeff Stebbins.
4. On June 25, 2009, SPS provided, by certified mail, written notice of the Application to (1) each county in which the requested facilities will be located, including Dallam and Sherman Counties, (2) each neighboring utility within five miles of the requested facilities, including Golden Spread Electric Cooperative and Rita Blanca Electric Cooperative, (3) all municipalities located within five miles of the requested facilities, including the Cities of Dalhart and Stratford and (4) each landowner, as stated on current county tax rolls, that will be directly affected by the requested CCN amendment.
5. On June 30, 2009, Order No. 1 was issued, "Requiring Information from Applicant and a Recommendation from Staff on Sufficiency of the Application and Notice, and Addressing Other Procedural Matters."
6. On July 1 and July 6, 2009, SPS published notice of the Application in the Dalhart Texan, a newspaper of general circulation in Dallam County. On July 2 and July 9, 2009, SPS published notice of the Application in the Stratford Star, a newspaper of general circulation in Dallam and Sherman Counties.
7. On July 23, 2009, Staff filed its Response to Order No. 1, recommending that the application be deemed sufficient but that SPS amend certain responses in its Application as well as recommending that SPS file a supplemental proof of notice.
8. On July 24, 2009, in response to Staff's recommendations in Staff's Response to Order No. 1, SPS filed a supplemental proof of notice.

9. On July 30, 2009, the Commission issued Order No. 2 which deemed SPS's Application and notice sufficient and set the deadline to intervene as August 14, 2009.
10. On August 21, 2009, SPS filed an affidavit attesting to the provision of a copy of notice to cities, counties, neighboring utilities and landowners.
11. On July 22, 2009, James and Shelly Lawrence intervened in this proceeding; on August 10, 2009, Debra Brennen, on behalf of Nevada Porter, intervened in this proceeding; on August 31, 2009, James Hutchinson intervened in this proceeding.
12. On October 8, 2009, this matter was referred to the State Office of Administrative Hearings (SOAH).
13. On December 15, 2009, James and Shelly Lawrence withdrew their intervention.
14. On December 18, 2009, Public Utility Commission of Texas Staff (Staff) filed its Statement on Adequacy of Routes.
15. On January 28, 2010, the Texas Parks and Wildlife Department filed a letter containing comments and recommendations regarding the Proposed Transmission Line.
16. On February 16, 2010, Staff filed the direct testimony of Allen Boling, PE.
17. On March 9, 2010, SPS filed rebuttal testimony of Jeff Stebbins and Sean Frederickson.
18. On March 30, 2010, a hearing on the merits was held at SOAH, before Administrative Law Judge Hunter Burkhalter. SPS, Staff and Debra Brennen, on behalf of Nevada Porter, attended the hearing. James Hutchinson did not attend.

19. During the hearing on the merits, SPS announced that a settlement had been reached. All the present parties announced their consent to the settlement on the record. The parties agreed to support the selection of SPS's Preferred Route as described by "Alternative No. 5" in SPS Application, and as modified by the parties at the hearing.
20. On April 19, 2010, Mr. Hutchinson filed a Request to Withdraw his Intervention in this docket.
21. On April 19, 2010, the Staff of the Public Utility Commission of Texas, SPS and Debra Brennen on behalf of Nevada Porter filed a Stipulation resolving all issues in this docket, a Motion to Remand this case from SOAH to the Commission and a Motion to Grant Mr. Hutchinson's Request to Withdraw.

Description of SPS's Proposed Transmission Line and Cost

22. The Proposed Transmission Line consists of a single circuit, 115 kV transmission line extending from the Dallam County Substation near Dalhart, Texas to the Sherman County Substation, approximately two miles east of Stratford, Texas. The length of the Proposed Transmission Line is approximately 37 to 47 miles long.
23. SPS filed 5 alternate routes from the Dallam County Substation to the Sherman County Substation in its Application. SPS's Preferred Route is "Alternative #5 XX-VV-TT-OO-NN-RR-H-QQ-M-N-P-T-Y-CC-HH-II." The length of SPS's Preferred Route is 37.4 miles.
24. This line will be built using single- and double-pole, self-supporting steel structures.

25. The cost of the Preferred Route, as modified by the Stipulation is \$10,529,986. The estimated cost of the Proposed Transmission Line is reasonable when compared to similar projects.

Need for the Proposed Transmission Line

26. The Proposed Transmission Line is necessary to provide reliable transmission service to existing and growing loads in Dallam and Sherman Counties. This line will provide an alternate source of electricity to the communities of Dalhart and Stratford, and will provide additional transmission capacity supporting backup transmission services in Hartley and Moore Counties, and help support local voltage conditions.
27. The current transmission service to Dallam and Sherman Counties is provided through three 115 kV lines originating out of the Moore County Substation. These lines supply power to the Dallam County, Sherman County, Dalhart, Etter-Rural, and Rita Blanca Electric Cooperative (“RBEC”)-Hogue substations.
28. The critical conditions for this area are the loss of the Moore County to Etter-Rural 115 kV line or the loss of the Moore County to RBEC-Hogue 115 kV line.
29. The electrical load in this area has increased an average of 2.78% per year over the last eight years, and is expected to continue to grow.
30. SPS is a member of the Southwest Power Pool (SPP) and does not operate in the Electric Reliability Council of Texas (ERCOT) region. The SPP is an “independent organization” as defined by PURA § 39.151(b). On January 29, 2008, the SPP issued to SPS, a notice to construct the Proposed Transmission Line.

31. SPS demonstrated a reasonable need for the Proposed Transmission Line in order to provide more adequate and reliable service. The need for the proposed project was not disputed in this docket.

Resolution of Landowner Concerns.

32. During the hearing on the merits of this matter, the parties resolved all disputed issues related to the Proposed Transmission Line route across the Porter Property, per the terms of the Stipulation.

Project Alternatives

33. SPS considered six distribution, transmission, natural gas generation and distributed generation alternatives to the Proposed Transmission Line.
34. SPS considered upgrading existing 115kV transmission lines to 230 kV to increase the power capacity of the transmission. However, because the existing structures would be structurally inadequate to support the 230kV facilities, this alternative would require the complete wreck-out and rebuild of the existing line and is prohibitively expensive.
35. SPS also considered re-conductoring sections of the existing 115kV transmission lines to mitigate contingency overloads. However, the re-conductor of the line would be insufficient to mitigate the contingency low voltage conditions and would require the complete wreck-out and rebuild of the existing line with new conductors, and is prohibitively expensive.
36. SPS also considered constructing a new natural gas generation plant near Dalhart to provide the necessary power to meet the growth in load. However, the capital cost of this alternative is prohibitively expensive.

37. SPS also considered a distributed generation alternative using 200 kW micro-turbine generators grouped together at appropriate locations to mitigate overload and low voltage conditions. However, the capital cost is prohibitive.
38. SPS also considered a distribution alternative. However, the current loads in the Dalhart area are served by SPS and Rita Blanca Electric Cooperative's substations, and the load cannot be reliably served during critical contingencies on the existing transmission and thus, is not feasible.
39. SPS also considered adding transformers to existing facilities to mitigate critical voltage conditions, but because there is no other source voltage to transform to in the Dalhart area, this alternative is not feasible.

Routes

40. SPS retained PBS&J to prepare an Environmental Assessment and Alternative Route Analysis for the Proposed Transmission Line.
41. SPS considered and submitted a sufficient number of geographically diverse routes for the Proposed Transmission Line.
42. The Proposed Transmission Line complies with all aspects of PURA §37.056 and P.U.C. SUBST. R. 25.101.
43. Consistent with the Application and amendments/errata to same as modified by the Stipulation, the Proposed Transmission Line shall be constructed along SPS's Preferred Route, "Alternative #5 XX-VV-TT-OO-NN-RR-H-QQ-M-N-P-T-Y-CC-HH-II", as modified by the Stipulation.
44. SPS's Preferred Route complies with all aspects of PURA §37.056 and P.U.C. SUBST. R. 25.101 and is the best alternative weighing the factors contained therein.

45. Of the five alternatives for the Proposed Transmission Line, the Preferred Route is the shortest, crosses the least amount of mobile irrigation systems, crosses the least amount of endangered or threatened species habitat and crosses the least amount of area with a high probability for cultural resource sites.
46. The Preferred Route parallels the greatest percentage of roads and highways of all the alternatives.
47. No party to this docket contests SPS's Preferred Route, as modified by the Stipulation.

Community Values

48. A public open-house meeting for the Proposed Transmission Line was held at the Allyn Finch Intermediate School Cafeteria in Dalhart, Texas, on June 24, 2008.
49. Information received from the public open-house meetings and from local, state and federal agencies was considered and incorporated into both PBS&J's routing analysis and SPS's selection of preferred and alternative routes.
50. Staff recommends that SPS cooperate with directly affected landowners to implement minor deviations in the approved route to minimize the impact of the Proposed Transmission Line.
51. There are thirty habitable structures located within 300 feet of the Proposed Transmission Line along SPS's Preferred Route.
52. There is a single AM radio tower (KXIT) located within 10,000 feet of each route of the Proposed Transmission Line. There two electronic communication towers located within 2000 feet of SPS's Preferred Route.

53. One private airstrip is located within 10,000 feet of the centerline of the Preferred Route, in addition to alternates 2 and 3. There are three FAA-listed airfields within 20,000 feet of the centerline of each route in the Proposed Transmission Line. There are no heliports located within 5,000 feet of the centerline of any proposed route. There are no significant impacts to any airports, airstrips, or heliports anticipated from construction of the Proposed Transmission Line.
54. A portion of each alternative route in the Proposed Transmission Line crosses cropland irrigated by a center pivot irrigation system; Alternate route 4 has the greatest length of right of way crossing such cropland.
55. The Proposed Transmission Line will have no adverse impacts on community values.

Park and Recreational Areas

56. There are no parks or recreational areas owned by a governmental body or an organized group, club, or church within 1,000 feet of the centerline of the proposed route.
57. The transmission line project will have no adverse impact on parks and recreational areas.

Historical and Archeological Areas

58. No known historical or archeological sites are located within 1,000 feet of the centerline of the Preferred Route.
59. The Preferred Route will have little or no impact on historical or archeological values.

Aesthetic Values

60. The aesthetic impacts of the Proposed Transmission Line have been considered and minimized to the extent possible. 80.2% of the total length of SPS's Preferred Route is located within the foreground visual area of the study area's U.S. and state highways. The new construction for this project will have minimal impact on aesthetic values.

Effect of granting the CCN on other utilities

61. The Proposed Transmission Line will not adversely affect service by other utilities in the area and will result in SPS being able to provide reliable service to SPS's customers in Dalhart and Stratford, Texas. Specifically, the Proposed Transmission Line should increase the operational reliability of the Rita Blanca Electric Cooperative Inc., the only other retail provider in the subject area, as a result of the additional transmission provided to the Dallam County Substation.

Environmental Impact

62. SPS contracted with PBS&J to perform an Environmental Assessment and Alternative Route Analysis of the Proposed Transmission Line.
63. Construction of the Proposed Transmission Line will not have a significant effect on the geologic or physiographic features of the area.
64. The Proposed Transmission Line will cause only short-term impacts to soil, water and ecological resources.
65. The land uses in the area are primarily farming, open rangeland, and natural gas and oil exploration and drilling. No significant adverse effects on land use by the Proposed Transmission Line are anticipated.

66. Texas Parks and Wildlife recommended: (1) incorporating the TPWD Recommendations for Electrical Transmission/Distribution Line Design and Construction into its design and construction plans; (2) seeding areas along the right of way subject to erosion with native grasses and forbs; (3) using existing bridges and culverts where possible to avoid disturbing stream substrates and riparian vegetation, and avoiding destruction of inert microhabitats; (4) minimizing direct impact to wetland ecosystems; (5) being informed of the presences of the Texas horned lizard; (6) avoiding impacts to prairie dog towns and the wildlife species that depend on these towns; (7) surveying burrows for the presence of nesting burrowing owls; (8) where transmission line are installed in the vicinity of playa lakes, installing bird flight diverters; and (9) avoiding impacts to the Rita Blanca National Grassland.
67. Impacts on prime farmland will be insignificant and limited to the physical occupation of small areas at the base of support structures.
68. Construction of the Proposed Transmission Line should have little adverse impact on the surface or ground water resources of the area. None of the proposed routes intersect known floodplains.
69. The main impact of the Proposed Transmission Line on vegetation will be the removal of herbaceous vegetation along the proposed right of way.
70. The Proposed Transmission Line will have only a minor impact on local wildlife.
71. The Proposed Transmission Line is not located within the boundaries of the Texas Coastal Management Program Boundary.
72. Wetlands affected by the Proposed Transmission Line are minor due to the ephemeral nature of most of the surface water in the region.
73. No federally and/or state-listed endangered or threatened plant species occur in Dallam or Sherman Counties.

74. Of the five alternative routes, the route with the least amount of vegetation clearing, wetlands to be crossed and threatened/endangered species habitat to be crossed, is the Preferred Route.
75. Construction of the Proposed Transmission Line could result in some temporary erosion or short term disturbance, but impacts will be minimal because of the intermittent nature of the majority of any crossed streams.
76. The Proposed Transmission Line will cause only short-term impacts to soil, water, and ecological resources.
77. PBS&J's biological evaluation identified no threatened, endangered, or sensitive plant species during the pedestrian survey of the project area. The project is expected to have minimal adverse impacts on any threatened or endangered animal species identified by PBS&J, as described in the application.
78. SPS has conducted an adequate evaluation of potential environmental impacts of the Proposed Transmission Line in the impacted area.

Prudent Avoidance

79. The Proposed Transmission Line has been routed in accordance with the Commission's policy of prudent avoidance.

Route Modifications

80. Staff, SPS and Debra Brennen on behalf of Nevada Porter, have agreed to a modification of SPS's Preferred Route. The modifications are reflected in the Stipulation filed by the parties on April 19, 2010.
81. No landowners would be directly affected by SPS's Preferred Route as modified by the Stipulation, who were not previously provided notice of this proceeding.

82. Staff, SPS and Debra Brennen support SPS's Preferred Route as modified by the Stipulation as being a reasonable route for SPS to construct.

CONCLUSIONS OF LAW

1. SPS is an electric utility as defined in PURA §§ 11.004 and 31.002(6).
2. SPS is not a participant in the retail competition market under PURA, Chapter 39, Subchapter I.
3. The Commission has jurisdiction over his matter pursuant to PURA §§ 14.001, 32.001, 37.051, 37.053, 37.054 and 37.056.
4. SOAH has jurisdiction over this proceeding pursuant to PURA § 14.053 and TEX. GOV'T CODE ANN. § 2003.049 (Vernon 2008).
5. SPS provided proper notice of the Application in compliance with PURA § 37.054 and P.U.C. SUBST. R. 22.52(a).
6. This docket was processed in accordance with the requirements of PURA and Administrative Procedure Act, TEX. GOV'T CODE ANN. Chapter 2001 (Vernon 2008).
7. SPS is entitled to approval of the Application described in the Findings of Fact, utilizing the Preferred Route, as modified by the Stipulation, having demonstrated that the proposed transmission line facilities are necessary for the service, accommodation, convenience and safety of the public within the meaning of PURA §37.056(c).
8. SPS's Preferred Route complies with all aspects of PURA §37.056 and P.U.C. SUBST. R. 25.101, as well as the Commission's policy of prudent avoidance.
9. This Application does not constitute a major rate proceeding as defined by P.U.C. PROC R. 22.2.
10. The Stipulation is reasonable, is in the public interest, and should be approved.

III. Ordering Paragraphs

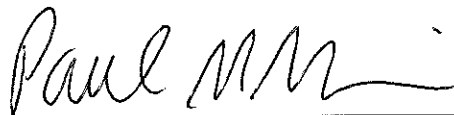
In accordance with these Findings of Fact and Conclusions of Law, the Commission issues the following Orders:

1. The Stipulation and SPS's Application and all amendments and errata to same, as modified by the Stipulation, are **APPROVED**.
2. SPS's CCN No. 30153 is amended to include the construction and operation of the transmission line facilities requested in the Application, with all amendments/errata to same, and as further modified by the Stipulation, for the Preferred Route described in the Application as "Alternative #5 XX-VV-TT-OO-NN-RR-H-QQ-M-N-P-T-Y-CC-HH-I," a single circuit, 115 kV transmission line extending from the Dallam County Substation to the Sherman County Substation, approximately 37.4 miles in length.
3. Resolution of this docket was the product of negotiation and compromise between the Parties. Entry of this Order does not indicate the Commission's endorsement or approval of any principle or methodology that may underlie the Stipulation. Neither shall entry of the Order be regarded as binding precedent as to the appropriateness of any principle underlying the Stipulation.
4. In the event SPS or its contractors encounter any artifacts or other cultural resources during project construction, work shall cease immediately in the vicinity of the resource and the discovery shall be reported to the Texas Historical Commission (THC). In that situation, SPS shall take action as directed by the THC.
5. SPS shall implement erosion control measures as appropriate. Also, SPS shall return each affected landowner's property to its original contours and grades unless otherwise agreed to by the landowner.

6. SPS shall follow the procedures for raptor protection outlined in the *Avian Power Line Interaction Commission (APLIC), Suggested Practices for Raptor Protection on Power Lines: The State of the Art in 2006* (2006); and in the APLIC and United States Fish and Wildlife Service (USFWS) in the *Avian Protection Plan Guidelines* (2005).
7. SPS shall exercise extreme care to avoid affecting non-targeted vegetation or animal life when using chemical herbicides to control vegetation within the right of way.
8. SPS shall 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. Additionally, SPS shall revegetate using native species and shall consider landowner preferences in doing so. Furthermore, to the maximum extent practicable, SPS shall avoid adverse environmental impacts to sensitive plant and animal species and their habitats as identified by Texas Parks and Wildlife Department and the USFWS.
9. SPS shall 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 shall only directly affect landowners who received notice of the transmission line in accordance with P.U.C. PROC. R. 22.52(a)(3) and shall directly affect only those landowners that have agreed to the minor deviation.
10. SPS shall comply with the reporting requirements of P.U.C. SUBST. R. 25.83.
11. All other motions, applications and requests for relief not granted in this order are hereby **DENIED**.

Certificate of Service

I certify that today, April 19, 2010, I served a copy of the Stipulation, Motion for Approval of Stipulation and Remand, and Motion to Grant Intervenor's Request to Withdraw Intervention, on all parties of record, by use of the following methods: hand-delivery; electronic mail; facsimile; regular U.S. Mail or overnight next-day delivery.

A handwritten signature in cursive script that reads "Paul M. Guinn". The signature is written in black ink and is positioned above a horizontal line.

Paul M. Guinn