

PUC DOCKET NO. 45158
SOAH DOCKET NO. 473-16-1219

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APPLICATION OF SOUTHWESTERN §
PUBLIC SERVICE COMPANY §
TO AMEND A CERTIFICATE OF §
CONVENIENCE AND NECESSITY §
FOR A 115-KV TRANSMISSION §
LINE IN DEAF SMITH COUNTY §
(NE HEREFORD TO LA PLATA §
SUBSTATION) §

PUBLIC UTILITY COMMISSION
FILING CLERK
OF TEXAS

ORDER

This Order addresses Southwestern Public Service Company's (SPS's) application to amend a certificate of convenience and necessity (CCN) for a proposed 115-kV transmission line within Deaf Smith County. A unanimous stipulation (Stipulation) was executed that resolves all of the issues in this docket. Consistent with the Stipulation, SPS's application is approved.

The Public Utility Commission of Texas (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 CCN No. 30153.
2. On September 25, 2015, SPS filed an application to amend its CCN for a proposed 115-kV transmission line within Deaf Smith County (Application). SPS's proposed transmission line will begin at the existing NE Hereford Substation, located 3.5 miles northeast of Hereford, Texas, in Deaf Smith County, and terminate at the La Plata Substation, a half mile west of the existing Centre Street Substation, south of County Road 7, near the western portion of the city of Hereford. In addition to the new transmission line, the existing NE Hereford Substation will be reconfigured from a four breaker ring bus configuration to a breaker and a half configuration and a third bay will be added within the existing site. The La Plata Substation is being constructed to replace the existing

Centre Street Substation, which is currently fed from the NE Hereford Substation, but cannot accommodate the proposed 115-kV line due to real estate constraints. The La Plata Substation will be constructed with provisions for expansion to an ultimate arrangement of a three ring 115-kV breaker and a half, with four 115-kV lines and a second distribution transformer.

3. The proposed transmission line was identified by the SPP as needed for reliability to address the overload issues at the NE Hereford Substation 115/69-kV transformers, Circuit #1 or Circuit #2, which could occur during a single contingency event outage of either transformer.
4. On September 25, 2015, SPS provided, by first class mail, written notice of the Application to: (a) the county government of Deaf Smith County, the Texas county in which the proposed project is located; (b) Deaf Smith Electric Cooperative, Inc. and Golden Spread Electric Cooperative, Inc., the neighboring utilities within five miles of the proposed facility; (c) the Mayor of Hereford, the Texas municipality within five miles of the proposed facility; (d) each landowner, as stated on the county tax rolls, that will be directly affected by the requested CCN amendment; (e) the Office of the Public Utility Counsel (OPUC); and (f) Atmos Energy - West Texas Division, a pipeline company that owns transmission pipelines in the area where the proposed project will be located. On September 25, 2015, SPS provided a copy of the Application and the Environmental Assessment and Alternative Route Analysis (EA) to the Texas Parks and Wildlife Department (TPWD). SPS included a copy of the transmittal letter to TPWD with the Application.
5. On September 27, 2015, SPS published notice of the Application in the *Hereford Brand*, a newspaper of general circulation in Deaf Smith County.
6. On September 28, 2015, the Commission's Administrative Law Judge (ALJ) issued Order No. 1, requiring information from SPS and a recommendation from Commission Staff regarding the sufficiency of the Application and notice, and addressing other procedural matters.
7. On October 6, 2015, SPS filed a response to the issues to be addressed in Order No. 1.

8. On October 6, 2015, SPS filed proof of notice to the affected counties, utilities, municipality, landowners, OPUC, TPWD, and the transmission pipeline company in the area.
9. On October 9, 2015, SPS filed an affidavit attesting to the publication of notice in the *Hereford Brand*.
10. On October 12, 2015, Nathan Betzen filed a motion to intervene.
11. On October 20, 2015, the Commission's ALJ issued Order No. 2, granting the motion to intervene filed by Nathan Betzen.
12. On October 23, 2015, Commission Staff filed a recommendation on the sufficiency of the Application and notice. Commission Staff recommended that the Application be deemed sufficient and the notice be approved. Commission Staff also proposed a procedural schedule.
13. On October 29, 2015, the Commission's ALJ issued Order No. 3, deeming SPS's Application sufficient and materially complete, approving SPS's text and provision of notice, and establishing a procedural schedule.
14. On November 6, 2015, Ronald Vasek filed a motion to intervene.
15. On November 16 and 17, 2015, Nathan Betzen filed requests for a hearing on the merits.
16. On November 17, 2015, Ronald Vasek filed requests for a hearing on the merits and revised procedural schedule.
17. On November 17, 2015, the Commission's ALJ issued Order No. 4, granting the motion to intervene filed by Ronald Vasek.
18. On November 18, 2015, the Commission issued the Order of Referral and Preliminary Order referring this proceeding to the State Office of Administrative Hearings (SOAH) and specifying issues to be addressed and an issue not to be addressed.
19. On November 20, 2015, Juan Perez filed a motion to intervene.
20. On November 24, 2015, Alice Hund filed a motion to intervene.
21. On November 25, 2015, Gregorio Chavez filed a motion to intervene.

22. On November 25, 2015, TPWD filed a letter dated November 19, 2015, that it sent comments and recommendations regarding the proposed project.
23. On December 1, 2015, the SOAH ALJ issued Order No. 1, addressing jurisdiction and deadline for decision, scheduling a prehearing conference, establishing filing and service procedures, and setting out various case management procedures.
24. On December 8, 2015, Chavez Farms filed a motion to intervene.
25. On December 17, 2015, the SOAH ALJ issued Order No. 2, memorializing the prehearing conference, setting deadlines, and providing notice of hearing.
26. On January 20, 2016, SPS filed a Stipulation resolving all issues in this docket.
27. On January 20, 2016, SPS filed the testimonies of Terence D. Randall and Thomas J. Ademksi in support of the Stipulation.
28. On January 20, 2016, Commission Staff filed the Affidavit of Brandon Righter of the Infrastructure and Reliability Division in support of the Stipulation.
29. On January 20, 2016, SPS filed an agreed motion to admit evidence and motion to remand proceeding.
30. On January 25, 2016, the SOAH ALJ issued Order No. 3, admitting evidence into the record of this proceeding, dismissing the SOAH docket, and returning the matter to the Commission for further processing.

Description of Agreed Transmission Line and Cost

31. SPS filed nine alternative routes consisting of a combined 20 segments. Parties have agreed to Modified Route 6 that is comprised of Segments: A, B, F, F*, G*, M, P, and Q. Segments F* and G* are modifications to Segments F and G as filed with the application. Segment G* is a modification of the north-south routing of the originally proposed Segment G. Segment G* is located west of Segment G and is located entirely on the properties in which Alice Hund and Chavez Farms have an interest. Segment F* is a modification that is located at the terminus of the originally proposed Segments F and G and the eastern portion of Segment H. Segment F* extends west in the same manner as Segment F-Segment H as originally noticed on property owned by the Friendship Dairies, which entity was provided

notice of but did not intervene in this docket. The portion of Segment F* that is routed differently than routing originally noticed in the Application affects Alice Hund. A complete description of Modified Route 6 and the segments that comprise the route is attached to the Stipulation as Attachment B. A map depicting Modified Route 6 and the segments that comprise the route is attached to the Stipulation as Attachment C. SPS will purchase a 70-foot easement (wider in some circumstances) for Modified Route 6. The length of Modified Route 6 is approximately 7.51 miles.

32. The proposed transmission line will be built using primarily single-pole steel structures.
33. The total estimated cost to construct Modified Route 6, including substation costs, is approximately \$11,802,990. SPS estimates that the cost to construct the transmission facilities is approximately \$4,898,928. The estimated cost to expand and upgrade the NE Hereford Substation and build the La Plata Substation, is approximately \$6,904,062, including \$3,767,369 in associated Distribution Facility costs. The total estimated cost to construct each of the 10 routes (including Modified Route 6) ranges from \$11,790,312 to \$15,099,546. At a total cost of \$11,802,990, Modified Route 6 is tied with Route 6 for the second least expensive route, which is only \$12,678 more than the least expensive route. Therefore, the estimated cost of the proposed transmission line constructed on Modified Route 6 and substation facilities is reasonable when compared to the estimated costs of construction on the other proposed alternative routes for this project.

Need for the Proposed Transmission Line

34. SPS is a member of, and its entire transmission system is located within, the SPP. The SPP is a regional transmission organization approved by the Federal Energy Regulatory Commission that meets the requirements of § 39.151 of the Public Utility Regulatory Act, Tex. Util. Code Ann. §§ 11.001-66.016 (West 2007 & Supp. 2015) (PURA) as an independent system operator.
35. The proposed project includes a 115-kV transmission line that will begin at the existing NE Hereford Substation, located 3.5 miles northeast of Hereford, Texas in Deaf Smith County, and terminate at the La Plata Substation, a half mile west of the existing Centre Street Substation, south of County Road 7, near the western portion of the city of Hereford.

In addition to the new transmission line, the existing NE Hereford Substation will be reconfigured from a four breaker ring bus configuration to a breaker and a half configuration and a third bay will be added within the existing site. The La Plata Substation is being constructed to replace the Centre Street Substation, which is currently fed from the NE Hereford Substation, but cannot accommodate the proposed 115-kV line due to real estate constraints. The La Plata Substation will be constructed with provisions for expansion to an ultimate arrangement of a three ring 115-kV breaker and a half, with four 115-kV lines and a second distribution transformer.

36. The proposed transmission line was identified by the SPP as needed for reliability to address the overload issues at the NE Hereford Substation 115/69-kV transformers, Circuit #1 or Circuit #2, which could occur during a single contingency event outage of either transformer.
37. The proposed transmission line was identified by SPP as the result of the 2014 SPP Integrated Transmission Plan Near-Term Assessment (ITPNT) Report, which is part of the annual Regional Transmission Organization Reliability Assessment. SPP issued a Notification to Construct (NTC) letter, dated February 19, 2014, to SPS based on the results of the 2014 ITPNT to construct the proposed transmission line.
38. SPS demonstrated a reasonable need for the proposed project in order to continue to provide adequate and reliable service. The record demonstrates that the need for the proposed project was not disputed by the parties.
39. The project is necessary for the service, accommodation, convenience, and safety of the public within the meaning of PURA § 37.056(a), taking into account the factors set out in PURA § 37.056(c).
40. The project supports the reliability and adequacy of the interconnected transmission system.
41. The project facilitates robust wholesale competition.
42. The project is not needed to interconnect a new transmission service customer.

43. Other electric utilities in the service area (i.e., Golden Spread Electric Cooperative, Inc. and Deaf Smith Electric Cooperative, Inc.) should see increased system reliability and capacity from the completion of the project.

Resolution of Landowner Concerns

44. All intervenors have agreed to Modified Route 6 consisting of Segments A, B, F, F*, G*, M, P, and Q.

Project Alternatives

45. SPP conducted the ITPNT study, which studied and analyzed reliability issues in the region and determined if projects were needed to address those issues. The ITPNT study provided an in-depth analysis of the need for this project prior to the SPP's issuance of the NTC for the proposed transmission line. The ITPNT study concluded that the proposed line was needed for reliability to address the overload issues at the NE Hereford Substation 115/69-kV transformers, Circuit #1 or Circuit #2, which could occur during a single contingency event outage of either transformer.
46. Distribution alternatives were considered in conjunction with the proposed transmission line. SPP provided SPS an NTC to convert the high side of the distribution transformer at the Hereford Substation from 69-kV to 115-kV (Hereford Load Conversion). However, the Hereford Load Conversion alone is not sufficient to resolve the overload issues, and therefore the February 19, 2014 NTC was issued addressing both projects.
47. Upgrading voltage or bundling of conductors of existing facilities, adding transformers, or distributed generation would not satisfy the 2014 ITPNT study's identified reliability need to address the overload issues at the NE Hereford Substation 115/69-kV transformers, Circuit #1 or Circuit #2, which could occur during a single contingency event outage of either transformer.

Routes

48. To assist SPS in developing and selecting routes for the Proposed Project, SPS retained Burns & McDonnell Engineering Company, Inc. (Burns & McDonnell) to prepare the EA.

49. SPS, in consultation with Burns & McDonnell, considered and submitted a sufficient number of geographically diverse routes for the proposed transmission line.
50. The proposed transmission line to be constructed along Modified Route 6 is comprised of Segments A, B, F, F*, G*, M, P, and Q, as described in Attachment B to the Stipulation. The proposed transmission line will begin at the existing NE Hereford Substation, located 3.5 miles northeast of Hereford, Texas in Deaf Smith County, and terminate at the new La Plata Substation, a half mile west of the existing Centre Street Substation, south of County Road 7, near the western portion of the city of Hereford.
51. Modified Route 6 complies with the criteria of PURA § 37.056 and 16 Tex. Admin. Code (TAC) § 25.101 and construction of the proposed project on Modified Route 6 best meets those criteria when all routing factors, including landowner concerns, are considered.

Community Values

52. Pursuant to 16 TAC § 22.52(a)(4), SPS and Burns & McDonnell conducted a public open-house meeting at the Hereford Community Center on February 3, 2015, from 5:00 to 7:00 PM. Attendees were able to fill out and submit questionnaires relating to the project and interact with and question personnel from SPS and Burns & McDonnell.
53. A total of 26 persons/landowners signed in at the public meeting, and one added a family member's name on the sign-in sheet, as well. Therefore, a total of at least 27 persons attended the open-house meeting. A total of 13 questionnaires were submitted to SPS following the public meeting.
54. Information received from public open-house meetings, and from local, state, and federal agencies was considered and incorporated into the routing analysis and selection of alternative routes. The resulting set of nine proposed routes constitutes the routes that were presented for the Commission's consideration and selection in SPS's Application and accompanying EA.
55. There are nine habitable structures located within 300 feet of the proposed transmission line along Modified Route 6. The number of directly affected habitable structures for the proposed routes range from seven to 35.

56. There are no AM radio towers within 10,000 feet of the proposed transmission line along Modified Route 6.
57. There is one FM tower or other electronic installation located within 2,000 feet of the transmission line along Modified Route 6.
58. There is one FAA registered airport with a runway longer than 3,200 feet within 20,000 feet of the centerline of Modified Route 6, which is the same number for all of the proposed routes. There are no FAA registered airports with no runway more than 3,200 feet in length located within 10,000 feet of Modified Route 6. There is one heliport within 5,000 feet of Modified Route 6. There is one private airstrip within 10,000 feet of the centerline of Modified Route 6.

Park and Recreational Areas

59. There are no park or recreational areas crossed by Modified Route 6. There is one park or recreational area within 1,000 feet of the proposed centerline of Modified Route 6.
60. The proposed transmission line will have no significant impact on parks and recreational areas.

Historical and Archeological Areas

61. Modified Route 6 does not cross any recorded cultural resource sites, and there are no such recorded sites located within 1,000 feet of the centerline of the route.
62. Modified Route 6 does not cross any National Register of Historic Places-listed or determined-eligible sites, and there are no such recorded sites within 1,000 feet of the route.
63. Modified Route 6 crosses 1.73 miles of high archeological or historical site potential. The alternative route lengths crossing areas of high archeological site potential range from 1.53 miles to 2.46 miles. The length crossed by Modified Route 6 is therefore in the lower end of the range.

Aesthetic Values

64. The aesthetic impacts of the proposed transmission line have been considered and minimized to the extent reasonable.

65. Modified Route 6 would be in the foreground visual zone of: U.S. and state highways for approximately 1.51 miles; farm-to-market and ranch-to-market roads for approximately 0 miles; and parks and recreational zones for 0.65 miles.

Effect of Granting the CCN on Other Utilities

66. 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.

Environmental Impact

67. The EA included with SPS's Application analyzed the possible impact of the proposed project on numerous different environmental factors.
68. Construction of the proposed transmission line will not have a significant effect on the geologic or physiographic features of the area.
69. The proposed transmission line will cause only minimal and short-term impact to soil, water and ecological resources.
70. The proposed transmission line will not have a long-term impact on soils. SPS will inspect the right-of-way (ROW) during and after construction to identify problem erosion areas and will take special precautions to minimize vehicular traffic over areas with very shallow soils. SPS will also exercise special care when clearing near waterways.
71. The proposed transmission line will have minimal impact on prime farmland and will be limited to the physical occupation of small areas at the base of support structures.
72. The construction of the proposed transmission line should have little to no impact on surface water.
73. Modified Route 6 will cross no streams, will have approximately 0.22 mile of ROW across open water (e.g., ponds, playa lakes), will cross one playa lake, and will have approximately 0.09 mile of ROW across potential wetlands. SPS will span any wetlands where possible. Lines that cross or are located near any wetlands will have line markers installed at the crossings or closest points to the wetlands.

74. There are no 100-year floodplain maps available for Deaf Smith County, the only county in which Modified Route 6 is located. Careful siting should minimize the possible impacts in any flood prone areas and the structures should not significantly affect flooding.
75. Construction of the proposed transmission line and substation should have little to no impact on the groundwater resources of the area.
76. The main impact of the transmission line on vegetation will be the removal of woody vegetation along the proposed ROW. Mowing and/or shredding of herbaceous vegetation may be required within grasslands/pasturelands. 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 by this Order.
77. The transmission line will have no significant impact, if any, on aquatic/hydric habitat.
78. The transmission line will have no significant impact on local wildlife.
79. The transmission line is not located within the Texas Coastal Management Program Boundary.
80. No plants are currently listed as threatened or endangered by USFWS or TPWD for Deaf Smith County, therefore none are anticipated to occur along the proposed transmission line route or on the substation sites. No impacts to any federally or state listed plant species are expected to result from this project.
81. No significant impacts to unique, sensitive, or protected wildlife habitats are anticipated.
82. No impacts to federal or state-listed threatened or endangered species are anticipated. SPS will consult with USFWS should any federally listed species be observed during construction.
83. No impacts are expected to non-listed sensitive species that may occur in the study area. SPS will consult USFWS or TPWD for any required surveys.
84. SPS has conducted a reasonable evaluation of potential environmental impacts of the proposed transmission line in the impacted area.

Probable Improvement of Service or Lowering of Consumer Cost

85. The proposed transmission line will improve reliability and capacity, and accommodate future load growth in the SPS Service Area.
86. The proposed transmission line will result in the probable improvement of service to consumers in the area if SPS's Application is granted.

Effect on the State's Ability to Meet the Goal Established by PURA 39.904(a)

87. This project will not adversely affect PURA's goal for renewable energy development.

Engineering Constraints

88. Based on the information currently available, SPS has determined that it can construct and operate any of the proposed routes, including Modified Route 6.
89. Using the best information available to it without access to the subject properties, SPS has not identified any engineering constraints along the approved route that cannot be resolved with additional consideration during the design and construction phase of the proposed transmission-line project.

Costs

90. SPS's Application contains a detailed cost estimate for each of the nine proposed routes included in the Application. The testimony in support of Stipulation of Terence D. Randall provides the same detailed cost estimate for Modified Route 6. The proposed routes range in estimated costs from \$11,790,312 to \$15,099,546, including substation costs, with lengths ranging from 7.48 to 11.34 miles.
91. Modified Route 6 is tied for the second lowest cost of the routes proposed by SPS's Application, with a total estimated cost of \$11,802,990, comprised of \$4,898,928 in estimated transmission facility, and \$6,904,062 in estimated substation costs.
92. Modified Route 6 is approximately 7.51 miles, which places it in the lower end of the range of route lengths.

Compatible Right-of-Way

93. Modified Route 6 parallels existing transmission lines and other compatible ROW for approximately .60 miles (8% of its total length).

94. Modified Route 6 parallels apparent property lines for approximately 6.79 miles (90% of its total length).
95. Modified Route 6 parallels existing transmission line ROW, other compatible ROW, and apparent property lines for a total of 7.37 miles (98% of its length).

Prudent Avoidance

96. The proposed transmission line has been routed in accordance with the Commission's policy of prudent avoidance.
97. There are nine habitable structures within 300 feet of the centerline of Modified Route 6.

TPWD Written Comments, Recommendations, and Procedures

98. SPS has committed to comply with all environmental laws and regulations independent of any language included by the Commission in an Order.
99. In addition to obtaining a CCN amendment from the Commission, SPS may need additional permits and may be required to make additional notifications in order to construct the project.
100. After a transmission line route has been selected and approved by the Commission, qualified individuals will conduct a field assessment of the entire length of the route to identify water resources, cultural resources, potential migratory bird issues, and any threatened or endangered species habitat that may be impacted as a result of the project. 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.
101. When appropriate, SPS will utilize permitted biological monitors to ensure compliance with the *Endangered Species Act*.
102. SPS will implement construction practices that are sufficient to avoid the need for additional permitted biological monitors during clearing and construction activities for state-listed species. SPS will implement TPWD recommendations that state-listed species

observed during construction be allowed to leave the site or be relocated to a suitable nearby area by a permitted individual.

103. It is proper that SPS undertake measures necessary to comply with the *Migratory Bird Treaty Act*.
104. The standard mitigation requirements included in the ordering paragraphs in this Order, coupled with SPS's construction and mitigation practices, are reasonable measures for SPS to undertake when constructing a transmission line.
105. It is appropriate that SPS use best management practices to minimize the potential impact to migratory birds and threatened or endangered species.
106. To the extent prairie dogs are in the immediate proximity of the route, SPS will undertake measures described in the letter dated November 19, 2015, and filed in this docket, from TPWD regarding the Black-tailed prairie dog.
107. This Order addresses only those TPWD recommendations and comments for which there is record evidence.

II. 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 this matter pursuant to PURA §§ 14.001, 32.001, 37.051, 37.053, 37.054, and 37.056.
4. SPS provided proper notice of the Application in compliance with PURA § 37.054 and 16 TAC § 22.52(a).
5. This docket was processed in accordance with the requirements of PURA, the Administrative Procedure Act, Tex. Gov't Code Ann., Chapter 2001 (West 2008 & Supp. 2015), and Commission rules.
6. SPS is entitled to approval of the Application described in the findings of fact, utilizing Modified Route 6, 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(a) taking into consideration the factors set forth in PURA § 37.056(c) and 16 TAC § 25.101.

7. Modified Route 6 complies with the criteria of PURA § 37.056 and 16 TAC § 25.101, as well as the Commission's policy of prudent avoidance.
8. This Application does not constitute a major rate proceeding as defined by 16 TAC § 22.2.
9. Consistent with the Stipulation, the Application is reasonable, in the public interest, and should be approved.
10. The requirements for informal disposition pursuant to 16 TAC § 22.35 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 Order:

1. Consistent with the Stipulation, SPS's Application is approved.
2. Consistent with the Stipulation, CCN No. 30153 is amended to include the construction and operation of the transmission line facilities requested in the Application. The approved route for this transmission line is Modified Route 6, comprised of Segments A, B, F, F*, G*, M, P, and Q as described in the Attachment B to the Stipulation. Modified Route 6 is approximately 7.51 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. Entry of this Order shall not be regarded as binding precedent as to the appropriateness of any principle or methodology 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 or landowners' representatives. SPS shall not be required to 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.
6. SPS shall follow the procedures for raptor protection outlined in the Avian Power Line Interaction Commission (APLIC), *Suggested Practices for Avian Protection on Power Lines: The State of the Art in 2006* (2006); and in the APLIC and USFWS *Avian Protection Plan Guidelines* (2005). SPS will consult *Reducing Avian Collisions with Power Lines: The State of the Art in 2012* (2012). SPS shall take precautions to avoid disturbing occupied nests and will take steps to minimize the impact of construction on migratory birds, especially during nesting season.
7. SPS shall exercise extreme care to avoid affecting non-targeted vegetation or animal life when using chemical herbicides to control vegetation within the ROW, and shall ensure that such herbicide use complies with the rules and guidelines established in the *Federal Insecticide, Fungicide and Rodenticide Act* and with the Texas Department of Agriculture regulations.
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 ROW clearance for the transmission line. Additionally, SPS shall re-vegetate using native species and shall consider landowner preferences and wildlife needs 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 TPWD and the USFWS.
9. SPS shall use best management practices to minimize the potential impact to migratory birds and threatened or endangered species.

10. SPS shall cooperate with directly affected landowners to implement minor deviations in the settlement route to minimize the impact of the transmission line. Any minor deviations in the settlement route shall only directly affect landowners who were sent notice of the transmission line in accordance with 22 TAC § 22.52(a)(3) and shall directly affect only those landowners that have agreed to the minor deviation, excluding public ROW.
11. SPS shall be permitted to deviate from the approved route in any instance in which the deviation would be more than the minor deviation, but only if the following two conditions are met. First, SPS shall receive consent from all landowners who would be affected by the deviation regardless of whether the affected landowner received notice of or participated in this proceeding. Second, the deviation shall result in a reasonably direct path towards the terminus of the line and not cause an unreasonable increase in cost or delay the project. Unless these two conditions are met, this paragraph does not authorize SPS to deviate from the approved route except as allowed by the other ordering paragraphs in this Order.
12. SPS shall update the reporting of this project on their monthly construction progress report prior to the start of construction to reflect final estimated cost and schedule in accordance with 16 TAC § 25.83(b).
13. All other motions, requests for entry of specific findings of fact, conclusions of law, and ordering paragraphs, and any other requests for general or specific relief, if not expressly granted, are denied.

SIGNED AT AUSTIN, TEXAS the 25th day of March 2016.

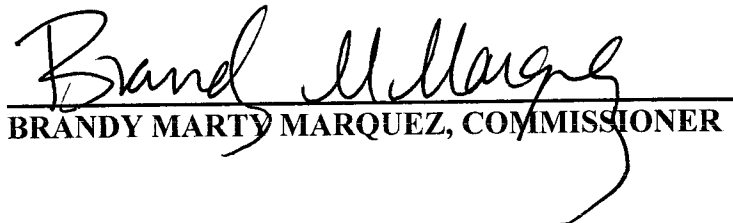
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DONNA L. NELSON, CHAIRMAN



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BRANDY MARTY MARQUEZ, COMMISSIONER