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PUBLIC UTILITY COMMISSION
FILING CLERK

APPLICATION OF SOUTHWESTERN §
PUBLIC SERVICE COMPANY TO §
AMEND A CERTIFICATE OF §
CONVENIENCE AND NECESSITY FOR §
A PROPOSED 230-KV TRANSMISSION §
LINE WITHIN LUBBOCK COUNTY §
(WOLFFORTH TO CARLISLE) §

PUBLIC UTILITY COMMISSION
OF TEXAS

ORDER

This Order addresses Southwestern Public Service Company's (SPS) application to amend its certificate of convenience and necessity (CCN) to construct a new 230-kilovolt (kV) transmission line between the existing SPS-owned Carlisle and Wolfforth substations, which has been identified by the Southwest Power Pool (SPP) as needed to address reliability. In addition to the new transmission line, the Wolfforth and Carlisle substations will undergo upgrades, re-terminations, and expansions.

On June 4, 2015, the State Office of Administrative Hearings (SOAH) administrative law judges (ALJs) issued a proposal for decision, recommending that the Commission approve SPS's application, and adopt route L. On July 15, 2015, the ALJs filed a letter in response to the parties' exceptions and replies, and declined to make any changes to the proposal for decision, other than SPS's recommended changes to findings of fact 62 and 105.

At the August 14, 2015 open meeting, the Commission heard oral argument of the parties. The Commission adds finding of fact 35A to the procedural history to reflect the hearing of the oral argument. At the September 11, 2015 open meeting, the Commission voted to approve SPS's application, but adopt route L1, instead of route L, in consideration of the oral testimony by the parties and the proximity of route L to the Terra Vista Middle School. To reflect the adoption of route L1, the Commission modifies findings of fact 38, 40, 53, 58, 59, 60, 61, 64, 65, 66, 67, 69, 76, 77, 91, 94, 95, 96, 97, 98, 99, and 101; the Commission also deletes findings of fact 103 and 111. The Commission also modifies conclusions of law 9 and 10. Other than these

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modifications, the Commission adopts the proposal for decision, including findings of fact and conclusions of law.

The Public Utility Commission of Texas (Commission) adopts the following findings of fact and conclusions of law:

I. Findings of Fact

Procedural History

1. Southwestern Public Service Company (SPS) is an investor-owned electric utility providing retail electric service in Texas under certificate of convenience and necessity (CCN) number 30153.
2. On August 21, 2014, SPS filed an application with the Public Utility Commission of Texas (Commission) to amend its CCN for a proposed 230-kilovolt (kV) transmission line within Lubbock County (Wolfforth to Carlisle). SPS's proposed transmission line will begin at the Wolfforth Substation located on Farm-to-Market Road (FM) 1585 (114th Street), approximately 0.75 mile west of U.S. Highway 62 in western Lubbock County, and end at the existing Carlisle Substation, located at the intersection of FM 2255 (4th Street) and Quincy Avenue, in the western portion of the city of Lubbock.
3. In addition to the new transmission line, SPS will expand the Wolfforth Substation to a four breaker ring bus configuration expandable to a breaker and a half. The Wolfforth Substation expansion will require reterminations of the existing 230-kV Sundown and Lubbock South transmission lines. Terminal upgrades will also be required at the remote ends of the Sundown and Lubbock South transmission lines. At the Carlisle Substation, SPS will expand the 230-kV bus to a five breaker ring bus expandable to a breaker and a half. The Carlisle Substation expansion will require reterminations of the 230-kV TUCO and Lubbock Power and Light transmission lines into new bay positions. Terminal upgrades will also be required at the ends of these transmission lines.
4. The proposed transmission line was identified by the Southwest Power Pool (SPP) as needed for reliability to address the overload of the 115-kV Indiana to Stanton transmission line in the case of an outage on the Carlisle to TUCO 230-kV transmission

line. The proposed transmission line's length would be approximately 11 to 23 miles depending on the route selected.

5. On August 21, 2014, SPS provided, by first class mail, written notice of the application to: (a) the county governments of Lubbock and Hockley Counties, the Texas counties in which the proposed project is located; (b) Golden Spread Electric Cooperative, Inc., Lubbock Power and Light and South Plains Electric Cooperative, Inc., the neighboring utilities within five miles of the proposed facility; (c) the cities of Lubbock and Wolfforth, the municipalities 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; and (e) the Office of the Public Utility Counsel (OPUC). Per the request of Commission Staff, SPS also provided notice of the application by first class mail to BP Pipeline, North America; MarkWest Power Texas, L.P.; and ONEOK Westex Transmission, L.L.C., companies that own transmission pipelines in the area where the proposed project is located.
6. On August 21, 2014, 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.
7. On August 21, 2014, SPS published notice of the application in *The Lubbock Avalanche-Journal*, a newspaper of general circulation in Lubbock County.
8. On August 22, 2014, 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.
9. On August 29, 2014, SPS filed proof of notice to the affected counties, utilities, municipalities, landowners, OPUC, and the transmission pipelines in the area.
10. On September 3, 2014, SPS filed an affidavit attesting to the publication of notice in *The Lubbock Avalanche-Journal*.

11. On September 15, 2014, SPS filed an affidavit attesting to the provision of the application and EA and alternative route analysis to TPWD.
12. On September 17, 2014, the Commission's ALJ issued Order No. 2 granting the motions to intervene of Walterine Murphy, Terry Henrie, Bobby Yates, Thelma Ray Butler and Curtis Griffith.
13. On September 23, 2014, the Commission's ALJ issued Order No. 3 addressing the sufficiency of the application and notice, and establishing a procedural schedule.
14. On October 2, 2014, Commission Staff filed a letter from TPWD containing comments and recommendations regarding the proposed transmission line.
15. On October 3, 2014, Bobby Yates and Dexter Duhan filed a joint request for a hearing on the merits.
16. On October 3, 2014, the Commission's ALJ issued Order No. 5, granting the motions to intervene of Mrs. William Turner, the City of Wolfforth (Darrell Newsom, City Manager), Loyd & Gilda Rinehart, Mark Anderson, and Lubbock Reese Redevelopment Authority.
17. On October 6, 2014, Julie Burgamy and John Zakrasek for Burgamy Development Corporation and MCP Enterprises filed a request for a hearing on the merits.
18. On October 7, 2014, the Commission's ALJ issued Order No. 6 granting the motions to intervene of Travis and Diane Casler, Linda Bryan, MCP Enterprises LLC, and Burgamy Development Corporation.
19. On October 8, 2014, the Commission issued its Order of Referral and Preliminary Order referring this proceeding to the State Office of Administrative Hearings (SOAH) and specifying issues to be addressed.
20. On October 15, 2014, Lubbock Reese Redevelopment Authority filed a request for a hearing on the merits.
21. On October 22, 2014, the SOAH ALJs issued Order No. 1, addressing jurisdiction and jurisdictional deadline, scheduling a prehearing conference, establishing filing and service procedures, and setting out various case management procedures.

22. On November 3, 2014, SOAH ALJs Travis Vickery and Casey A. Bell convened a prehearing conference in Austin, Texas.
23. On November 18, 2014, SOAH Order No. 3 was issued, memorializing the prehearing conference, ruling on motions to intervene, adopting a procedural schedule, denying motion to transfer venue, and providing notice of the date for the hearing on the merits. Order No. 3 granted all pending motions to intervene to which no objections were lodged, including those of West Lubbock Land LLC, Verrado Estates, Pevehouse Development Corporation, Peggy E. Crawley, Robert and Janet Matthews, Curtis and Cynthia Harrist, Tom J. Baker, Randy and Sandy Coleman, Michael Timmons, Patti Frullo, Wayne H. Worley, Dana Hanna, Linda Smith, and Michael and Cheryl Noel. Although not specifically listed, the following parties were also granted intervention by virtue of SOAH Order No. 3: Camille Williams, David Cates, Cynthia Caraso, Jimmy James Hernandez, Todd Conversano, Dexter Duhan and Duhan Family Ltd., Jose Gomez, Felicitas Lopez, and Anita Rositas.
24. On December 5, 2014, Burgamy Development Corporation filed a request for a hearing on route adequacy.
25. On December 8, 2014, SOAH Order No. 4 was filed granting the request to intervene of R. A. Noret.
26. On December 15, 2014, SOAH Order No. 5 was filed canceling the hearing on route adequacy and admitting Reagan Johnston as an intervenor.
27. On December 22, 2014, SOAH Order No. 6 was filed finding adequacy of routes and ordering Reagan Johnston to provide evidence of his authority to act on behalf of the E.W. Brown Estate, the entity on whose behalf Mr. Johnston was attempting to intervene.
28. On January 7, 2015, Reagan Johnston filed documentation of Reagan Johnston authority for land listed as E.W. Brown Estate.
29. On January 12, 2015, SPS filed notification of supplemental notice and an affidavit of proof of supplemental notice by mail. SPS provided this additional notice, at the request of Commission Staff, to Chad and Michelle Metcalf. The Metcalfs did not request to intervene.

30. On February 6, 2015, SOAH Order No. 8 dismissed the following intervenors who had not filed either testimony or a statement of position: Walterine Murphy, Terry Henrie, Thelma Ray Butler, Mrs. William Turner, Mark Anderson, Loyd and Gilda Rinehart, Linda Bryan, Anita Rositas, Jose Gomez, Felicitas Lopez, Camille Williams, J. Brad Hurlbut, David Cates, Cynthia Caruso, Jimmy James Hernandez, and Todd Conversano. This Order inadvertently dismissed Thelma Ray Butler who filed direct testimony on January 9, 2015, but whose testimony was entered in the Commission interchange as “comments.”
31. On February 19, 2015, Loyd and Gilda Rinehart requested to be reinstated as intervenors, stating that their filing on September 23, 2014, was their statement of position.
32. On March 2, 2015, SOAH ALJs Travis Vickery and Casey A. Bell commenced and concluded the hearing on the merits in this docket.
33. On March 4, 2015, SOAH Order No. 9 readmitted intervenors Loyd and Gilda Rinehart and set deadlines for post-hearing briefing.
34. On March 11, 2015, pursuant to direction provided by the SOAH ALJs at the hearing on the merits, SPS filed its clarification of evidence presented by Burgamy Development Corporation at the hearing on the merits. SPS’s clarification provided corrections to cross-examination Exhibit BDC-2, Exhibits 1-1, 1-2, 1-13, and 1-16.
35. On April 7, 2015, the evidentiary record closed.
- 35A. The Commission heard oral argument by the parties at the August 14, 2015 open meeting.

Application/Project Description

36. The project consists of a new single-circuit 230-kV transmission line extending from SPS’s existing Wolfforth Substation to its existing Carlisle Substation. Substation upgrades are required at both of the endpoints.
37. SPS’s application contains 65 segments that comprise 14 geographically diverse alternate routes. The application contains an adequate number of reasonably differentiated alternative routes to conduct a proper determination.

38. Route L1, made up of Segments 2, 6, 8, 19, 24a, 28, 29, 30, 31, 34, 36, 39, 63, and 64 as described in the application, best meets the factors under PURA and the Commission Substantive Rules applicable to a proposed transmission line.
39. The proposed transmission line will be built using primarily single-pole steel structures.
40. The total estimated cost to construct Route L1 is approximately \$27,023,250, composed of \$13,669,796 in estimated transmission facility and \$13,353,454 in estimated substation costs. Route L1 is the fifth least expensive route, including routes considered at the hearing, based on estimated costs. The estimated cost of the proposed transmission line and substation facilities is reasonable when compared to the estimated cost of construction of the other proposed alternative routes for this project.

Need for the Proposed Transmission Line

41. SPS is a member of, and its entire transmission system is located within, the SPP.
42. The proposed transmission line was identified by SPP as the result of the 2013 SPP transmission expansion plan report which is part of the annual regional transmission organization (RTO) reliability assessment. SPP issued a notification to construct to SPS to construct the proposed transmission line.
43. SPS's summer load forecast from 2014 to 2024 for the transmission system within the Lubbock service area of SPS's service territory indicates there is increasing load growth in the area for the next 10 years and supports the need for the additional transmission capacity that the proposed transmission line will provide. SPS provided its summer load forecast to SPP for use in the annual RTO reliability assessment.
44. 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.
45. The project supports the reliability and adequacy of the interconnected transmission system.
46. The project facilitates robust wholesale competition.
47. The project is not needed to interconnect a new transmission service customer.

48. Other electric utilities in the Lubbock Service Area (*i.e.*, South Plains Electric Cooperative, Golden Spread Electric Cooperative, and Lubbock Power and Light) should see increased operational reliability from the completion of the project.

Project Alternatives

49. In coordination with SPS, SPP conducted studies to determine if there were reliability issues within the transmission system and whether additional transmission lines or upgrades to existing lines were needed. These studies provided an in-depth analysis of the need for this project prior to SPP's issuance of the notification to construct for the proposed transmission line. The studies concluded that the project was needed for reliability purposes and to mitigate an overload violation of the Indiana to Stanton 115-kV transmission line during a single contingency condition that could occur during an outage of the Carlisle to TUCO 230-kV transmission line.
50. Distribution alternatives, upgrading voltage or bundling of conductors of existing facilities, adding transformers, or distributed generation alternatives alone would not satisfy the reliability requirements of the SPP transmission expansion plan report to mitigate an overload violation of the Indiana to Stanton 115-kV transmission line during a single contingency condition. Such a condition could occur during an outage of the Carlisle to TUCO 230-kV transmission line.

Routes

51. To assist SPS in developing and selecting routes for the proposed project, SPS retained Atkins North America, Inc. and Burns & McDonnell Engineering Company, Inc. (environmental consultants) to prepare the EA.
52. SPS, in consultation with its environmental consultants, considered and submitted a sufficient number of geographically diverse routes for the proposed transmission line.
53. Consistent with the application, the proposed transmission line to be constructed along route L1 is composed of Segments 2, 6, 8, 19, 24a, 28, 29, 30, 31, 34, 36, 39, 63, and 64. The proposed transmission line will begin at the Wolfforth Substation located on FM 1585 (114th Street) approximately 0.75 mile west of US Highway 62 in western Lubbock

County, and end at the existing Carlisle Substation, located at the intersection of FM 2255 (4th Street) and Quincy Avenue, in the western portion of the City of Lubbock.

Community Values

54. SPS and its environmental consultants conducted a public open-house meeting on April 17, 2014 at the Frenship High School Cafeteria, 902 Dowden Road, Wolfforth, Texas, from 5:00 to 7:00 P.M. Preliminary alternative route segments were presented at the open house meeting. Attendees were able to fill out and submit questionnaires relating to the project and interact with and question personnel from SPS and its environmental consultants who were present at the meeting.
55. A total of at least 188 people attended the open-house meeting. A total of 71 questionnaires were submitted to SPS following the meeting. The factor ranked as most important based on the results of the questionnaires was the impact to residential areas.
56. Following the open house meeting, SPS and its environmental consultants reviewed areas of concern raised at the meeting and in other communications from the public. In response to public concerns, some preliminary routing segments were deleted, some were added, and others were modified to reduce potential impacts to habitable structures and other constraints to the greatest extent practicable.
57. Information received from the public open-house meeting in Wolfforth and from local, state, and federal agencies was considered and incorporated into the routing analysis and selection of alternative routes. The resulting set of 14 proposed routes constitute the routes that have been presented for the Commission's consideration and selection in SPS's application and accompanying EA.
58. There are 42 habitable structures located within 300 feet of the proposed centerline along route L1.
59. There are no AM radio towers located within 10,000 feet of the proposed centerline along route L1.
60. There are no FM towers located within 2,000 feet of the proposed centerline. There is one cellular tower within 2,000 feet of the proposed centerline along route L1.

61. There is one FAA-registered airfield, Reese Airpark, with at least one runway longer than 3,200 feet located within 20,000 feet of proposed route L1. There are no known heliports within 5,000 feet of the proposed centerline of route L1. There are no private airstrips within 10,000 feet of the proposed centerline of route L1.

Recreational and Park Areas

62. The project will not have a significant effect on recreational and park areas given that the range of length of right-of-way (ROW) across park and recreational areas for the proposed routes varies from 0 to 0.01 mile.
63. The number of additional parks and recreational areas within 1,000 feet of the ROW of the centerline of the proposed routes varies from zero to four, with over half the proposed routes affecting zero parks or recreational areas.
64. There are no park or recreational areas crossed by route L1. There are no recreational areas within 1,000 feet of the proposed centerline of route L1.

Historical and Archeological Areas

65. Route L1 does not cross any recorded cultural resources or have any additional recorded cultural resource sites within 1,000 feet of the centerline of the route.
66. Route L1 does not cross any National Register of Historic Places-listed or determined-eligible sites, and there are no such sites within 1,000 feet of the route.
67. Route L1 crosses 3.55 miles of high archeological/historic site potential, the third least of all of the alternative routes, including the additional routes considered at the hearing.

Aesthetic Values

68. The aesthetic impacts of the proposed transmission line have been considered and minimized to the extent reasonable.
69. Route L1's ROW would be in the foreground visual zone of: US and state highways for approximately 1.59 miles; FM and RM roads for approximately 5.02 miles; and parks and recreational zones for approximately 1.56 miles.

70. The selected route will be constructed using single-circuit self-supporting steel monopole structures within a 90-foot ROW, except in exceptional circumstances. Additionally, the aesthetic impact of the project will be minimized by SPS's use of weathering steel structures, which will lower the visibility of the structures against a natural background.

Environmental Impact

71. The EA included with SPS's application analyzed the possible impact of the project on numerous different environmental factors.
72. Construction of the proposed transmission line will not have a significant effect on the geologic or physiographic features of the area.
73. The proposed transmission line will cause only minimal and short-term impacts to soil, water, and other ecological resources.
74. The proposed transmission line will not have a long-term impact on soils. SPS will inspect the 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.
75. The construction of the proposed transmission line should have little to no impact on surface water.
76. Route L1 will cross no streams and will have approximately 0.20 mile of ROW across playa lakes. SPS will span playa lakes where possible. Lines that cross or are located near streams and playa lakes will have line markers installed at the crossings or closest points to the streams or playa lakes.
77. Route L1 will cross 1.27 miles across 100-year floodplains. Careful siting should minimize the possible impacts in any flood prone areas, and the structures should not significantly affect flooding. SPS will coordinate with the appropriate floodplain administrators for Lubbock County as necessary.
78. Construction of the proposed transmission line should have little to no impact on the groundwater resources of the area.

79. The main impact of the transmission line on vegetation will be the removal of woody vegetation along the proposed ROW. 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.
80. The transmission line will have no significant impact, if any, on aquatic/hydric habitat.
81. The transmission line will have no significant impact on local wildlife.
82. The transmission line is not located within the Texas Coastal Management Program Boundary.
83. No plants currently listed as threatened or endangered by United States Fish and Wildlife Service (USFWS) and TPWD are known to occur along the proposed transmission line routes. No impacts to any federally or state-protected plant species are expected to result from this project.
84. No significant impacts to unique, sensitive, or protected wildlife habitats are anticipated.
85. No impacts to federal or state-listed threatened or endangered species are anticipated. SPS will consult with the USFWS should any federally listed species be observed during construction.
86. 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.
87. 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

88. The proposed transmission line will improve reliability and accommodate future load growth in the SPS Lubbock Service Area.
89. 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)

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

Engineering Constraints

91. Based on the information currently available, SPS has determined that it can construct and operate any of the proposed routes, including route L1.
92. Using the best information available to it without physical 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

93. SPS's application contains a detailed cost estimate for each of the 14 proposed routes included in the application. The proposed routes range in estimated costs from \$24,992,090 to \$36,462,075, including substation costs, with lengths ranging from 11 to 23 miles.
94. Route L1 is the fifth least expensive of the routes proposed by SPS's application, plus the additional routes considered at the hearing, with a total estimated cost of \$27,023,250.
95. Route L1 is approximately 13.04 miles, which makes it the eighth shortest proposed route in SPS's application, plus the additional routes considered at the hearing. Route L1 is only 2.03 miles longer than the shortest route, route N.

Compatible Right-of-Way

96. Route L1 parallels existing transmission lines and other compatible ROW for approximately 9.33 miles (72% of its total length).
97. Route L1 parallels property lines for approximately 2.80 miles (21% of its total length).
98. Route L1 parallels existing transmission line ROW, other compatible ROW, and approximate property lines for a total of 12.13 miles (93% of its length).
99. Where route L does not parallel property lines on Segment 37 across the Burgamy Development Corporation and Pevehouse Development Corporation properties, the segment appears to parallel an existing sewer line and drainage easement. Segment 37 also follows 12th Street for the majority of its length until the street ends at the western border of the Burgamy Development Corporation's property.

Prudent Avoidance

100. The proposed transmission line has been routed in accordance with the Commission's policy of prudent avoidance.
101. Of the 14 alternative proposed routes, plus the two additional routes considered at the hearing, route L1 has the second fewest number of habitable structures within 300 feet of the centerline (*i.e.*, 42) and routes F and H have the greatest (*i.e.*, 158 and 153, respectively).

Alternative Routes Proposed by Landowners

102. Two alternative routes were proposed by parties to this proceeding. Burgamy Development Corporation, Pevehouse Development Corporation, and MCP Enterprises, LLC (collectively, Burgamy Development Corporation) proposed a modified route L, referred to as route L1, that would substitute route L's segments 37 and 38 with segments 39, 63, and 64.
103. DELETED
104. Route L1 would increase the total cost over route L by approximately \$506,000.
105. As an accommodation to offset any additional costs over route L, Burgamy Development Corporation offered to contribute a tract of land that it owns west of the substation and south of 4th Street. The value of this contribution is unknown.
106. The Noret Trust Alliance proposed substituting route L's segments 6 and 8 with a modified segment 7 that would run diagonally from section 27 to section 19 to avoid crossing section 28.
107. As proposed, the Noret Trust Alliance's modification should not be considered because it would require routing that is different from what was included in SPS's Application and would impact landowners not participating in this proceeding. Accordingly, SPS analyzed a modification to the Noret Trust Alliance's proposal using the segments proposed in SPS's Application by substituting route L's segment 7 for segments 6 and 8. This modification is referred to as route L2.

108. Route L2 would be a viable alternative to using route L. However, route L2 would impact two additional habitable structures than route L and would be longer (*i.e.*, 10,517 feet) than route L.
109. Route L2 would increase the total cost over route L by \$1,656,000.
110. Noret Trust Alliance did not offer to make contributions to offset the additional costs associated with Route L2. However, given that these modifications would involve segments proposed in SPS's application, such contributions are presumed to not be required.
111. DELETED
112. Neither route L1 nor route L2 would appear to diminish the electric efficiency of SPS's proposed transmission line or reliability.

TPWD Written Comments, Recommendations, and Procedures

113. SPS has committed to comply with all environmental laws and regulations independent of any language included by the Commission in this Order.
114. 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.
115. 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 project to identify water resources, cultural resources, potential migratory bird issues, and threatened or endangered species habitat that may be impacted as a result of the project. As a result of these assessments, SPS will identify 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.
116. When appropriate, SPS will use permitted biological monitors to ensure compliance with the Endangered Species Act.

117. 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.
118. It is proper that SPS undertake measures necessary to comply with the Migratory Bird Treaty Act.
119. 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.
120. It is appropriate that SPS use best management practices to minimize the potential impact to migratory birds and threatened or endangered species.
121. To the extent prairie dog towns are in the immediate proximity of the route, SPS will implement the measures described in the letter filed in this docket on October 2, 2014, from TPWD that is in the record regarding the Black-Tailed Prairie Dog.
122. 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 §§ 11.004 and 31.002(6) of the Public Utility Regulatory Act, Texas Utility Code Ann. §§ 11.001-66.016 (PURA).
2. SPS is not a participant in the retail competition market under PURA, Chapter 39, Subchapter I.
3. The SPP is a regional transmission organization approved by the Federal Energy Regulatory Commission that meets the requirements of PURA § 39.151 of as an independent system operator.
4. The Commission has jurisdiction over this matter pursuant to PURA §§ 14.001, 32.001, 37.051, 37.053, 37.054, and 37.056.

5. SOAH has jurisdiction over this proceeding pursuant to PURA § 14.053 and Texas Government Code § 2003.049.
6. SPS provided proper notice of the Application in compliance with PURA § 37.054 and 16 Texas Administrative Code (TAC) § 22.52(a).
7. This docket was processed in accordance with the requirements of PURA and the Texas Administrative Procedure Act, Texas Government Code Chapter 2001, and Commission rules.
8. 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).
9. SPS is entitled to approval of its application, using route L1, having demonstrated that the proposed transmission line facilities are necessary for the service, accommodation, convenience, and safety of the public, taking into consideration the factors set forth in PURA § 37.056 and 16 TAC § 25.101.
10. Route L1 complies with the criteria of PURA § 37.056 and 16 TAC § 25.101, as well as the Commission's policy of prudent avoidance.
11. SPS's Application does not constitute a major rate proceeding as defined by 16 TAC § 22.2.
12. SPS's Application is reasonable and should be approved.

III. Ordering Paragraphs

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

1. SPS's Application is approved and SPS's CCN number 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 Route L1, composed of segments 2, 6, 8, 19, 24a, 28, 29, 30, 31, 34, 36, 39, 63, and 64 as described in the application. Route L1 is approximately 13.04 miles in length.

2. In the event SPS or its contractors encounter any archeological 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). SPS shall take action as directed by the THC.
3. 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' representative. 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.
4. SPS shall follow the procedures for raptor protection outlined in the following publications for protecting raptors: *Suggested Practices for Avian Protection on Power Lines: The State of the Art in 2006* (2006), Avian Power Line Interaction Committee (APLIC) (2006), and the *Avian Protection Plan Guidelines* published by APLIC in April 2005. Also, 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 shall take steps to minimize the impact of construction on migratory birds, especially during nesting season.
5. 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 such herbicide use shall comply with rules and guidelines established in the *Federal Insecticide, Fungicide and Rodenticide Act* and with the Texas Department of Agriculture regulations.
6. 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 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.

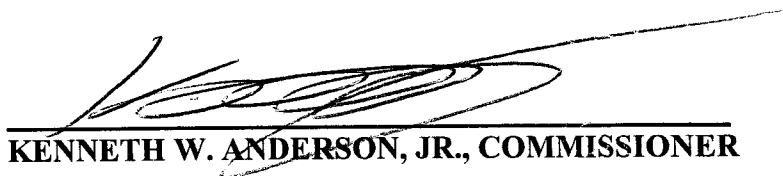
7. SPS shall use best management practices to minimize the potential impact to migratory birds and threatened or endangered species.
8. SPS shall cooperate with directly affected landowners to implement minor deviations in the approved route to minimize the impact of the transmission line. Any minor deviations in the approved route shall only directly affect landowners who were sent notice of the transmission line in accordance with 16 TAC § 22.52(a)(3) and shall directly affect only those landowners that have agreed to the minor deviation, excluding public ROW.
9. 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.
10. SPS shall update the reporting of this project on its 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).
11. All other motions, requests for entry of specific findings of fact and conclusions of law, and any other requests for general or specific relief, if not expressly granted herein, are denied.

SIGNED AT AUSTIN, TEXAS the 24th day of September 2015.

PUBLIC UTILITY COMMISSION OF TEXAS



DONNA L. NELSON, CHAIRMAN



KENNETH W. ANDERSON, JR., COMMISSIONER



BRANDY MARTY MARQUEZ, COMMISSIONER