PUC DOCKET NO. 38524
SOAH DOCKET NO. 473-11-1312

Need for the Proposed Transmission Line

38. SPS is a member of, and its entire transmission system is located within, the Southwest Power Pool (SPP). The SPP is an organization that meets the requirements of PURA § 39.151 as an independent system operator. The SPP determined that there is a need for and sent SPS a notification to construct the proposed transmission line.

39. The proposed transmission line is needed to provide improved transmission reliability in the area by providing a second 230-kV source to the transmission in the Perryton area, and thereby mitigate overloads and low-voltage conditions.

40. SPS demonstrated a reasonable need for the proposed project 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

41. Neither Jennifer Willard nor Amy Kathleen Brillhart own property that is affected by the location of the proposed transmission line on the settlement route.

42. There are five landowners that will be affected by the modifications to route 1 that are a part of the settlement route: Kirby Brillhart, Amy Booth, and Susan Cummings, jointly own section 4, Hansford County, Texas, WCRR Survey, Block 1; Candice Brillhart owns section 16, Hansford County, Texas, H&TC Survey, Block 45; and Paul Stavlo owns sections 17 and 18, Hansford County, Texas, H&TC Survey, Block 45.

43. A portion of the settlement route, beginning at the end point of segment V, crosses sections 4, 16, 17, and 18, paralleling the north border of those sections for approximately 21,335 feet. The settlement route turns south at the northeast corner of section 18, and parallels the east border of section 18 for approximately 5,200 feet, intersecting with segment M in the southeast corner of the section.

44. SPS provided the landowners a map that shows the location of the settlement route. In individual letters to the Commission, the landowners have stated that they have no objection to the approval of the settlement route. The landowner letters have been attached as exhibit B to the stipulation.

Project Alternatives

45. SPS considered distribution, transmission, and generation alternatives to the proposed transmission line.

46. SPS considered constructing 40 miles of 115-kV line from the Hitchland substation to the proposed Ochiltree County substation. Although this alternative would have saved the project the cost of the 230/115-kV transformer at Ochiltree County substation, it would not provide the needed upgrades for reliability. The 230/115-kV transformer mitigates system intact and contingency overloads of the Hitchland and Moore County 230/115-kV transformers. Because this project alternative would not provide the same level of reliability benefits, this is not a reasonable alternative.

47. SPS also considered re-conductoring the existing 115-kV transmission lines from Texas County to Cole to Perryton to Texas Farms to Spearman substation. Again, this would leave the area transmission short on the 230/115-kV transformer capacities at Hitchland substation and Moore County substation. Further, because existing structures are inadequate, this alternative would require SPS to wreck out an existing line and rebuild a new line in its place with larger conductors, potentially costing $35,000,000. Because this alternative would be less reliable and more expensive than the proposed project, this is not a reasonable alternative.

48. SPS considered adding a 230/115-kV transformer to the Hitchland substation. Although this alternative would have mitigated the contingency based overloads of the Hitchland and Moore County 230/115-kV transformers, this alternative would not provide the additional reliability of another transmission source to the Perryton, Texas area. Because this would not provide the reliability performance of the proposed project, this is not a reasonable alternative.

49. SPS considered employing either series compensation of the existing 115-kV transmission line or the installation of shunt capacity banks at Perryton substation to mitigate the contingency-based low voltage conditions. SPS did not consider either one of these measures as a viable alternative because compensating for only the low voltage conditions would not mitigate the line or transformer overloads.

50. SPS considered an alternative that would seek to mitigate the contingency overloading and low voltage conditions through a distribution alternative. However, the current loads in Spearman, Perryton, and Booker, Texas cannot be served during critical contingencies on the existing transmission. Further, the nearest distribution served by other transmission is more than 33 miles away from the Perryton area and another 19 miles from the Booker area. Therefore, SPS did not consider this alternative viable.

51. SPS considered the construction of a natural gas generation plant at or near Perryton substation. To mitigate line overload and low voltage conditions, SPS would need at least 30 MW of generation. However, the current transmission lines do not have sufficient capacity to accommodate that level of added generation. Considering the prohibitive capital costs for a 30 MW plant ($27,000,000 not considering permitting, fuel supply interconnection, or transmission interconnection) and the need for additional transmission lines even with the added generation, this alternative is not reasonable.

Routes

52. SPS retained PBS&J to prepare an environmental assessment and alternative route analysis for the proposed transmission line.

53. SPS considered and submitted a sufficient number of geographically diverse routes for the proposed transmission line.

54. The proposed transmission line complies with all aspects of PURA § 37.056 and P.U.C. SUBST. R. 25.101.

55. Consistent with the application, as modified by the stipulation, the proposed transmission line will be constructed along the settlement route.

56. The settlement route complies with all aspects of PURA § 37.056 and P.U.C. SUBST. R. 25.101 and is a reasonable alternative weighing the factors contained therein.

57. Similar to the originally proposed route 1, the settlement route has the least amount of impact to habitable structures and has the least impact on the visual foreground zone of parks and recreational areas. The settlement route would also have the least amount of

impact on streams, open water, emergent wetlands and length of route parallel to streams within 100 feet.

58. All parties to this docket support the settlement route for the proposed transmission line.

Community Values

59. SPS and PBS&J conducted two public open-house meetings. The meetings were held at the Museum of the Plains in Perryton, Texas on May 28, 2009 and March 30, 2010.

60. 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.

61. Commission 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.

62. There are two habitable structures located within 300 feet of the proposed transmission line along the settlement route.

63. There are no AM radio towers within 10,000 feet of the proposed transmission line along the settlement route.

64. There are two electronic communication towers located within 2,000 feet of the settlement route.

65. There are no FAA registered airfields within 20,000 feet of the centerline of the settlement route. There are no known heliports within 5,000 feet of route 3. There is one private airstrip within 10,000 feet of the centerline of the settlement route.

66. A portion of each alternative route for the proposed transmission line crosses cropland irrigated by a center-pivot irrigation system. The settlement route will not interfere with any of the existing center-pivot sprinkler systems and no rolling-type irrigation systems exist near the proposed transmission line. Where the sprinklers overlap the potential easement location, SPS will design the line in such a manner as to span the length of the sprinkler overlap areas.

Park and Recreational Areas

67. There are no parks within 1,000 feet of the proposed centerline of the settlement route.

68. The proposed transmission line will have no adverse impact on parks and recreational areas.

Historical and Archeological Areas

69. The settlement route crosses one previously recorded archeological site, Site 41 HF55.

70. This route has approximately 59,000 feet of high probability areas. SPS's preferred form of mitigation for cultural resources found within the proposed right-of-way (ROW) will be avoidance.

Aesthetic Values

71. The aesthetic impacts of the proposed transmission line have been considered and minimized to the extent reasonable. Approximately 59,302 feet of the 201,042 feet that make up the settlement route will be located within the visual foreground zone of the study area's U.S. and state highways. This project will have minimal impact on aesthetic values.

Effect of Granting the CCN on Other Utilities

72. The proposed transmission line will not adversely affect service by other utilities in the area and will result in SPS being able to provide more reliable service.

Environmental Impact

73. Construction of the proposed transmission line will not have a significant effect on the geologic or physiographic features of the area.

74. The proposed transmission line will have little long-term impact on soils that will mainly consist of erosion and soil compaction. 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 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.

76. The construction of the proposed transmission line should have little impact on surface water.

77. The proposed transmission line will span all streams. During construction of the proposed transmission line, SPS will use existing bridges and culverts whenever possible. SPS will employ selective clearing of vegetation to minimize erosion problems. Highly erodible areas adjacent to streams will not be cleared unless necessary.

78. The FEMA designated 100-year floodplain data is unmapped for Hansford and Ochiltree counties, Texas and Beaver and Texas counties, Oklahoma.

79. Although it is possible that transmission line structures will be located within a floodplain, careful siting will eliminate the possible impacts and will not significantly affect flooding. SPS will coordinate with the appropriate floodplain administrators for Hansford and Ochiltree counties.

80. The main impact of both segments of the proposed transmission line on vegetation will be the removal of herbaceous vegetation along the proposed ROW. When clearing vegetation, SPS will make efforts to retain native ground cover, where possible, and to minimize impacts to local vegetation. As soon as reasonably possible after construction, SPS will reseed the ROW in herbaceous species or a cover of forage crop, if necessary, to facilitate erosion control.

81. The settlement route crosses six streams and does not parallel any streams within 100 feet. The proposed transmission line will have only a minor impact on aquatic/hydric habitat.

82. The proposed transmission line will have only a minor impact on local wildlife.

83. The proposed transmission line is not located within the boundaries of the Texas Coastal Management Program Boundary.

84. There are 10 federal or state-listed endangered and threatened species that potentially occur in Hansford and Ochiltree counties, Texas and Beaver and Texas counties, Oklahoma. The only species known to occur in the general area, if suitable habitat is

present, is the state listed (threatened) Texas horned lizard. There is no evidence that the proposed transmission line is likely to adversely affect the species.

85. There is no United States Fish and Wildlife Service (USFWS) designated critical habitat in the counties comprising the study area.

86. SPS has conducted an adequate evaluation of potential environmental impacts of the proposed transmission line in the impacted area.

Prudent Avoidance

87. The proposed transmission line has been routed in accordance with the Commission's policy of prudent avoidance.

TPWD Written Comments and Recommendations

88. SPS is obligated to comply with all environmental laws and regulations independent of any language included by the Commission in an order.

89. In addition to obtaining a CCN from the Commission, SPS may need additional permits and may be required to make additional notifications in order to construct the project.

90. 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 obtain all necessary environmental permits, and will comply with the relevant permit conditions during construction and operation of the transmission line.

91. SPS will utilize permitted biological monitors to ensure compliance with the Endangered Species Act.

92. SPS's construction practices are sufficient and thus no additional permitted biological monitors are necessary during clearing and construction activities for state-listed species.

93. SPS will undertake measures necessary to comply with the Migratory Bird Treaty Act.

94. The standard mitigation requirements included in the ordering paragraphs in this Order, coupled with SPS's construction and mitigation practices are reasonable measures for a utility to undertake when constructing a transmission line.

95. SPS will use best management practices to minimize the potential impact to migratory birds and threatened or endangered species.

96. To the extent prairie-dog towns are in the immediate proximity of the route, SPS will undertake the measures described in the letter dated January 10, 2011, from TPWD that is in the record in this docket regarding the black-tailed prairie dog, western burrowing owl, and the mountain plover.

97. 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 P.U.C. PROC. R. 22.52(a).

5. This docket was processed in accordance with the requirements of PURA and Administrative Procedure Act, TEX. GOV'T CODE ANN. Chapter 2001 (Vernon 2010) and Commission rules.

6. SPS is entitled to approval of the application described in the findings of fact, utilizing the settlement route, 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).

7. The settlement 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.

8. This application does not constitute a major rate proceeding as defined by P.U.C. PROC. R. 22.2.

9. Consistent with the signatories' stipulation, the application is reasonable, in the public interest, and should be approved.

10. The requirements for informal disposition under P.U.C. PROC. R. 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. SPS will use the settlement route. The settlement route is described as follows:

    - the settlement route begins at the Hitchland substation and uses links A, E, U, and V as originally proposed for route 1;

    - at the end of link V, the settlement route continues due east for approximately 21,335 feet, following just south of the north section lines of section 4 (Hansford County, Texas, WCRR Survey, Block 1) and sections 16, 17, and 18 (Hansford County, Texas, H&TC Survey, Block 45);

    - at the northeast corner of section 18, the settlement route then turns due south and parallels the east boundary of section 18 for approximately 5,200 feet, until it reaches the southeast corner of section 18 where it intersects with link M;

- the settlement route then uses the remaining portion of link M and all of links O, P, and R as originally proposed for route 1, ending at the proposed Ochiltree County substation; and

- the settlement route does not use link W.

3. Resolution of this docket was the product of negotiation and compromise between the signatories. 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 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 USFWS in the *Avian Protection Plan Guidelines* (2005). 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.

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 coordinate with TPWD and USFWS and conduct presence/absence surveys as necessary.

10. SPS shall comply with the requirements of the Migratory Bird Treaty Act in connection with construction and maintenance of the project.

11. SPS shall allow state-listed threatened species observed during construction to leave the site or be relocated to a suitable nearby area by a permitted individual.

12. To the extent prairie-dog towns are in the immediate proximity of the route, SPS will undertake the measures described in the letter dated January 10, 2011, from TPWD that is in the record in this docket regarding the black-tailed prairie dog, western burrowing owl and the mountain plover.

13. 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 and shall not add any significant cost to the project.

14. SPS shall be permitted to deviate from the approved route in any instance in which the deviation would be more than a 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. 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 of this order.

15. SPS shall comply with the reporting requirements of P.U.C. SUBST. R. 25.83.

16. 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 are denied.

SIGNED AT AUSTIN, TEXAS the 22nd day of March 2011.

PUBLIC UTILITY COMMISSION OF TEXAS

BARRY T. SMITHERMAN, CHAIRMAN

DONNA L. NELSON, COMMISSIONER

KENNETH W. ANDERSON, JR., COMMISSIONER

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