31. The modified Route 4 complies with all aspects of PURA § 37.056 and P.U.C. SUBST. R. 25.101 and is the best alternative weighing the factors contained therein.

32. No party to this docket contests the modified Route 4, as described above, for the proposed transmission line.

Community Values

33. Pursuant to P.U.C. PROC. R. 22.52(a)(4), SPS and AECOM conducted one public open-house meeting on April 4, 2011, at the Amarillo Civic Center between the hours of 5:00 p.m. and 8:00 p.m.

34. Information received from the public open-house meeting and from local, state, and federal agencies was considered and incorporated into both AECOM's routing analysis and SPS's selection of alternative routes.

35. 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.

36. There are 26 habitable structures located within 300 feet of the proposed transmission line along modified Route 4.

37. There are 14 AM radio towers within 10,000 feet of the transmission line along modified Route 4.

38. There are two electronic communication towers located within 2,000 feet of the transmission line along modified Route 4.

39. There are five FAA registered airfields within 20,000 feet of the centerline of modified Route 4. There are no known heliports within 5,000 feet of modified Route 4. There is one private airstrip within 10,000 feet of the centerline of modified Route 4.

Park and Recreational Areas

40. There is one park within 1,000 feet of the proposed centerline of each of the alternative routes.

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

Historical and Archeological Areas

42. None of the Alternate Routes cross any previously recorded historical or archeological sites.

Aesthetic Values

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

Effect of Granting the CCN on Other Utilities

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

Environmental Impact

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

46. 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.

47. 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.

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

49. No streams are crossed by any of the alternate routes and SPS will span any playas along modified Route 4.

50. Construction of the proposed transmission line should have little impact on the ground water resources of the area.

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

52. The main impact of the 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.

53. The transmission line will have only a minor impact on aquatic/hydric habitat.

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

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

56. 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 or on substation sites. No impacts to any federally or state-protected plant species are expected to result from this project.

57. There is no suitable habitat that was identified within the Project Study Area for federal or state listed threatened or endangered species. Non-listed sensitive species that may occur in the Project Study Area include the black-tailed prairie dog, burrowing owl, and swift fox.

58. All alternate routes cross or are located within or adjacent to a prairie dog colony. If construction is to occur within or adjacent to a prairie dog colony during burrowing owl nesting season from March 1 to August, SPS will consult USFWS for any required surveys.

59. Any construction activities should avoid burrows, including prairie dog colonies and mammal burrows to avoid potential impacts to prairie dogs and the swift fox.

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

Prudent Avoidance

61. The proposed transmission line has been routed in accordance with the Commission's policy of prudent avoidance. There are 26 habitable structures within 300 feet of the centerline of modified Route 4.

TPWD Written Comments and Recommendations

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

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

64. 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.

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

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

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

68. 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.

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

70. To the extent prairie dog towns are in the immediate proximity of the route, SPS will undertake the measures described in the letter dated September 21, 2011, from TPWD that is in the record in this docket regarding the black-tailed prairie dog, western burrowing owl, and the mountain plover.

Statutory Findings

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 the Administrative Procedure Act, TEX. GOV'T CODE ANN. §§ 2001.001-.902 (Vernon 2008 & Supp. 2010).

6. SPS is entitled to approval of the application described in the Findings of Fact, utilizing modified Route 4, 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. Modified Route 4 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.

Ordering Paragraphs

In accordance with these fact statements and legal conclusions, 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 modified Route 4, comprised of Segments B-D-E-K-L-P-R-S-T-V-W-AB-AD (approximately 8 miles in length), as described in the application.

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 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 cooperate with directly affected landowners to implement minor deviations in the approved route to minimize the impact of the transmission line. Any minor deviation to the approved route shall only directly affect landowners who received notice of the transmission line in accordance with P.U.C. PROC. R. 22.52(a)(3) and shall directly affect only those landowners that have agreed to the minor deviation

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

11. All other motions, 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 12th day of October 2011.

PUBLIC UTILITY COMMISSION OF TEXAS

ANDREW KANG
ADMINISTRATIVE LAW JUDGE