16. On July 5, 2010, Cluck Farm, LLC, Sherman Farm, LLC, and Palo Duro Farm, LLC filed requests to intervene in this proceeding.

17. On July 9, 2010, Laurance Kriegel filed a request to intervene in this proceeding.

18. On July 12, 2010, SPS filed an affidavit attesting to the publication of the re-notice in the *Amarillo Globe-News.*

19. On July 13, 2010, Commission Staff recommended that the revised notice be found sufficient. Commission Staff also filed a procedural schedule.

20. On July 14, 2010, SPS filed a response to Laurance Kriegel's motion to intervene opposing his intervention.

21. On July 15, 2010, Order No. 4 was issued granting the motions to intervene of Cluck Farm, LLC, Sherman Farm, LLC, and Palo Duro Farm, LLC.

22. On July 26, 2010, the Commission issued Order No. 5 denying Laurance Kriegel's motion to intervene.

23. On July 26, 2010, Order No. 6 was issued deeming SPS's application and notice sufficient and set August 6, 2010 as the deadline to intervene.

24. On August 23, 2010, Commission Staff filed a motion to amend the procedural schedule.

25. On August 23, 2010, Order No. 7 was issued granting Commission Staff's unopposed motion to amend the procedural schedule.

26. On August 25, 2010, Commission Staff filed TPWD's letter containing comments and recommendations regarding the proposed transmission line.

27. On September 8, 2010, the Signatories filed a Stipulation and an Agreed Proposed Order resolving all issues in this docket; SPS also filed an unopposed motion to admit evidence, which was granted by Order No. 8 on September 28, 2010.

Description of SPS's Proposed Transmission Line and Cost

28. The proposed 230-kV transmission line begins at the existing Hitchland Substation located in the northern/central Texas Panhandle region near the Oklahoma-Texas state line, ends at the existing Moore County Substation located near Dumas, Texas and is approximately 63 miles in length.

29. SPS filed eight alternate routes. Although SPS's Preferred Route was Route 8, the route agreed to by the Signatories in the Stipulation is Route 3, comprised of Links A-D-F-HI-M-Q-S-U-W-X. The length of Route 3 is approximately 63 miles.

30. The proposed transmission line will be built using primarily two-pole, steel H-frame structures with a few single-pole steel structures.

31. The cost to construct Route 3 is approximately $25,111,643 and the cost for the substation facilities is approximately $3,878,932. The total estimated cost of the project is approximately $28,990,575. The estimated cost of the proposed transmission line and substation facilities is reasonable when compared to similar projects.

Need for the Proposed Transmission Line

32. 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 and recommended that SPS construct the proposed transmission line.

33. The proposed transmission line is needed to provide improved transmission reliability in the area by providing a second 230-kV source to Moore County Substation. Additionally, this transmission line will further enhance the bulk electric transmission system by creating a stronger secondary path to supplement the existing 345-kV transmission line that connects Potter County Substation to Hitchland Substation.

34. 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

35. None of the three intervenors own property that is affected by the location of the proposed transmission line on Route 3.

Project Alternatives

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

37. SPS considered constructing 50 miles of 230-kV line from Potter County Substation to Moore County Substation. However, this alternative only offers duplication of an existing 230-kV line and would not complement the transmission functions of the 345-kV line from Hitchland Substation to Potter County Substation. Because the costs for this project alternative would be the same as the proposed transmission line without providing the same level of benefits, this is not a viable alternative.

38. Because the purpose of the proposed 230-kV transmission line is to improve the transmission reliability in the Texas Panhandle area and to maintain the bulk electric transmission capacity from adjacent transmission systems north of Texas, building additional distribution facilities was not considered a viable solution. Additional distribution facilities could not achieve the purpose of the proposed project, and therefore is not a viable alternative.

39. SPS considered upgrading voltage, bundling of conductors of existing facilities, or adding transformers. This alternative project does not provide the new source needed to Moore County Substation and does not complement the 345-kV line from Hitchland Substation to Potter County Substation; therefore, this is not a viable alternative.

40. SPS considered adding generation by constructing a natural gas plant at the Moore County Substation. The plant's rating would match the capacity needed to backup the contingency loss of the 230/115-kV transformer at the Moore County Substation, would provide the necessary power to meet the normal load growth, and would serve as an alternate source under contingency conditions for the area served by Moore County

Substation. The estimated installed cost for a gas turbine generator with a 250 MW rating is approximately $900 per KW or $225,000,000. This cost does not include permitting, fuel supply interconnection or transmission interconnection. This project alternative requires a prohibitive capital investment and therefore is not a viable alternative.

Routes

41. SPS retained PBS&J to prepare an Environmental Assessment and Alternative Route Analysis for the proposed transmission line.

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

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

44. Consistent with the application, the proposed transmission line shall be constructed along Route 3, comprised of Links A-D-F-H-I-M-Q-S-U-W-X.

45. Route 3 complies with all aspects of PURA § 37.056 and P.U.C. SUBST. R. 25.101 and is the best alternatives weighing the factors contained therein.

46. Route 3 parallels existing corridors for most of the length of the route, has the second shortest length of the alternate routes that is within the visual foreground zone of State and U.S. Highways, crosses the least amount of irrigated cropland, and has the highest percentage of its length that parallels or is adjacent to existing public roads and highways.

47. No party to this docket contests Route 3 for the proposed transmission line.

Community Values

48. SPS and PBS&J conducted three public open-house meetings. All three meetings were held at the Golden Age Center in Gruver, Texas on the following dates: June 26, 2008; April 7, 2009; April 21, 2009.

49. Information received from the public open-house meetings and from local, state, and federal agencies was considered and incorporated into both PBS&J's routing analysis and SPS's selection of preferred and alternative routes.

50. 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.

51. There are nine habitable structures located within 300 feet of the proposed transmission line along Route 3.

52. There are no AM radio towers within 10,000 feet of the proposed transmission line along Route 3.

53. There is one electronic communication tower located within 2,000 feet of Route 3.

54. There are two FAA registered airfields within 20,000 feet of the centerline of Route 3. 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 Route 3.

55. A portion of each alternative route for the proposed transmission line crosses cropland irrigated by a center pivot irrigation system. Route 3 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

56. There are no parks within 1,000 feet of the proposed centerline of any of the alternative routes.

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

Historical and Archeological Areas

58. Route 3 crosses two previously recorded historical or archeological sites. It is the opinion of PBS&J archeologists that these sites do not meet the criteria for National Register of Historic Places (NRHP) Listing or State Archeological Landmark (SAL) designation. The Texas Historical Commission (THC) concurred with PBS&J's opinion.

59. From the cultural resource perspective, PBS&J considers Route 3 to be the preferred route because PBS&J archeologists have already surveyed all but five miles of the route and the two recorded historical or archeological sites do not meet the criteria for NRHP or SAL.

Aesthetic Values

60. The aesthetic impacts of the proposed transmission line have been considered and minimized to the extent possible. Approximately 26,171 feet of the 330,304 feet that make up Route 3 will be located within the visual foreground zone of the study area's US and State highways. This project will have minimal impact on aesthetic values.

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

Environmental Impact

62. SPS contracted with PBS&J to perform an EA and Alternative Route Analysis of the proposed transmission line.

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

64. The proposed transmission line will have little long-term impact on soils that will mainly consist of erosion and soil compaction. SPS represents it 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 represents it will also exercise special care when clearing near waterways.

65. 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.

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

67. The proposed transmission line will span all streams: During construction of the proposed transmission line, SPS will use existing bridges and culverts whenever possible, and will employ selective clearing to minimize erosion problems.

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

69. 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 Hansford, Moore, and Sherman counties.

70. 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.

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

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

73. No portion of the proposed project is located within the boundaries of the Texas Coastal Management Program as defined in 31 TEX. ADMIN. CODE § 503.1.

74. There are ten federal and/or state-listed endangered and threatened species that potentially occur in Hansford, Moore, and Sherman Counties. Only the Arkansas River Shiner is listed as threatened at the state and federal levels. There is no evidence that the proposed transmission line is likely to adversely affect the species.

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

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

Prudent Avoidance

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

TPWD Written Comments and Recommendations

78. TPWD recommended that the Commission select a route that would minimize impacts to natural resources. TPWD suggests that Route 5 minimizes impacts to natural resources. Ordering Paragraph No. 2 address this recommendation.

79. TPWD recommended that in order to avoid violating the Migratory Bird Treaty Act (MBTA), SPS should take measures to ensure that migratory bird species within and near the project areas are not adversely impacted by construction and maintenance activities. If clearing vegetation during the migratory bird nesting season, TPWD recommended that SPS survey the area for proposed construction to ensure that no nests with eggs or young will be disturbed by construction. Any vegetation (trees, shrubs, and grasses) where occupied nests are located should not be disturbed until the eggs have hatched and the young have fledged. Additional measures to minimize impacts to migratory birds could include removing old, empty nests outside of nesting season in areas that are scheduled to be cleared thereby preventing reuse of old nests. Ordering Paragraph Nos. 7, 8, and 9 address this recommendation.

80. TPWD recommended that if lines are placed in the vicinity of playa lakes, the lines be marked with bird flight diverters to reduce the risk of fatalities caused by collisions with the lines. Ordering Paragraph No. 7 addresses this recommendation.

81. TPWD recommended that, prior to construction, SPS survey the project route for prairie dog towns and species that depend on them. If prairie dog towns are found along the

approved route, TPWD recommends the line be designed to avoid or span the towns and avoid disturbance of burrows during placement of the structures and maintenance of the line. If prairie dog burrows would be disturbed as a result of the proposed project, TPWD recommends non-harmful exclusion methods be used to encourage the animals to vacate the area prior to disturbance and discourage them from returning to the area during construction. Ordering Paragraph No. 9 addresses this recommendation.

82. TPWD recommended that SPS survey for nests of the Mountain Plover in areas of shortgrass prairie that would be disturbed by construction and vehicle access. Disturbance of nests should be avoided until the eggs have hatched and the young have fledged. TPWD recommended SPS monitor the listing status of the Mountain Plover during planning and construction of this project. Should this species become listed as a threatened species under the Endangered Species Act (ESA), coordination with the USFWS will be required if potential impacts to this species or its habitat are anticipated. Ordering Paragraph Nos. 7 and 9 address this recommendation.

83. TPWD recommended that a biological monitor be present during construction to try to relocate state-listed species. If the presence of a biological monitor during construction is not feasible, state listed threatened species observed during construction should be allowed to safely leave the site or be relocated by a permitted individual to a nearby area with similar habitat that would not be disturbed during construction. Ordering Paragraph Nos. 7 and 9 address this recommendation.

84. A mixture of cover, food sources, and open ground is important to the Texas horned lizard and its primary food source, the harvester ant. TPWD recommended that disturbed areas within suitable habitat for the Texas horned lizard should be revegetated with site-specific native, patchy vegetation rather than sod-forming grasses. Ordering Paragraph No. 9 addresses this recommendation.

85. TPWD recommended that SPS avoid adverse impacts to the playa lakes in the project area to the extent feasible. Unavoidable impacts to these sensitive features should be mitigated by compensating for the loss of wetland habitat. Finding of Fact Nos. 67 and 70 and Ordering Paragraph No. 9 address this recommendation.

86. TPWD requested that the Commission consider the applicable recommendations from TPWD's letter to SPS on June 5, 2008 as applicable to this transmission line. Those recommendations are as follows:

87. TPWD recommended using or rebuilding existing facilities whenever possible. Where new construction is the only feasible option, TPWD recommended routing new transmission lines along existing road, pipeline, or other utility ROW and easements to reduce habitat fragmentation. By utilizing existing utility corridors, county roads, and highway ROWs, adverse impacts to fish and wildlife resources would be mitigated by avoiding and/or minimizing the impacts to undisturbed habitats. Finding of Fact No. 46 and Ordering Paragraph No. 2 address this recommendation.

88. TPWD recommended that SPS minimize impacts to native vegetation to the extent feasible during project design and construction. If native vegetation must be removed to construct the necessary infrastructure, TPWD recommends mitigating for the loss of native vegetation by revegetating disturbed areas along the project route. Construction requiring ground disturbance should be conducted in conjunction with a storm water pollution prevention plan to protect drainages and streams from sedimentation. In order to enhance the stabilization or exposed soils resulting from construction activities, newly disturbed areas should be seeded or sodded with native plant species. Ordering Paragraph No. 9 addresses this recommendation.

89. TPWD recommended that SPS minimize adverse impacts to waterways within the project area. Necessary waterway crossings should be made perpendicular to the channel to minimize disturbance of riparian habitat. Natural buffers contiguous to any wetlands or aquatic systems should remain undisturbed to preserve wildlife cover, food sources, and travel corridors. Finding of Fact No. 67 and Ordering Paragraph No. 9 address this recommendation.

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. 2001.001-.902 (Vernon 2008 & Supp. 2010).

6. SPS is entitled to approval of the application described in the Findings of Fact, utilizing Route 3, 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. Route 3 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 fact statements and legal conclusions, the Commission issues the following order:

1. Consistent with the Stipulation, SPS's application and the Stipulation are 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 Route 3, comprised of Links A-D-F-H-I-M-Q-S-U-W-X (approximately 63 miles in length), as described in the application.

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. Neither shall entry of this Order be regarded as binding precedent as to the appropriateness of any principle underlying the Stipulation.

4. In the event SPS or its contractors encounter any artifacts or other cultural resources during project construction, work shall cease immediately in the vicinity of the resource and the discovery shall be reported to the 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's (APLIC) *Suggested Practices for Raptor Protection on Power Lines: The State of the Art in 2006* (2006); and in the APLIC and USFWS's *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 on the 28th day of September 2010.

PUBLIC UTILITY COMMISSION OF TEXAS

ANDREW KANG
ADMINISTRATIVE LAW JUDGE