

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

IN THE MATTER OF SOUTHWESTERN PUBLIC) SERVICE COMPANY'S APPLICATION FOR (1)) ISSUANCE OF A CERTIFICATE OF PUBLIC) CONVENIENCE AND NECESSITY AUTHORIZING) CONSTRUCTION AND OPERATION OF TWO 230) KV TRANSMISSION LINES AND ASSOCIATED) SUBSTATION FACILITIES IN CURRY AND) ROOSEVELT COUNTIES, NEW MEXICO;) (2) APPROVAL OF THE LOCATION OF THE 230 KV) TRANSMISSION LINES AND ASSOCIATED) FACILITIES; AND (3) AUTHORIZING ACCRUAL) OF AN ALLOWANCE FOR FUNDS USED DURING) CONSTRUCTION FOR THE TRANSMISSION LINES) AND ASSOCIATED FACILITIES)) SOUTHWESTERN PUBLIC SERVICE COMPANY,) APPLICANT) _____)	Case No. 12-00027-UT
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FINAL ORDER ADOPTING RECOMMENDED DECISION

THIS MATTER comes before the New Mexico Public Regulation Commission ("Commission") upon the Recommended Decision issued by Hearing Examiner Ashley C. Schannauer on June 20, 2012 ("Recommended Decision"). Having considered the Recommended Decision (a copy of which is attached hereto as Exhibit 1), and the record in this case, and being fully informed in the premises,

THE COMMISSION FINDS AND CONCLUDES:

1. The Commission has jurisdiction over the parties and the subject matter of this case.

2. The Statement of the Case, Discussion, and all Findings and Conclusions contained in the Recommended Decision are hereby incorporated by reference as if fully set forth in this Order, and are ADOPTED, APPROVED, and ACCEPTED as Findings and Conclusions of the Commission.
3. The Recommended Decision is well taken and should be adopted, accepted, and approved by the Commission.
4. Due and proper notice of this case has been provided.

IT IS THEREFORE ORDERED:

A. The Orders contained in the Recommended Decision as set forth in Exhibit 1 attached hereto are incorporated by reference as if fully set forth herein and are ADOPTED, APPROVED, and ACCEPTED as Orders of the Commission.

B. The Recommended Decision is ADOPTED, APPROVED and ACCEPTED in its entirety.

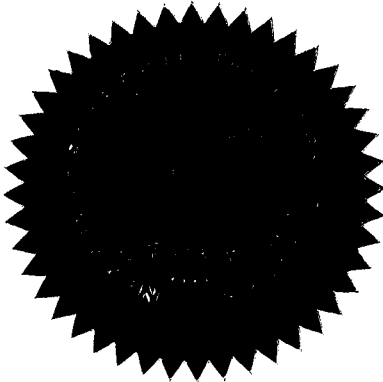
C. This Order is effective immediately.

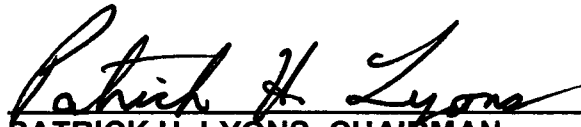
D. Copies of this Order (without Exhibit 1) shall be e-mailed to all persons listed on the attached Certificate of Service whose e-mail addresses are known. Copies of this Order (without Exhibit 1) shall be mailed via regular mail to all other persons listed on the attached Certificate of Service.

E. This Docket is closed.

ISSUED under the Seal of the Commission at Santa Fe, New
Mexico, this 3rd day of July, 2012.

NEW MEXICO PUBLIC REGULATION COMMISSION




PATRICK H. LYONS, CHAIRMAN


THERESA BECENTI-AGUILAR, VICE CHAIR

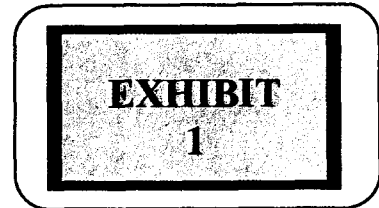

JASON A. MARKS, COMMISSIONER


DOUGLAS J. HOWE, COMMISSIONER


BEN L. HALL, COMMISSIONER

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

IN THE MATTER OF SOUTHWESTERN)
PUBLIC SERVICE COMPANY'S)
APPLICATION FOR: (1) ISSUANCE OF A)
CERTIFICATE OF PUBLIC CONVENIENCE)
AND NECESSITY AUTHORIZING)
CONSTRUCTION AND OPERATION OF)
TWO 230 KV TRANSMISSION LINES AND)
ASSOCIATED SUBSTATION FACILITIES IN)
CURRY AND ROOSEVELT COUNTIES, NEW)
MEXICO; (2) APPROVAL OF THE)
LOCATION OF THE 230 KV TRANSMISSION)
LINES AND ASSOCIATED FACILITIES;)
AND (3) AUTHORIZING ACCRUAL OF AN)
ALLOWANCE FOR FUNDS USED DURING)
CONSTRUCTION FOR THE TRANSMISSION)
LINES AND ASSOCIATED FACILITIES,)
SOUTHWESTERN PUBLIC SERVICE)
COMPANY,)
APPLICANT.)



CASE NO. 12-00027-UT

RECOMMENDED DECISION

Ashley C. Schannauer, Hearing Examiner for this case, submits this Recommended Decision to the New Mexico Public Regulation Commission ("Commission" or "PRC") pursuant to NMSA 1978, §8-8-14 and NMPRC Rules of Procedure 1.2.2.29(D)(4) and 1.2.2.37(B) NMAC. The Hearing Examiner recommends that the Commission adopt the following statement of the case, discussion, findings of fact, conclusions of law and decretal paragraphs in a Final Order.

I. STATEMENT OF THE CASE

On February 7, 2012, Southwestern Public Service Company ("SPS") filed an application pursuant to NMSA 1978, §§ 62-9-1 and 62-9-3 of the New Mexico Public Utility Act (NMSA

1978, §62-3-1 *et seq.*, "PUA" or "Act") and Commission Rules 17.1.2.9 NMAC and 17.9.592 NMAC, requesting that the Commission issue a certificate of convenience and necessity ("CCN") authorizing SPS to construct and operate SPS's proposed 230 kilovolt ("kV") transmission lines and associated substation facilities in Curry and Roosevelt Counties, New Mexico (the "Proposed Project"), and for approval of the location of the 230 kV transmission lines and the new substation facilities (the "Application"). SPS's Application also requests authorization to accrue an Allowance for Funds Used During Construction ("AFUDC") for the Proposed Project. The estimated cost of the proposed transmission project is approximately \$60 million, which includes approximately \$3.9 million in AFUDC. In support of the Application, SPS concurrently filed the Direct Testimony of John S. Fulton, Jeffrey B. Stebbins, Kelli D Boren, and Howard C. Higgins.

On March 1, 2012, the Commission issued an Order designating the undersigned as Hearing Examiner to preside over this case. After a prehearing conference held on March 16, 2012, the Hearing Examiner issued an Order requiring SPS to submit supplemental testimony and a Procedural Order that, among other things, prescribed a form and means for publishing notice, and which: (1) established April 4, 2012, as the deadline for SPS to publish notice of the Application in newspapers of general circulation in each county where it provides retail electric service;¹ (2) established April 25, 2012, as the deadline for filing motions for leave to intervene in the case; (3) established May 4, 2012, as the deadline for filing Staff and Intervenor direct

¹ On March 26, 2012, the Hearing Examiner issued an Errata Notice to the Procedural Order to clarify that the Notice of Hearing and Proceeding is required to be published once in a newspaper or newspapers of general circulation in the counties in which the proposed transmission facilities are to be constructed and operated, not in all of the counties served by SPS.

testimony; (4) established May 14, 2012, as the deadline for filing rebuttal testimony; and (6) scheduled a hearing on the merits to commence on June 7, 2012.

On April 6, 2012, SPS filed the Supplemental Direct Testimony of John S. Fulton, and on May 4, 2012, Staff filed the direct testimony of Jack D. Sidler.

On May 15, 2012, the Hearing Examiner issued an Order requiring that a Proposed Recommended Decision be filed on or before June 8, 2012, given Staff's support of SPS's Application and to facilitate resolution of this proceeding. The Order indicated that a decision on whether to vacate the hearing in this case will be issued after the 60-day protest period expires on June 1, 2012.

As of June 1, 2012, no protest was filed allowing the Commission to approve SPS's Application without a formal hearing, and on June 4, 2012, the Hearing Examiner issued an Order vacating the public hearing to be held on June 7, 2012.

On June 7, 2012, SPS and Staff filed the Joint Notice of Filing the Proposed Recommended Decision ("Notice of Filing") for the Hearing Examiner's consideration. In the Notice of Filing, SPS and Staff agree to enter into the record SPS's and Staff's pre-filed testimony and attachments, which are identified in this Recommended Decision as follows: the Direct Testimony of John S. Fulton is SPS Exhibit 1 (Fulton Direct); the Direct Testimony of Jeffrey B. Stebbins is SPS Exhibit 2 (Stebbins Direct); the Direct Testimony of Kelli D Boren is SPS Exhibit 3 (Boren Direct); the Direct Testimony of Howard C. Higgins is SPS Exhibit 4 (Higgins Direct); the Supplemental Direct Testimony of John S. Fulton is SPS Exhibit 5 (Fulton Supplemental); and the Direct Testimony of Jack D. Sidler is Staff Exhibit 1 (Sidler Direct).

Additionally, SPS and Staff agree in the Notice of Filing to waive cross-examination of the pre-filed testimony, and they reaffirm their agreement to waive exceptions to the Recommended Decision if the Recommended Decision adopted by the Hearing Examiner is substantially similar to the Proposed Recommended Decision.

II. DISCUSSION

A. Legal Standard for Issuance of a Certificate of Convenience and Necessity and for Granting Location Approval

Section 62-9-1 of the Public Utility Act requires a public utility to obtain a certificate of public convenience and necessity ("CCN") before constructing or operating any public utility plant or system. NMSA 1978, 62-9-1(A). The standard for issuing a CCN is the "public convenience and necessity." This standard has been interpreted as requiring the showing of a "net benefit to the public." Recommended Decision, Case No. 10-00272-UT (January 28, 2011), approved in Final Order, Case No. 10-00272-UT (February 17, 2011); Recommended Decision, Case No. 07-00398-UT (February 6, 2008), p. 6, approved in Final Order, Case No. 07-00398-UT (February 14, 2008); Certification of Stipulation, Case No. 08-00078-UT (November 24, 2008), pp. 35-40, approved in Final Order Partially Approving Certification, Case No. 08-00078-UT (December 11, 2008); *Re Valle Vista Water Utility Co.*, 212 P.U.R. 4th 305, 309 (2001); Final Order, *Re Southern Union Company*, NMPUC Case No. 1891/1892 (December 12, 1984). The Commission may approve applications for CCNs without a formal hearing if no protest is filed within 60 days of the date notice of the application is given. NMSA 1978, § 62-9-1(C).

Section 62-9-3 of the PUA requires public utilities to obtain location approval prior to the construction of transmission lines and associated substation facilities, designed for, or capable of

operations at 230 kV or more. NMSA 1978, §62-9-3(B). The PUA states that the Commission shall approve an application for the location of transmission lines and associated facilities unless it finds that the proposed facilities will not be in compliance with applicable air and water pollution control standards and regulations or that the location will unduly impair important environmental values. NMSA 1978, § 62-9-3(E), (F). It also states that an application shall not be approved if it violates a state, county or municipal land use statutory or administrative regulation unless the commission finds that the regulation is unreasonably restrictive and compliance with the regulation is not in the interest of the public convenience and necessity. NMSA 1978, § 62-9-3(G). Further, the Act states that the Commission may approve an application for location approval without a formal hearing if no protest is filed within 60 days of the date notice of the application is given. NMSA 1978, § 62-9-3(K).

In addition to the foregoing statutes, Commission Rules 17.1.2.9 NMAC and 17.9.592 NMAC ("Rule 592") apply to CCN filings for transmission lines. Section 17.7.2.9 NMAC is the general rule governing CCN applications, including notice requirements. Rule 592 requires the following in an application for location approval: (1) a description of the project; (2) identification of all applicable land use statutes and administrative regulations; (3) federal, state, and local environmental authorizations necessary to construct and operate the transmission line; (4) testimony demonstrating that the proposed transmission line will not unduly impair important environmental values; (5) the expected date that the transmission line will be online; (6) proof that the application has been served on all local authorities in each county and township where the transmission line will be located, the New Mexico attorney general, the New Mexico

environment department, and the New Mexico state engineer; and (7) any other information, including photographs, which the applicant wishes to submit in support of the application. *See* 17.9.592.10 NMAC.

B. SPS's Filing Satisfies the Legal Standards for Issuance of a Certificate of Convenience and Necessity and for Location Approval

i. Description of Proposed Project

SPS proposes to construct and operate two 230 kV transmission lines and associated substation facilities in Curry and Roosevelt Counties, New Mexico. The first 230 kV transmission line, the Roosevelt-Pleasant Hill line, will connect SPS's existing Roosevelt County Substation, located five miles south of Clovis, New Mexico, to the proposed Pleasant Hill Substation to be located northeast of Clovis. SPS Exhibit 1 (Fulton Direct) at 7. The second 230 kV line, the Pleasant Hill-Oasis line, will connect the proposed Pleasant Hill Substation to the existing Oasis Substation located approximately nine miles southwest of Clovis. *Id.*

SPS plans to have the Proposed Project in service on or before December 2014. SPS Exhibit 1 (Fulton Direct) at 8; *see also* Staff Exhibit 1 (Sidler Direct) at 6. The total estimated cost for the Proposed Project is approximately \$59,832,000. *Id.* at 14; *see also Id.* at 11. The estimated costs include AFUDC and are based on 2011 dollars, with a plus or minus 20 percent deviation. *Id.* at 15. AFUDC is an allowance for the return on the capital costs of construction financing. *See* Staff Exhibit 1 (Sidler Direct) at 12-13 (citing Hahne and Aliff, *Accounting for Public Utilities*, Release No. 24 (2007)). AFUDC represents approximately 7.05% of the total estimated cost of the Proposed Project. SPS Exhibit 1 (Fulton Direct) at 8. The breakdown of the estimated cost for each component of the Proposed Project is as follows:

Substation

Roosevelt County Substation	\$ 640,000
Pleasant Hill Substation	\$10,750,000
Oasis Substation	\$ 688,000

Land

\$ 224,000

Total Substation Cost

\$12,302,000

Transmission

Roosevelt -Pleasant Hill 230kV	\$18,000.000
Pleasant Hill-Oasis 230kV	\$12,550.000
Curry-Norton 115kV Interception	\$ 1,260,000
Curry-FEC Switch Sub. 115kV Line	
Re-route	\$ 6,400,000

Total Transmission Cost

\$38,210,000

Right of Way

\$ 5,380,000

AFUDC

\$ 3,940,000

Estimated Total Project Cost

\$59,832,000

SPS is not requesting that the Commission determine the ratemaking treatment for the Proposed Project in this proceeding, but is requesting authorization to accrue AFUDC for recovery in a future base rate proceeding. *See* Staff Exhibit 1 (Sidler Direct) at 9; SPS Exhibit 1 (Fulton Direct) at 15. Staff supports SPS's request to accrue AFUDC, noting, however, that the actual AFUDC amount, including the capitalization rates, methods, procedures and calculations used in computing the AFUDC amount, will be subject to full review and examination in a general rate case. *See* Staff Exhibit 1 (Sidler Direct) at 14; SPS Exhibit 1 (Fulton Direct) at 15.

ii. Determination of Need for the Proposed Project

The Proposed Project is intended to provide increased reliability for SPS's northeastern New Mexico transmission system. SPS Exhibit 1 (Fulton Direct) at 5. The proposed 230 kV transmission lines will provide three separate 230/115 kV transformers at different locations and will provide multiple 230 kV transmission paths to those substations. *Id.*

The studies to evaluate the need for the Proposed Project were conducted by the Southwest Power Pool² ("SPP"), in coordination with SPS, as part of the annual SPP Transmission Expansion Plan ("STEP") analysis process. SPS Exhibit 1 (Fulton Direct) at 9; Staff Exhibit 1 (Sidler Direct) at 11. The specific transmission upgrades for which SPS requests a CCN in this Application were identified in the 2009 and 2010 STEP studies.

A STEP is a regional reliability assessment covering 10-year periods, *e.g.*, 2009-2019. It includes transmission service, generation, and load interconnection studies, sub-regional or local planning studies or projects, high priority economic studies, and any studies with neighboring regions (Midwest Independent Transmission System Operator, Southeast Reliability Council, etc.) that identified transmission projects. *See* SPS Exhibit 5 (Fulton Supp. Direct) at 4. STEPs are intended to provide a comprehensive review of the needs of the transmission system over time based on the input to the power system models and specific requests for service under the SPP OATT. *Id.*

² SPS, as a member of the SPP, is subject to the SPP Open Access Transmission Tariff ("SPP OATT"), which is a FERC-approved tariff that establishes requirements regarding the construction of transmission facilities. SPS Exhibit 5 (Fulton Supp. Direct) at 5-6. In Case No. 07-00390-UT, the Commission approved SPS's participation in the SPP RTO on an interim basis, and approved the transfer of SPS's New Mexico retail load to the SPP OATT. *Id.* at 6.

As a result of the STEP analysis process, individual projects are identified to address reliability needs, and the projects are initiated through SPP's Notification to Construct ("NTC") process. *See* SPS Exhibit 5 (Fulton Supp. Direct) at 5. NTCs are issued to the SPP transmission owners following approval by the SPP Board of Directors. *Id.* Once issued, the SPP transmission owner has up to 90 days to provide written acceptance of the NTC and to indicate that it will construct the project. *Id.* SPP's authority to issue NTCs is set forth in Section 3.3 of the SPP Membership Agreement and Section VI of Attachment O to the SPP OATT. *See* SPS Exhibit 5 (Fulton Supp. Direct) at 6; and Attachment JSF-SUPP-3(CD) and Attachment JSF-SUPP-4(CD).

In the STEP study conducted in 2009 ("2009 STEP"), the SPP identified several projects in the Clovis area to address reliability needs and issued a NTC to SPS in February 2010 that included the following projects:

- Construction of a 345 kV transmission line from Amarillo, Texas to Clovis, New Mexico;
- Build new substation and install a 345/230 kV 560 MVA transformer;
- Install a 230/115 kV 252 MVA autotransformer at new substation;
- Construction of 230 kV transmission lines from Oasis and Roosevelt County Substations to new substation; and
- Construction of 115 kV transmission lines from the new station to integrate into the existing 115 kV transmission system in the Clovis area.

See SPS Exhibit 1 (Fulton Direct) at 9 and Attachment JSF-2 at pp. 10-11 (Project ID 795). In the NTC, SPP referred to the proposed projects as the "Frio Draw Projects" because the proposed location for the new substation facilities was northwest of Clovis, near the Frio Draw. *Id.* at 10.

Subsequent to the issuance of the NTC, the location for the proposed new substation was moved to the Pleasant Hill area, northeast of Clovis, and thereafter the Proposed Project was referred to as Pleasant Hill.

Following issuance of the NTC in February 2010, SPS requested SPP to reconsider the transmission upgrades developed under the 2009 STEP due to a change in the internal generation available in the power flow models used by the SPP.³ SPS Exhibit 1 (Fulton Direct) at 11. As a result of the changes, the 2010 STEP determined that the Amarillo to Clovis 345 kV transmission line was no longer needed for SPS's overall system reliability and this portion of the project was withdrawn by the SPP as reflected in the February 2011 NTC issued to SPS.⁴ See *Id.*; also Attachment JSF-3 at p. 12. The remaining transmission upgrades identified in the

³ At the time the 2009-2019 studies were being completed, SPS and the generating owning entities inside the SPS Balancing Authority (*i.e.*, Golden Spread Electric Cooperative ("GSEC"), West Texas Municipal Power Agency) did not have any new generating units under development that met the SPP's criteria for inclusion in the STEP process. SPS Exhibit 5 (Fulton Supp. Direct) at 10. Under that scenario, SPS's Balancing Authority needed to import approximately 1,200 megawatts ("MW") from under-utilized generation in other areas of the SPP (*i.e.*, Oklahoma and Kansas) to meet the STEP process. *Id.* at 10-11. To import the power, additional transmission was needed between the north part of SPS's system and the south part of the system, and SPP staff recommended the construction of the Amarillo, Texas to Clovis, New Mexico 345 kV transmission line as the solution. *Id.* at 11. However, following SPS's proposal to add Jones Unit 3 and GSEC's proposal to add the Antelope Gas Turbine, SPS requested that SPP re-evaluate the need for the new Amarillo to Clovis 345 kV transmission line. *Id.*

SPP's 2010 STEP analysis added SPS's Jones Unit 3 and GSEC's Antelope Gas Turbine to the power flow models, along with slight decreases in the load forecasts and a change in the model flows to Public Service Company of New Mexico's ("PNM") Blackwater HVDC facility due to the termination of SPS's sales to PNM. SPS Exhibit 5 (Fulton Supp. Direct) at 11.

⁴ SPS's supplemental testimony states that the withdrawal of the Amarillo to Clovis 345 kV transmission line will have no impact on the Eastside Cooperatives' ability to import power from Western Farmers' Electric Cooperative ("WFEC"). SPS Exhibit 5 (Fulton Supp. Direct) at 12. In this regard, SPS witness Fulton explains that the 345 kV transmission line was initially deemed necessary to meet reliability criteria under the heavy import situation into the SPS Balancing Authority and was not intended to provide flow capability for any specific transmission service request. *Id.* At the time SPP conducted both the 2009 and 2010 STEP studies, the Eastside Cooperatives had not been granted any firm transmission service for power from WFEC that was modeled in the power flow cases. *Id.* It was not until late 2009 that a request for 100 MW of transmission service from WFEC to the Eastside Cooperatives was made through the SPP OASIS. This request is in the process of being confirmed, starting June 2012, despite the withdrawal of the Amarillo - Clovis 345 kV transmission line. See *Id.*

February 2010 NTC (including the Proposed Project) were still determined to be necessary to address the local reliability needs in the Clovis-Portales area.

The Proposed Project addresses the following SPS reliability needs identified in the 2009 STEP, and reaffirmed in the 2010 STEP: (1) the overload of the Curry - Roosevelt #2 115 kV line in the event of a loss of the Oasis - Roosevelt 230 kV line or the loss of the Oasis 230/115 kV transformer; and (2) the overload of the Roosevelt - Tolk #2 230 kV line in the event of a loss of the Roosevelt - Tolk #1 230 kV line. SPS Exhibit 1 (Fulton Direct) at 10; SPS Exhibit 5 (Fulton Supp. Direct) at 7. In addition, the relocation of the Curry - Norton 115 kV line and also the Curry - FEC Switching Station 115 kV line is required to allow the new 230/115 kV transformer at the Pleasant Hill Substation to be integrated into the transmission system in the Clovis area and be able to eliminate the contingency overloads listed above. SPS Exhibit 1 (Fulton Direct) at 10; *see also* Staff Exhibit 1 (Sidler Direct) at 11 (noting that SPS has demonstrated the need for the Proposed Project to provide redundancy and increase reliability in the Clovis, New Mexico area). The Proposed Project is intended to prevent a loss of a single 230 kV auto transformer at either SPS's Oasis or Roosevelt Substations from causing overloads and low voltage in the Clovis-Portales area. SPS Exhibit 5 (Fulton Supp. Direct) at 8. The Proposed Project is also intended to prevent the loss of the Roosevelt - Oasis 230 kV transmission line from allowing the Oasis Substation to be served from the transmission system in Roswell, which is inefficient due to the distance between Roswell and Clovis. *Id.*

iii. Proposed Route Selection and Right-of-Way Width

The first proposed transmission line, the Roosevelt - Pleasant Hill line, begins at the existing Roosevelt County Substation, located southeast of the City of Clovis, just south of the Curry-Roosevelt County line. From the Roosevelt County Substation the transmission line continues to the north along the eastern side of the City of Clovis to the proposed Pleasant Hill Substation, located northeast of the City of Clovis. SPS Exhibit 3 (Boren Direct) at 5. The line is approximately 17.5 miles in length and parallels or is adjacent to roadways for approximately 14.5 miles. *Id.* at 10.

The second proposed transmission line, the Pleasant Hill - Oasis line, begins at the proposed Pleasant Hill Substation and continues along the northern side of the City of Clovis before turning south along the western edge of the City of Clovis and ending just south of U.S. Highway 60/84 at the Oasis Connection Point of an existing 230 kV transmission line that continues on to the existing Oasis Substation. SPS Exhibit 3 (Boren Direct) at 5. The line is approximately 19.9 miles in length with approximately 19 miles paralleling or adjacent to roadways and section boundaries. *Id.* at 11.

The proposed 230 kV transmission lines will require a 90-foot right-of-way ("ROW") width, 45 feet on either side of the centerline, which complies with specifications of the National Electric Safety Code. SPS Exhibit 2 (Stebbin Direct) at 6. The 90-foot ROW width is sufficient for a transmission line which incorporates a basic phase spacing of 24 feet for 230 kV design. *Id.* The horizontal displacement of the conductors due to a six-pound per square foot wind loading

on a 900-foot span, along with the applicable safety clearances, will be contained within the boundaries of this easement. *Id.*

The proposed transmission line routes are the result of an extensive process that involved the examination of aerial photographs, existing transportation and utility ROW, existing land use constraints, and field assessments. *See* SPS Exhibit 3 (Boren Direct) at 5-6. From this review, a network of links or segments was developed to form the preliminary alternative routes. *Id.* at 6.

Once the preliminary alternative routes were identified, SPS provided information regarding the routes, identified existing land use constraints, and transportation and utility ROW to TRC Environmental Corporation ("TRC"), a consulting firm hired by SPS to prepare an Environmental Assessment of the alternative routes. SPS Exhibit 3 (Boren Direct at 7). TRC used the information to delineate a study area, collect necessary data from local, state, and federal agencies, and develop maps. *Id.* TRC examined the preliminary alternative routes in the field, and as a result, adjustments were made to the location and alignment of several links. *Id.*

The adjusted alternative routes were presented at a public meeting held at the Clovis Carver Public Library on April 26, 2011. SPS Exhibit 3 (Boren Direct) at 7. The informational meeting was held to solicit comments from citizens, landowners, and public officials, and to answer questions regarding the purpose, need, potential benefits, and impacts of the Proposed Project. *Id.* Property owners within 300 feet of the alternative routes, as well as local, state, and federal officials were invited to attend the meeting. *Id.* at 8. The majority of the concerns expressed in the public meeting centered on avoidance of residences, followed by effects to agricultural operations. SPS Exhibit 4 (Higgins Direct) at 14. Additional concerns were

expressed with regards to aesthetics, potential conflicts with airstrips, damage to property values, stray voltage, effects to phone service, potential conflicts with pipelines and fiber optics, and rehabilitation. *Id.* As a result of the public meeting, several changes to the alternatives were made to address landowners' concerns. SPS Exhibit 3 (Boren Direct) at 9.

Finally, meetings were held with each of the individual landowners along the alternative routes to review the information presented at the public meeting and to request permission to survey. SPS Exhibit 3-Boren Direct at 9. As a result of these meetings, further changes to the alternative routes were made to address landowners' concerns regarding the proximity of the transmission lines to proposed residences and a dairy operation. *Id.* at 10.

iv. SPS's Circuit Design and Construction

The 230 kV transmission lines will utilize self-supporting steel structures installed on concrete foundations at corners and terminations of the line. SPS Exhibit 2 (Stebbins Direct) at 7. The conductors will typically be 24 feet apart on single pole structures and 20 feet apart on H-frame structures. SPS Exhibit 2 (Stebbins Direct) at 7. The single circuit tangent structures (both single pole and, if necessary, H-frame) will utilize steel arms to support the transmission line conductors. SPS Exhibit 2 (Stebbins Direct) at 7. The structures will typically be spaced approximately 750 to 900 feet apart and will be fabricated of self-weathering steel. *Id.* The total line length of the 230 kV transmission lines will be approximately 37 miles and approximately 230 steel tangent structures will be installed. *Id.* at 7-8.

SPS's schedule anticipates that the transmission line design process will begin following the issuance of a CCN in the summer of 2012. SPS Exhibit 2 (Stebbins Direct) at 8. Material

requests will be submitted beginning about halfway through the design process (in late 2012). *Id.* All material should be available approximately nine to twelve months after material requests are initiated. Construction should take approximately eight months to complete, resulting in an expected in-service date of December 2014. *Id.*

v. ***SPS's Request for Location Approval***

SPS is requesting location approval for the Proposed Project in accordance with NMSA 1978, § 62-9-3 and Rule 592. The requested location approval includes the two 230 kV transmission lines and the new Pleasant Hill Substation. *See* Staff Exhibit 1 (Sidler Direct) at 7, 9-10 (under NMSA 1978, § 62-9-3(B), the definition of transmission line incorporates new associated substation facilities).

All of the facilities will be located on private land and therefore, no governmental permits are prerequisites for Commission approval of the requested location of the two 230 kV transmission lines and the Pleasant Hill Substation. SPS Exhibit 2 (Stebbins Direct) at 9; Staff Exhibit 1 (Sidler Direct) at 6. After the Commission enters its order granting a CCN for the construction and operation of the proposed 230 kV transmission lines and approves the location of the transmission lines and the proposed Pleasant Hill Substation, SPS will obtain the necessary permits required for construction of the transmission line facilities. SPS Exhibit 2 (Stebbins Direct) at 10. The permits required after CCN and location approval and prior to construction may include:

- Curry County and Roosevelt County Road Crossing Permits;
- New Mexico State Highway Department Permit to Install Utility Facilities within Public Right-of-Way;

- Federal Storm Water Discharge Permit;
- Railroad Crossing Permit; and
- Federal Aviation Administration permit(s).

Id.; *see also* Staff Exhibit 1 (Sidler Direct) at 6.

At SPS's request, TRC evaluated the environmental matters related to the proposed 230 kV transmission lines and the Pleasant Hill Substation in accordance with NMSA 1978, § 62-9-3 and Rule 592 and determined that the proposed 230 kV transmission lines and associated facilities will not unduly impair important environment values. *See* Staff Exhibit 1 (Sidler Direct) at 11. TRC completed an Environmental Assessment of the Proposed Project finding that impacts associated with the proposed and alternative routes studied are within the acceptable range for facilities of this type, and will not impair environmental values. SPS Exhibit 4 (Higgins Direct) at 6; *see also* Attachment HCH-1 for a copy of the Environmental Assessment. In summary, the Environmental Assessment found that the Proposed Project would have short-term, low level impacts on air due to tailpipe emissions from construction and maintenance vehicles, and particulate emissions due to fugitive dust, during construction and line maintenance. *Id.* at 7. There could be moderate effects on land use due to permanent removal from production of a minor amount of cropland in the footprint of the structures, compaction of soil and short term limitation on aircraft operations during construction. *Id.* The visual character of the area will be altered by the addition of the additional transmission lines in the viewscape. *Id.* The Proposed Project possibly could affect previously unknown cultural resources in the study area. *Id.* The effect upon sensitive biological species and mineral resources, are expected

to be minimal and no effects are expected on paleontology, climate, or wetlands. *Id.* Finally, a positive effect on socioeconomics is expected as a result of the Proposed Project. *Id.*

In regards to the potential biological and cultural impacts, TRC conducted a biological evaluation and cultural resource survey of the Proposed Project area with the consultation of a trained biologist and a qualified archaeologist. SPS Exhibit 4 (Higgins Direct) at 8. A site file search and on-site inspection of the proposed ROWs were conducted to identify any known locations of threatened and endangered species or archeological resources which could be affected by the construction, operation, and/or maintenance of the Proposed Project, and determine if any mitigation measures would be necessary. *Id.* at 8-9.

As to the biological impacts, TRC concluded that the proposed and alternative routes appear to avoid biological resources. SPS Exhibit 4 (Higgins Direct) at 9. In regard to the cultural resource survey completed by TRC, the site file search and drive through inspection indicated that the alternative routes themselves appear to be acceptable from the standpoint of avoiding cultural resources. *Id.* at 10. There have been 27 prior cultural resource surveys in the area, and from these surveys, three historic buildings and 16 previously recorded archaeological sites have been identified within one mile of the center line of the transmission line alternatives. *Id.* The Proposed Project will be within the view shed of the three historic buildings (all of which are in the community of Ranchvale) and the 16 previously recorded archaeological sites could be affected by the proposed transmission lines depending upon which alternatives are selected, where the poles will be placed, and where the access road will be located. *Id.*

To mitigate potential biological and cultural resource impacts, TRC recommends, following Commission approval of the Proposed Project and the grant of survey permission by the landowners, a 100% pedestrian survey of the ROW by professional archaeologists, biologists and wetland experts prior to construction. *See e.g.*, SPS Exhibit 4 (Higgins Direct) at 8. These surveys can be used to guide the locations of the poles and access roads to avoid any sensitive habitat or wetland, or known or unknown sensitive archaeological sites. *Id.*

vi. Staff's Evaluation and Recommendation for the Proposed Project

Staff witness Sidler's testimony reviews the statutory and regulatory requirements for issuing a CCN and granting location approval under the PUA and the Rule 592. Based on his evaluation of this filing, Mr. Sidler concludes that SPS has met the requirements of the PUA and the Commission's Rules for the issuance of a CCN and granting location approval, and that SPS's requested approvals are reasonable and in the public interest. *See* Staff Exhibit 1 (Sidler Direct) at 3, 6-8, and 15. Specifically, Staff finds that SPS has: (1) demonstrated the need for the Proposed Project which will provide redundancy and increase reliability in the Clovis, New Mexico area; (2) provided specific cost information for the Proposed Project; (3) provided environmental, ecological, and cultural impact studies for the Proposed Project; (4) demonstrated that the Proposed Project is the most economical choice among feasible alternatives; and (5) demonstrated that there is no public opposition to the Proposed Project. *See Id.* 10-12. Accordingly, Staff recommends that the Commission issue a CCN as requested in SPS's Application and grant location approval for the two 230 kV transmission lines and the new Pleasant Hill Substation, subject to the following compliance requirements: (1) SPS shall file

copies of all construction permits received for the Proposed Project within two weeks of receipt of the final permit; (2) SPS shall file the actual costs of the Proposed Project as soon as they become available; and (3) SPS shall file notice of the dates that the Proposed Project is placed into service. *See Id.* at 3 and 15. SPS has accepted these conditions by virtue of not filing rebuttal testimony.

Based upon the above testimony, the Hearing Examiner recommends that the Commission find that SPS has satisfied the standards for the issuance of a CCN and for location approval for the Proposed Project. The Hearing Examiner recommends that the Commission: (1) approve the issuance of a CCN for SPS to construct and operate two 230 kV transmission lines and associated substation facilities in Curry and Roosevelt Counties, New Mexico; (2) grant location approval of the two 230 kV transmission lines and the new Pleasant Hill Substation; and (3) authorize SPS to accrue AFUDC associated with the construction costs of the transmission lines and associated substation facilities.

III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Hearing Examiner recommends the Commission **FIND AND CONCLUDE** as follows:

1. All findings of fact and conclusions of law contained in the Statement of the Case and Discussion above are adopted as Findings of Fact and Conclusions of the Commission.
2. SPS is a public utility as defined in §§ 62-3-1 *et seq.* of the PUA, and is subject to the jurisdiction and authority of the Commission.

3. The Commission has jurisdiction over the parties and the subject matter of this case.
4. Due and proper notice of SPS's Application has been provided.
5. No protest was filed with Commission within 60 days of publication of notice.
6. The Commission may grant approval of the CCN and location control without a hearing pursuant to NMSA 1978, §§ 62-9-1 ad 62-9-3, respectively.
7. SPS has satisfied the statutory standard for approval of a CCN for the Proposed Project and a CCN is in the public interest and should be approved.
8. The operation of the Proposed Project will not violate applicable air and water pollution control standards and regulations and the location will unduly impair important environmental values.
9. SPS's request for authority to accrue AFUDC for funds used for the construction of the Proposed Project should be approved, but the AFUDC amount, including the capitalization rates, methods, procedures and calculations used in computing the AFUDC amount, will be subject to full review and determination in a future rate case.
10. Staff's recommended compliance requirements are reasonable and should be adopted.

V. DECRETAL PARAGRAPHS

The Hearing Examiner recommends that the Commission **ORDER** as follows:

A. The findings, conclusions, rulings and determinations made and construed herein are hereby adopted and approved as the findings, conclusions, rulings and determinations of the

Commission.

B. The testimony in SPS Exhibits 1-5 and Staff Exhibit 1 are admitted into the evidentiary record.

C. Pursuant to NMSA 1978, § 62-9-1, SPS is hereby granted a certificate of public convenience and necessity to construct and operate the Proposed Project, as set forth in the Application.

D. Pursuant to NMSA 1978, § 62-9-3, SPS is granted approval of the location for the proposed 230 kV transmission lines and the new Pleasant Hill Substation.

E. SPS's request for authority to accrue AFUDC for funds used for the construction of the Proposed Project is approved, but the AFUDC amount, including the capitalization rates, methods, procedures and calculations used in computing the AFUDC amount, will be subject to full review and determination in a future rate case.

F. SPS shall make the following compliance filings specified by Staff: (1) SPS shall file copies of all construction permits received for the Proposed Project within two weeks of receipt of the final permit; (2) SPS shall file the actual costs of the Proposed Project as soon as they become available; and (3) SPS shall file notice of the dates that the Proposed Project is placed into service.

G. This order is effective immediately.

H. Copies of this Order shall be sent to all persons on the attached Certificate of Service.

I. This Docket shall be closed after SPS's filing of the compliance items as required

by this Order.

ISSUED at Santa Fe, New Mexico this **20th day of June, 2012.**

NEW MEXICO PUBLIC REGULATION COMMISSION

A handwritten signature in black ink, appearing to read 'Ashley C. Schannauer', written over a horizontal line.

Ashley C. Schannauer
Hearing Examiner

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

IN THE MATTER OF SOUTHWESTERN PUBLIC)
SERVICE COMPANY'S APPLICATION FOR:)
(1) ISSUANCE OF A CERTIFICATE OF PUBLIC)
CONVENIENCE AND NECESSITY AUTHORIZING)
CONSTRUCTION AND OPERATION OF TWO 230)
KV TRANSMISSION LINES AND ASSOCIATED)
SUBSTATION FACILITIES IN CURRY AND)
ROOSEVELT COUNTIES, NEW MEXICO;)
(2) APPROVAL OF THE LOCATION OF THE 230 KV)
TRANSMISSION LINES AND ASSOCIATED)
FACILITIES; AND (3) AUTHORIZING ACCRUAL)
OF AN ALLOWANCE FOR FUNDS USED DURING)
CONSTRUCTION FOR THE TRANSMISSION LINES)
ASSOCIATED FACILITIES.)

Case No. 12-00027-UT

SOUTHWESTERN PUBLIC SERVICE COMPANY,)

Applicant.)
_____)

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing **Final Order Adopting Recommended Decision**, adopted July 3, 2012, was sent on July 5, 2012, by electronic mail and by first-class postage pre-paid mail to the parties listed below.

Jeffrey L. Fornaciari
PO Box 2068
Santa Fe, NM 87504-2068

James Bagley
Southwestern Public Service
PO Box 1261
Amarillo, TX 79105-1261

E-Mailed to:

Jeffrey L. Fornaciari
James Bagley
Jack Sidler
Julie Park
Bruno Carrara

jfornaciari@hinklelawfirm.com
jamesbagley@xcelenergy.com
jack.sidler@state.nm.us
julie.park@state.nm.us
bruno.carrara@state.nm.us

DATED this 5th day of July, 2012.

NEW MEXICO PUBLIC REGULATION COMMISSION



Ana C. Kippenbrock, Paralegal