

**PUC DOCKET NO. 38877
SOAH DOCKET NO. 473-11-5978**

APPLICATION OF SOUTHWESTERN PUBLIC SERVICE COMPANY TO AMEND A CERTIFICATE OF CONVENIENCE AND NECESSITY FOR A PROPOSED TRANSMISSION LINE WITHIN HALE, FLOYD, MOTLEY, COTTLE, BRISCOE, HALL, CHILDRESS, DONLEY, COLLINGSWORTH, AND WHEELER COUNTIES	§ § § § § § § § § §	PUBLIC UTILITY COMMISSION OF TEXAS
	ORDER	

12 MAY - 1 PM '12
PUBLIC UTILITY COMMISSION
FILING CLERK

This Order addresses the application of Southwestern Public Service Company (SPS) to amend a certificate of convenience and necessity (CCN) for a proposed 345-kV transmission line within Hale, Floyd, Motley, Cottle, Briscoe, Hall, Childress, Donley, Collingsworth, and Wheeler Counties. A unanimous stipulation was executed that resolves all of the factual issues in this docket. Consistent with the stipulation, SPS's application is approved.

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

I. Findings of Fact

Procedural History

1. SPS is an investor-owned electric utility providing retail electric service in Texas under CCN No. 30153.
2. On March 31, 2011, under the authority of Chapter 37 of the Public Utility Regulatory Act (PURA), TEX. UTIL. CODE ANN. Title 2 (Vernon 2007 & Supp. 2011), SPS filed an application for a proposed 345-kV transmission line that begins at the TUCO Substation, located in Hale County, Texas, and ends at a point of interconnection with Oklahoma Gas & Electric Co. (OG&E), which is approximately three miles east of the Texas/Oklahoma state line and approximately three miles southeast of Texola, Oklahoma, in Beckham

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County, Oklahoma. The proposed transmission line would be approximately 180-205 miles long depending on the route selected.

3. On March 31, 2011, pursuant to P.U.C. PROC. R. 22.52(a), SPS provided, by first class mail, written notice of the application to: (a) the county governments of Hale, Floyd, Motley, Cottle, Briscoe, Hall, Childress, Donley, Collingsworth, and Wheeler Counties, the Texas counties in which the proposed facility is located; (b) the county judge for Beckham County, Oklahoma; (c) Golden Spread Electric Cooperative, Inc., Greenbelt Electric Cooperative, Inc., South Plains Electric Cooperative, Inc., Swisher Electric Cooperative, Inc., Lighthouse Electric Cooperative, Inc., AEP Texas North Company, Cross Texas Transmission, LLC, OG&E, and Northfolk Electric Cooperative, the neighboring utilities within five miles of the proposed facility; (d) the Cities of Wellington, Dodson, Memphis, Lakeview, Estelline, Silverton, Childress, Lockney, Floydada, Petersburg, and Abernathy, the Texas municipalities within five miles of the proposed facility; and (e) each landowner, as stated on current county tax rolls, that will be directly affected by the requested CCN amendment.
4. On March 31, 2011, SPS provided a copy of the application and the environmental assessment to the Texas Parks and Wildlife Department (TPWD).
5. On March 31, 2011, the Commission's Administrative Law Judge (ALJ) filed Order No. 1, requiring information from SPS and a recommendation from Commission Staff regarding the sufficiency of the application and notice, and addressing other procedural matters.
6. On April 4, 2011, pursuant to P.U.C. PROC. R. 22.52(a)(1), SPS published notice of the application in the *Amarillo Globe-News*, a newspaper of general circulation in the Texas counties of Hale, Hall, Briscoe, Childress, Collingsworth, Donley, and Wheeler. On April 7, 2011, SPS published notice in the *Floyd County Hesperian-Beacon*, a newspaper of general circulation in the Texas counties of Motley, Cottle, and Floyd.
7. On April 11, 2011, SPS filed an affidavit attesting to the provision of the application and environmental assessment to TPWD.

8. On April 14, 2011, SPS filed the proof of notice to the affected counties, municipalities, and landowners.
9. On April 14, 2011, SPS filed an affidavit attesting to the publication of notice in the *Amarillo Globe-News* and the *Floyd County Hesperian-Beacon*.
10. On April 21, 2011, Commission Staff recommended that the application be deemed sufficient. However, Commission Staff requested that SPS revise descriptions of segments CM, ER, and EU and resend the revised descriptions to landowners directly affected by those segments and to previously noticed municipalities, county governments, and neighboring utilities, and that the intervention deadline be extended. Commission Staff also proposed a procedural schedule.
11. On April 28, 2011, the Commission's ALJ issued Order No. 3, approving the sufficiency of the application, deeming the notice insufficient, requiring SPS to resend notice and establishing a procedural schedule.
12. On May 10, 2011, SPS filed an affidavit of proof of re-notice by mail.
13. On May 13, 2011, Commission Staff recommended that the notice be deemed sufficient.
14. On May 16, 2011, the Commission's ALJ issued Order No. 7, deeming the amended notice approved.
15. On May 23, 2011, J&B Ranch filed a request for referral to the State Office of Administrative Hearings (SOAH) for a hearing on the merits.
16. On May 24, 2011, SPS filed a request for a pre-hearing and technical conference.
17. On May 26, 2011, Bradley Ranch, et. al., filed a notice of appearance of counsel on behalf of Bradley 3 Ranch, Ltd., Mary Lou Bradley, and James Henderson and a request for a June 7, 2011, prehearing conference.
18. On May 26, 2011, J&B Ranch filed a request for a pre-hearing and technical conference.
19. On May 26, 2011, the Commission issued the order of referral, referring the proceeding to SOAH.
20. On May 27, 2011, SOAH's ALJs issued Order No. 1, scheduling a prehearing conference and informing parties of procedural matters.

21. On May 31, 2011, all requests to intervene were due. The Commission's ALJ addressed interventions in Order Nos. 2, 4, 6, 8, and 9, issued April 26, 2011 through May 25, 2011. The SOAH ALJs addressed interventions in Orders 2, 3, 5, 9, 10, 11, 14, and 17, issued June 10, 2011 through December 17, 2011.
22. On June 1, 2011, SPS filed a notice of a technical conference.
23. On June 3, 2011, the Nickels Family LP requested a hearing on the merits.
24. On June 3, 2011, Commission Staff filed a letter from TPWD containing comments and recommendations regarding the proposed transmission line.
25. On June 3, 2011, SPS filed a motion to amend the deadline for a decision.
26. On June 10, 2011, prehearing and technical conferences were held.
27. On June 13, 2011, the SOAH ALJs issued Order No. 2, scheduling a hearing on the merits and informing the parties of procedural matters.
28. On July 8, 2011, SPS filed its direct testimony.
29. On August 5, 2011, the Mill Iron and Allred parties filed a statement on adequacy of routes and request for hearing on adequacy of routes on behalf of Mill Iron North, Ltd., Mill Iron South, Ltd., Mill Iron Sand Creek, Ltd., L.A.D. Farms, Inc., CC River Partners, the Estate of Lois Allred, and J. Don Allred.
30. On August 10, 2011, SPS filed a notice of settlement conference to be held in Matador, Texas on August 16, 2011.
31. On August 16, 2011, SPS filed a response to the statement on adequacy of routes and requested a hearing on adequacy of routes.
32. On August 16, 2011, a settlement conference was held in Matador, Texas.
33. On August 19, 2011, the SOAH ALJs issued Order No. 6, granting motion on adequacy of routes and setting the hearing on adequacy of routes for August 23, 2011.
34. On August 23, 2011, the route adequacy hearing was held and SOAH ALJs issued Order No. 7, addressing adequacy of route issues.
35. On September 16, 2011, discovery on SPS's direct case ended.

36. On or before September 30, 2011, 35 intervenors filed direct testimony of 29 witnesses, and 15 intervenors filed statements of position.
37. On October 3, 2011, intervenors Two Bobcats, LLC and Flat Tire Land & Cattle LLC filed statements of position.
38. On October 3, 2011, intervenors Joe John Henard, Larry Henard, Jimmie G. Roberts, and Billy Shannon filed direct testimony with Joe John Henard filing testimony through two witnesses.
39. On October 17, 2011, a settlement conference was held in Austin, Texas.
40. On October 20, 2011, SPS, Samann Vest Watkins and Commission Staff filed objections to intervenor direct testimony.
41. On October 28, 2011, Commission Staff filed its direct testimony.
42. On October 28, 2011, eight intervenors filed responses to objections to intervenor direct testimony.
43. On November 8, 2011, eight intervenors filed cross-rebuttal testimony.
44. On November 15, 2011, Joe John Henard filed a motion to withdraw the direct testimony of Jeff Indeck, PhD and substitute the direct testimony of Paul Katz, PhD.
45. On November 22, 2011, discovery on intervenors' and Commission Staff's direct cases ended.
46. On or before November 22, 2011, SPS and Commission Staff filed objections to cross-rebuttal testimony.
47. On December 2, 2011, SPS filed its rebuttal testimony.
48. On December 2, 2011, the Mill Iron and Allred parties and James Doucette filed responses to the objections to their cross-rebuttal testimony.
49. On December 7, 2011, SPS filed a motion for clarification of Order No. 10.
50. On December 7, 2011, SPS filed its notice of supplemental data concerning archeological sites and construction costs.

51. On December 7, 2011, the Southwest Power Pool, Inc. (SPP) filed a motion for admission of testimony and waiver of cross-examination or, alternatively scheduling of specific date for witness' testimony.
52. On December 8, 2011, the SOAH ALJs issued Order No. 12, ruling on objections.
53. On December 9, 2011, SPS filed its motion for designation of witnesses subject to cross-examination.
54. On December 13, 2011, discovery ended on SPS's rebuttal case.
55. On December 13, 2011, Ted "Gene" Bruce filed direct testimony as well as a letter requesting to be reinstated as an intervenor.
56. On December 13, 2011, Agrivest, LLC, Southport Ranch, LLC, and Southport Cattle, Ltd. (Southport intervenors) filed a response to: (1) the motion of SPP for admission of testimony and waiver of cross-examination, or alternatively, for scheduling of specific date for witness' testimony; and (2) SPS's motion for designation of witnesses subject to cross-examination.
57. On December 14, 2011, SPP filed a letter joining SPS and Southport intervenors in their requests regarding the determination of witness scheduling.
58. On December 14, 2011, the SOAH ALJs issued Order No. 13, ordering parties to file list of witnesses to be cross-examined.
59. On December 14, 2011, SPS filed its objection to Ted Bruce's request to renew intervention and testimony.
60. On December 15, 2011, the SOAH ALJs issued Order No. 14, granting the motion for clarification of SOAH Order No. 10, striking Ball Partnership as a party to the proceeding.
61. On December 16, 2011, the SOAH ALJs issued Order No. 15, denying SPP's motion for admission of testimony and waiver of cross-examination.
62. On December 20, 2011, the SOAH ALJs issued Order No. 17, granting Ted Bruce's request to renew intervention.

63. On December 20-29, 2011, 28 parties filed lists of witnesses to cross-examine at the hearing.
64. On December 21, 2011, the SOAH ALJs issued Order No. 19, granting John Henard's motion to withdraw direct testimony of Jeff Indeck, PhD and substitute the direct testimony of Paul Katz, PhD.
65. On December 22, 2011, direct testimony was filed for Billie G. Blair, PhD.
66. On December 22, 2011, SPS filed a motion to strike the direct testimony of Billie G. Blair, PhD.
67. On December 22, 2011, Intervenor Inelda Baccus, James Doucette, Larry Bramlet, Mary Bramlet, Annabel Bramlet, the Harvey Wayne Bramlet Trust, Max Yeary, Price Estate Farms, Randy Henderson, Donald Henderson, Nickels Family LP, Plains Baptist Assembly, and Christine Campaine filed their objection to the direct testimony of Billie G. Blair, PhD and motion to strike.
68. On December 22, 2011, SPS filed its second motion for clarification of Order No. 10, requesting that the order be clarified to also strike Ronnie O'Rear as a party.
69. On December 27, 2011, a motion for reinstatement as an Intervenor was filed for Billie G. Blair, PhD.
70. On December 27, 2011, Mitch Probasco and Bill LaFont, separately and on behalf of the Estate of Gail LaFont Huie filed, their objection and motion to strike the direct testimony of Billy G. Blair, PhD.
71. On December 28, 2011, Franklin and Susan Jameson filed supplemental direct testimony supporting a settlement route.
72. On December 29, 2011, intervenors, Joe John Henard, Larry Henard, Billy Shannon, Jimmie Roberts, Two Bobcats, LLC, and Flat Tire Land & Cattle, LLC filed a motion to strike the direct testimony of Billie G. Blair, PhD.
73. On December 29, 2011, Commission Staff filed its supplemental direct testimony of Michael J. Lee, P.E.
74. On December 29, 2011, SPS filed its notice of settlement route 21.

75. On December 30, 2011, SPS filed the stipulation between TPWD and SPS.
76. On December 30, 2011, Franklin and Susan Jameson filed additional supplemental direct testimony supporting the settlement route.
77. On January 3, 2012, the hearing was convened at SOAH. The SOAH ALJs granted SPS's second motion for clarification of Order No. 10, striking Ronnie O'Rear as an intervenor. The SOAH ALJs heard arguments regarding the motion to reinstate Billie G. Blair, PhD as a party. The SOAH ALJs reinstated Billie G. Blair, PhD as an intervenor and admitted her testimony as a statement of position. The SOAH ALJs adjourned the hearing for the day to give parties time to continue settlement discussions.
78. On January 4, 2012, the hearing was reconvened and the parties announced on the record that a settlement had been reached in principal with the affected landowners, but that work needed to be performed regarding certain details.
79. After the hearing was reconvened on January 4, 2012, the parties introduced direct, rebuttal, and supplemental testimony along with various other exhibits, and cross-examination was waived. SPS announced that its exhibits 13 and 14, the supplemental testimony of Anastacia Santos and Jeff Stebbins supporting the settlement, would be filed later that day. The SOAH ALJs admitted all exhibits into the record except for SPS exhibits 13 and 14. The SOAH ALJs announced that the parties would have until January 13, 2012, to object to SPS exhibits 13 and 14 and that the record would be left open until January 27, 2012. The hearing was adjourned.
80. On January 4, 2012, SPS filed supplemental testimony in support of settlement for Anastacia Santos and supplemental testimony in support of settlement for Jeff Stebbins.
81. On January 5, 2012, SPS filed a motion to substitute a revised SPS exhibit 12 for the one introduced at the January 4, 2012, hearing.
82. On January 18, 2012, SPS filed a motion for extension of time, requesting that the SOAH ALJs approve an extension of the deadline to file the stipulation and proposed order and to keep the record open until February 24, 2012.
83. On January 23, 2012, the SOAH ALJs issued Order No. 20, granting SPS's motion for extension of time.

84. On February 24, 2012, SPS filed its second motion for extension of time, requesting that the SOAH ALJs approve an extension of the deadline to file the stipulation and proposed order and to keep the record open until March 2, 2012.
85. On February 28, 2012, the SOAH ALJs issued Order No. 21, granting SPS's second motion for extension of time.
86. On February 28, 2012, SPS filed its third motion for extension of time, requesting that the SOAH ALJs approve an extension of the deadline to file the stipulation and proposed order and to keep the record open until March 9, 2012.
87. On March 1, 2012, the SOAH ALJs issued Order No. 22, granting SPS's motion for extension of time.
88. On March 7, 2012, SPS filed the unanimous stipulation and proposed order, and agreed motion to admit evidence and motion to remand, resolving all issues in this docket. The motion was granted on March 9, 2012, in SOAH Order No. 23.
- 88.A On April 13, 2012, SPS filed the affidavit of James M. Bagley.
- 88.B On April 27, 2012, the Commission re-opened the evidentiary record and admitted the affidavit of James M. Bagley as proof of notice to the owners of property directly affected by the proposed transmission line along settlement route 21 as required by P.U.C. Proc. R. 22.52(a)(3)(C).

Description of SPS's Proposed Transmission Line and Cost

89. The proposed 345-kV transmission line runs from the existing TUCO Substation, located in Hale County, Texas, to a point of interconnection with OG&E in Beckham County. The TUCO Substation is located approximately .9 miles southeast of the intersection of Interstate Highway 27 and Farm to Market Road 54, north of Abernathy, Texas. The proposed interconnection point with OG&E is approximately three miles east of the Texas/Oklahoma state line and approximately three miles southeast of Texola, Oklahoma. It is approximately 600 feet west of the eastern intersection of E1250 Road and N1700 Road in Beckham County, Oklahoma. The proposed transmission line is approximately 180-205 miles long depending on the route selected.

90. SPS filed 20 alternate routes consisting of 110 segments. The parties have agreed to settlement route 21 comprised of segments G, K, P, R, S, U, modified Z, modified AA, modified BB, modified CC, the Motley County Segment, modified NN, modified TT, modified AB, the Hall County Segment, modified AT, modified BA, modified BE, BJ, modified BO, modified BR, BZ, CD, modified CB, modified CO, CR, DG, modified DO, modified DR, EA, EG, EN, and EV as described in attachment D to the stipulation. As agreed to by the directly affected landowners and the parties, the length of settlement route 21 is approximately 200.47 miles. A map depicting settlement route 21 is provided as attachment E to the stipulation.
91. The proposed transmission line will be built using primarily two pole H-frame, steel structures for tangents and light angles. Angle structures and dead end structures will be three pole steel structures.
92. The cost to construct settlement route 21 is approximately \$164,162,366 and the cost for the substation facilities is approximately \$21,669,748. The total estimated cost of the project is approximately \$185,832,114. The estimated cost of the proposed transmission line and substation facilities is reasonable when compared to similar projects.

Need for the Proposed Transmission Line

93. SPS is a member of, and its entire transmission system is located within, SPP. The SPP is a regional transmission organization approved by the Federal Energy Regulatory Commission that meets the requirements of PURA § 39.151 as an independent system operator.
94. The proposed transmission line will connect the existing TUCO substation in Hale County, Texas, to a point of interconnection with OG&E in Beckham County, Oklahoma. This will connect the OG&E Woodward District EHV substation in Woodward, Oklahoma to SPS's TUCO substation. The proposed transmission line is intended to reduce congestion on the SPP transmission system resulting in economic benefit to customers in SPP, including SPS retail customers in Texas, and improvement of electric reliability in the Panhandle area.

95. The proposed transmission line is a result of the balanced portfolio process of the SPP tariff. SPP developed and analyzed four economic project groups in a strategic initiative study called the balanced portfolio report. The purpose of the study was to evaluate 345-kV transmission projects within the SPP region to reduce transmission congestion caused by trapped generation. The report stated that the reduction of transmission congestion will result in lower generation production costs and may benefit the power grid and reduce environmental impacts due to more efficient use of its generation resources. The report stated that the four economic projects analyzed will provide customers in SPP with potential cost savings that exceed project costs.
96. As a result of the SPP balance portfolio report, SPP determined a need for the proposed line and issued two notifications to construct letters – one to SPS and one to OG&E. SPS was directed to build a 345-kV line from the TUCO substation that would terminate at OG&E's interception of a 345-kV transmission line from the Woodward District EHV, and to expand the TUCO substation to include a 560 MVA, 345/230 kV auto transformer with a 345-kV ring-bus configuration and building a mid-point reactor station along the TUCO-Woodward District EHV, 345-kV line.
97. SPS demonstrated a reasonable need for the proposed project in order to reduce congestion on the SPP transmission system resulting in economic benefit to customers in SPP, including SPS retail customers in Texas. The need for the proposed project was not disputed in this docket.

Resolution of Landowner Concerns

98. Intervenors have all agreed to the route with the modifications described in the stipulation.
99. There are 62 landowners that were not parties to the proceeding who are directly affected by settlement route 21's routing modifications. These landowners include those with property along the route who were provided notice based on the originally proposed routes, as well as landowners who were not affected by the originally proposed routes who have agreed to take the line. Affidavits of all landowners that are directly affected by the routing modifications but did not intervene are attached as attachment B to the stipulation, indicating their agreement with the selection of settlement route 21.

Project Alternatives

100. SPS did not analyze distribution alternatives, upgrading voltage or bundling of conductors of existing facilities, adding transformers, or distributed generation alternatives because there were no alternative options provided to SPS when SPP issued its notice to construct to SPS to construct the proposed line. SPP did screen twenty viable projects prior to issuing its notice to construct for this project.

Routes

101. SPS considered and submitted a sufficient number of geographically diverse routes for the proposed transmission line.
102. The proposed transmission line complies with all aspects of PURA § 37.056 and P.U.C. SUBST. R. 25.101.
103. Consistent with the application and the stipulation, construction of the proposed transmission line along settlement route 21 which is comprised of segments G, K, P, R, S, U, modified Z, modified AA, modified BB, modified CC, the Motley County segment, modified NN, modified TT, modified AB, the Hall County segment, modified AT, modified BA, modified BE, BJ, modified BO, modified BR, BZ, CD, modified CB, modified CO, CR, DG, modified DO, modified DR, EA, EG, EN, and EV as described in the stipulation is reasonable. The transmission line's point of interconnection with OG&E is approximately three miles east of the Texas/Oklahoma state line and approximately three miles southeast of Texola, Oklahoma, approximately 600 feet west of the eastern intersection of E1250 Road and N1700 Road in Beckham County, Oklahoma.
104. Settlement route 21 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.

Community Values

105. Pursuant to P.U.C. PROC. R. 22.52(a)(4), SPS and TRC Environmental Corporation conducted four open-house meetings. The meetings were conducted between the hours of 5:30 and 7:30 PM: on Monday, September 13, 2010, at the Massie Activity Center in Floydada, TX; on Tuesday, September 14, 2010, at the Memphis Convention Center in

Memphis, TX; on Wednesday, September 15, 2010, at The Hope Center, in Quitaque, TX; and on Thursday, September 16, 2010, at the Shamrock Community Center in Shamrock, TX.

106. SPS solicited public input and involvement through the open-house meetings, contacting and meeting with various public officials and agencies at local, county, state and federal levels, maintaining an internet website with information about the project with an email for the public to send questions and comments to the project team, maintaining a toll free number available on the website and handouts, and providing information in public libraries.
107. Information received from the public open-house meetings and from local, state, and federal agencies was considered and incorporated into the routing analysis and selection of alternative routes.
108. Commission Staff recommended that SPS cooperate with directly affected landowners to implement minor deviations in the approved route to minimize the impact of the proposed transmission line.
109. There are 54 habitable structures located within 500 feet of the proposed transmission line along settlement route 21.
110. There are no AM radio towers within 10,000 feet of the transmission line along settlement route 21.
111. There are no FM electronic communication towers located within 2,000 feet of the transmission line along settlement route 21.
112. There are two known FAA registered airports with runways longer than 3,200 feet within 20,000 feet of the centerline of settlement route 21. There are no known heliports within 5,000 feet of settlement route 21. There are no private airstrips within 10,000 feet of the centerline of settlement route 21.

Park and Recreational Areas

113. There is one park within 1,000 feet of the proposed centerline of alternative routes 19 and 20 and settlement route 21. It is owned by the state and operated by TPWD, a party to the stipulation and an intervenor in this proceeding.
114. TPWD manages and/or owns Caprock Canyons State Park Trailway, a state park and recreational area that traverses Briscoe, Floyd, and Hall Counties. Settlement route 21 will require SPS to obtain an aerial easement across the trailway.
115. The only permanent impact to the trailway will be limited and visual in nature. This will be mitigated to a large extent due to structure placement outside the path of the trailway.
116. The proposed transmission line will not have a significant adverse impact on parks and recreational areas. The impacts to parks and recreational areas have been considered and minimized to the extent possible.

Historical and Archeological Areas

117. None of the alternate routes cross any listed or determined-eligible historical or archeological sites. Settlement route 21 does not cross any listed or determined-eligible historical or archeological sites, and there are no such sites within 1,000 feet of the route.
118. None of the alternative routes cross any previously recorded historical or archeological sites. Settlement route 21 does not cross any previously recorded historical or archeological sites, and there are no such sites within 1,000 feet of the route.

Aesthetic Values

119. 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

120. The proposed transmission line is not expected to adversely affect service by other utilities in the area and is expected to reduce congestion on the SPP transmission system resulting in economic benefit to SPP customers and improvement of electric reliability in the Panhandle area.

121. There is a potential that the proposed transmission line could impact Cross Texas Transmission, LLC (CTT), a party to the stipulation. SPS will coordinate with CTT with regard to each crossing of a certificated CTT electric transmission line by settlement route 21 and with regard to each segment where a certificated CTT transmission line is paralleled by settlement route 21, SPS will coordinate with CTT to determine the impact of mutual coupling on CTT's transmission lines before SPS's line is placed into service. If it is determined that CTT's transmission facilities will be adversely impacted by the construction and operation of SPS's transmission line, including any impacts due to mutual coupling, then SPS will take necessary action to remedy such issues, including compensating CTT for reasonable costs incurred to remedy or mitigate the impact of SPS's transmission line.

Environmental Impact

122. Construction of the proposed transmission line will not have a significant effect on the geologic or physiographic features of the area.
123. 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.
124. 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.
125. The construction of the proposed transmission line should have little to no impact on surface water.
126. Settlement route 21 will cross 221 streams and 3.02 miles of playa lakes. SPS expects to span all streams and playas.
127. Transmission line structures will generally span floodplains. Although it is possible that transmission line structures may 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 as necessary.

128. Construction of the proposed transmission line and substation should have little impact on the ground water resources of the area.
129. The main impact of the transmission line on vegetation will be the removal of woody vegetation along the proposed ROW. When clearing vegetation, SPS will make efforts to retain native ground cover, where possible, to minimize impacts to local vegetation and will reseed as required by this Order.
130. The transmission line will have only a minor impact, if any, on aquatic/hydric habitat.
131. The transmission line will have only a minor impact on local wildlife.
132. The transmission line is not located within the Texas Coastal Management Program Boundary.
133. 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. No non-listed sensitive species are expected to be impacted by settlement route 21.
134. No significant impacts to unique, sensitive, or protected wildlife habitats are anticipated. There are interior least tern rookeries in Hall and Childress Counties.
135. No impacts to federal or state listed threatened or endangered wildlife or aquatic species are anticipated. Endangered species that may occur in the construction area are the interior least tern, the whooping crane, the black-footed ferret (federal status), and the gray wolf. Further, the bald eagle may occur in the habitat. The bald eagle is not listed under the Endangered Species Act, but is considered threatened in Texas and is protected under the Bald and Golden Eagle Act. Threatened species that may occur in the construction area are the shovelnose sturgeon (Texas status), the Texas horned lizard (Texas status), the American peregrine falcon (Texas status), the Texas kangaroo rat (Texas status), and the palo duro mouse.
136. Non-listed, sensitive species that may occur in the construction area are the shovelnose sturgeon, the arctic peregrine falcon, baird's sparrow, ferruginous hawk, the lesser prairie chicken, the mountain plover, the prairie falcon, the snowy plover, the western snowy

plover, the western burrowing owl, the black-tailed prairie dog, the cave myotis bat, the pale townsend's big-eared bat, the plains spotted skunk, the swift fox, the Texas kangaroo rat, and the western small-footed bat. It is not expected that construction will impact these species. 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.

137. Any construction activities should avoid burrows, including prairie dog colonies and mammal burrows to avoid potential impacts to prairie dogs and the swift fox.
138. SPS has conducted an adequate evaluation of potential environmental impacts of the proposed transmission line in the impacted area.

Prudent Avoidance

139. The proposed transmission line has been routed in accordance with the Commission's policy of prudent avoidance. There are 54 habitable structures within 500 feet of the centerline of settlement route 21 and of those, 40 are barns, sheds or garages and only 14 are residences.

TPWD Written Comments, Recommendations, and Procedures

140. SPS has committed to comply with all environmental laws and regulations independent of any language included by the Commission in an Order.
141. 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.
142. After a transmission line route has been selected and approved by the Commission, qualified individuals will conduct a field assessment of the entire length of the project to identify water resources, cultural resources, potential migratory bird issues, and threatened or endangered species habitat that may be impacted as a result of the project. As a result of these assessments, SPS will identify additional permits that are necessary, will consult any required agencies, will obtain all necessary environmental permits, and will comply with the relevant permit conditions during construction and operation of the transmission line.

143. It is appropriate that SPS utilize permitted biological monitors to ensure compliance with the Endangered Species Act.
144. SPS's construction practices are sufficient and thus no additional permitted biological monitors are necessary during clearing and construction activities for state-listed species.
145. It is proper that SPS undertake measures necessary to comply with the Migratory Bird Treaty Act.
146. 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.
147. It is appropriate that SPS use best management practices to minimize the potential impact to migratory birds and threatened or endangered species.
148. To the extent bat caves are in the immediate proximity of the route, SPS will undertake the measures described in the letter dated May 24, 2011 from TPWD that is in the record in this docket regarding the cave myotis bat and white-nose syndrome.
149. The following mitigation measures will be used by SPS to minimize harm to the railway:
(a) the railway will be spanned (no transmission line structures will be constructed in the boundary of the railway); (b) construction-related activities within 2,000 feet of the railway will occur on weekdays only; (c) a 160-foot wide ROW will be used to cross the railway; (d) best efforts shall be used to utilize the maximum span length of its standard structures to maximize the distance that any structure is installed on either side of the railway taking into consideration terrain and other engineering considerations; (e) best efforts shall be used to minimize construction-related damage to the railway; and (f) all construction-related physical damage to the railway will be repaired.
150. Pursuant to Texas Parks and Wildlife Code § 13.009, the Texas Parks and Wildlife Commission must approve any sale or exchange of land under TPWD's control including an easement for the crossing of the Caprock Canyons Trailway on settlement route 21 by the proposed transmission line in this proceeding. Pursuant to Texas Parks and Wildlife Code Chapter 26, before the Texas Parks and Wildlife Commission can approve an easement for the crossing of the Caprock Canyons Trailway on settlement route 21 by the

proposed transmission line in this proceeding, the Texas Parks and Wildlife Commission must provide public notice and conduct a public hearing to determine whether: (1) there is no feasible and prudent alternative to the use or taking of the Caprock Canyons Trailway; and (2) that the transmission line project includes all reasonable planning to minimize harm to the Caprock Canyons Trailway.

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 2011), and Commission rules.
6. SPS is entitled to approval of the application described in the findings of fact, utilizing settlement route 21, 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. Settlement route 21 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 stipulation, the application is reasonable, in the public interest, and should be approved.

10. The requirements for informal disposition pursuant to 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 settlement route 21, comprised of segments G, K, P, R, S, U, modified Z, modified AA, modified BB, modified CC, the Motley County Segment, modified NN, modified TT, modified AB, the Hall County Segment, modified AT, modified BA, modified BE, BJ, modified BO, modified BR, BZ, CD, modified CB, modified CO, CR, DG, modified DO, modified DR, EA, EG, EN, and EV as described in attachment D to the stipulation. Settlement route 21 is approximately 200.47 miles in length. A set of maps depicting settlement route 21 is provided as attachment E to the stipulation.
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 or landowners' representatives. SPS shall not be required to restore original contours and grades where a different contour or grade is necessary to

ensure the safety or stability of the project's structures or the safe operation and maintenance of the line.

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, and shall ensure that such herbicide use complies with the rules and guidelines established in the Federal Insecticide, Fungicide and Rodenticide Act and with the Texas Department of Agriculture regulations.
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 use best management practices to minimize the potential impact to migratory birds and threatened or endangered species.
10. SPS shall cooperate with directly affected landowners to implement minor deviations in the approved route to minimize the impact of the project. Any minor deviations in the approved route shall only directly affect landowners who were sent notice of the transmission line in accordance with P.U.C. PROC. R. 22.52(a)(3) or have waived notice and agreed to accept the transmission line across their property, and shall directly affect only those landowners that have agreed to the minor deviation, excluding public ROWs.
11. SPS shall be permitted to deviate from the approved route in any instance in which the deviation would be more than the minor deviation, but only if the following two

conditions are met. First, SPS shall receive consent from all landowners who would be affected by the deviation regardless of whether the affected landowner received notice of or participated in this proceeding. Second, the deviation shall result in a reasonably direct path towards the terminus of the line and not cause an unreasonable increase in cost or delay the project. Unless these two conditions are met, this paragraph does not authorize SPS to deviate from the approved route except as allowed by the other ordering paragraphs in this Order.

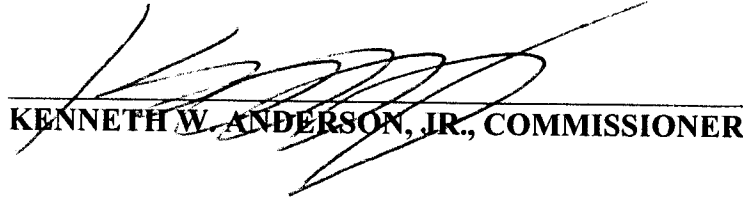
12. SPS shall update the reporting of this project on their monthly construction progress report prior to the start of construction to reflect final estimated cost and schedule in accordance with P.U.C. SUBST. R. 25.83(b).
13. SPS will coordinate with CTT with regard to each crossing of a certificated CTT electric transmission line by settlement route 21 and with regard to each segment where a certificated CTT transmission line is paralleled by settlement route 21, SPS will coordinate with CTT to determine the impact of mutual coupling on CTT's transmission lines before SPS's line is placed into service. If it is determined that CTT's transmission facilities will be adversely impacted by the construction and operation of SPS's transmission line, including any impacts due to mutual coupling, then SPS will take necessary action to remedy such issues, including compensating CTT for reasonable costs incurred to remedy or mitigate the impact of SPS's transmission line.
14. 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 1st day of May ~~April~~ 2012.

PUBLIC UTILITY COMMISSION OF TEXAS



DONNA L. NELSON, CHAIRMAN



KENNETH W. ANDERSON, JR., COMMISSIONER

Commissioner Pablos abstained from voting in this decision.