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

Prudent Avoidance

104. The proposed transmission line has been routed in accordance with the Commission's policy of prudent avoidance. There are 18 habitable structures within 300 feet of the centerline of Settlement Route 16.

TPWD Written Comments, Recommendations, and Procedures

105. SPS has committed to comply with all environmental laws and regulations independent of any language included by the Commission in this Order.

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

107. After a transmission line route has been selected and approved by the Commission, qualified individuals will, if necessary, 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.

108. If appropriate, SPS will utilize permitted biological monitors to ensure compliance with the Endangered Species Act.

109. SPS's construction practices are sufficient and thus no additional permitted biological monitors are necessary during clearing and construction activities for state-listed species. SPS will implement TPWD recommendations that state-listed species observed during construction be allowed to leave the site or be relocated to a suitable nearby area by a permitted individual.

110. It is proper that SPS undertake measures necessary to comply with the Migratory Bird Treaty Act.

111. 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.

112. It is appropriate that SPS use best management practices to minimize the potential impact to migratory birds and threatened or endangered species.

113. To the extent prairie dog towns are in the immediate proximity of the route, SPS will undertake the measures described in the letter dated April 26, 2012, from TPWD that is in the record in this docket regarding the Black-Tailed Prairie Dog.

114. This Order addresses only those TPWD recommendations and comments for which there is record evidence.

II. Conclusions of Law

1. SPS is an electric utility as defined in PURA §§ 11.004 and 31.002(6).

2. SPS is not a participant in the retail competition market under PURA, Chapter 39, Subchapter I.

3. The Commission has jurisdiction over this matter pursuant to PURA §§ 14.001, 32.001, 37.051, 37.053, 37.054, and 37.056.

4. SPS provided proper notice of the Application in compliance with PURA § 37.054 and P.U.C. PROC. R. 22.52(a).

5. This docket was processed in accordance with the requirements of PURA, the Administrative Procedure Act, TEX. GOV'T CODE ANN. Chapter 2001 (Vernon 2008 & Supp. 2011), and Commission rules.

6. SPS is entitled to approval of the Application described in the findings of fact utilizing Settlement Route 16, 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 16 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, 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 16, comprised of segments L8a, L81b, L81a, L80, L6c, L18, L32, L33a, L33b, L39, L46a, L82, L45b, L83, L44b, L65, L67, L73 and L76 as described in Attachment C to the Stipulation. Settlement Route 16 is approximately 26.71 miles in length.

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 *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. 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 26th day of October 2012.

PUBLIC UTILITY COMMISSION OF TEXAS

DONNA L. NELSON, CHAIRMAN

KENNETH W. ANDERSON, JR., COMMISSIONER

ROLANDO PABLOS, COMMISSIONER

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