Control Number: 48787

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2019 MAR -6 PM 4:38

Greg Abbott
Governor

Public Utility Commission of Texas

TO: **Central Records**

FROM: **Stephen Journeay**
Commission Counsel

DATE: **March 6, 2019**

RE: ***Docket No. 48787 - Joint Application of LCRA Transmission Services Corporation and AEP Texas, Inc. to Amend Certificates of Convenience and Necessity for the Bakersfield to Solstice 345-KV Transmission Line Project in Pecos County***

Please file the following documents attached to this memorandum in the above referenced docket. The proposed final order has been submitted by Craig R. Bennett with Enoch Kever as required in SOAH Order No. 10.

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PUC DOCKET NO. 48787
SOAH DOCKET NO. 473-19-1266

JOINT APPLICATION OF LCRA TRANSMISSION SERVICES CORPORATION AND AEP TEXAS INC. TO AMEND THEIR CERTIFICATES OF CONVENIENCE AND NECESSITY FOR THE PROPOSED BAKERSFIELD TO SOLSTICE 345-KV TRANSMISSION LINE IN PECOS COUNTY, TEXAS	§	**PUBLIC UTILITY COMMISSION OF TEXAS**

PROPOSED ORDER

This Order addresses the application of LCRA Transmission Services Corporation (LCRA TSC) and AEP Texas Inc. (AEP Texas) to amend their certificates of convenience and necessity (CCN) to construct, own, and operate the Bakersfield to Solstice 345-kilovolt (kV) transmission line in Pecos County. On motion of the applicants, this docket was severed from Docket No. 48785,[1] a consolidated docket involving the Bakersfield to Solstice project and the Sand Lake to Solstice project filed by Oncor Electric Delivery Company LLC and AEP Texas, and was remanded to the Commission to consider the settlement of the parties affected by the Bakersfield to Solstice project. The parties filed a Unanimous Stipulation Concerning Need for the Proposed Projects (Need Stipulation) and a Unanimous Stipulation on Routing of the Bakersfield to Solstice Project within Pecos County (Route Stipulation) resolving all issues between the parties concerning the Bakersfield to Solstice Project. The Commission amends LCRA TSC's and AEP Texas' CCN numbers 30110 and 30170 as provided by this Order.

The Commission adopts the following findings of fact and conclusions of law:

I. Findings of Fact

1. Applicants

1. LCRA TSC is a non-profit corporation and AEP Texas is an investor-owned corporation.

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[1] *Joint Application of Oncor Electric Delivery Company LLC, AEP Texas Inc., and LCRA Transmission Services Corporation to Amend their Certificates of Convenience and Necessity for 345-kV Transmission Lines in Pecos, Reeves, and Ward Counties, Texas (Sand Lake to Solstice and Bakersfield to Solstice)*, PUC Consolidated Docket No. 48785, SOAH Consolidated Docket No. 473-19-1265.

2. LCRA TSC and AEP Texas (Applicants) own and operate facilities to transmit electricity in the Electric Reliability Council of Texas (ERCOT) region.

3. LCRA TSC provides electric service under CCN No. 30110.

4. AEP Texas provides electric service under CCN No. 30170.

2. Joint Application

5. On November 7, 2018, Applicants filed a joint application to amend their CCNs for authority to construct, own, and operate the proposed transmission line in Pecos County.

6. Applicants retained POWER Engineers, Inc. to prepare an environmental assessment and routing analysis for the proposed transmission line that was included as part of the application.

7. On November 7, 2018, Oncor Electric Delivery Company LLC (Oncor) and AEP Texas filed a joint application to amend their CCNs for a proposed Sand Lake to Solstice transmission line. The application was assigned Docket No. 48785.

3. Description of Proposed Transmission Line

8. The proposed transmission line is a double-circuit 345-kV transmission line connecting LCRA TSC's Bakersfield station, as expanded, and AEP Texas' Solstice Switch station, as expanded. LCRA TSC owns and operates the Bakersfield station and the eastern half of the transmission line, and AEP Texas owns and operates the Solstice Switch station and the western half of the transmission line. LCRA TSC will expand the existing Bakersfield Station to accommodate the new line.

9. LCRA TSC will expand the existing Bakersfield Station to accommodate the new line.

10. AEP Texas will expand the existing 138-kV Solstice Switch Station with the construction of a new 345-kV station yard adjacent to it as the western termination of the Bakersfield to Solstice Project.

11. The Bakersfield to Solstice Project double-circuit transmission line will connect the new 345-kV double-circuit facilities at the two stations, with the line ownership being split at the midpoint of the route (Point of Interconnection).

12. AEP Texas and LCRA TSC will each independently design, construct, own, operate, and maintain their respective portions of the Bakersfield to Solstice Project, with AEP Texas owning the western half and LCRA TSC owning the eastern half of the project.

13. The structure at the Point of Interconnection of the approved route will be a dead-end structure owned by AEP Texas. LCRA TSC's ownership will extend from the Bakersfield Station west to the point at which its conductors connect to AEP Texas' dead-end structure.

14. On Route 24, the Point of Interconnection between the LCRA TSC and AEP Texas facilities will be at a dead-end structure owned by AEP Texas on Segment M. The mid-point structure will be located 14.40 miles north of Interstate-10 off of Farm-to-Market (FM) Road 1053 and 2200 feet west of FM 1053.

15. The Bakersfield to Solstice Project will be constructed on 345-kV double-circuit lattice steel towers. If ordered to or in constrained or other appropriate areas (such as line crossings or in proximity to airports or heliports), LCRA TSC or AEP Texas could use alternative structure types, including H-frames. The heights of typical structures proposed for the project range from 110 to 185 feet above ground. The right-of-way width will typically be 150 feet.

16. The application routes range from 67.8 to 91.8 miles in length.

17. In the application, Applicants identified route 24 as the route that best addresses the routing requirements in the Public Utility Regulatory Act (PURA)[2] and the Commission's substantive rules and stated that all 25 of the application routes comply with the Commission's routing criteria and are acceptable from a design and constructability perspective.

18. Applicants propose to use a combination of debt and equity to fund the project.

4. Public Input

19. On November 7, 2018, LCRA TSC and AEP Texas mailed notice of the public meeting to landowners who own property located within 500 feet of the centerlines of the

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[2] Public Utility Regulatory Act, Tex. Util. Code §§ 11.001–66.016.

preliminary routing links. A total of 1,440 notices were mailed to landowners and entities for the public meeting. LCRA TSC and AEP Texas obtained the property owners' names and addresses from the tax rolls in the Pecos County Appraisal District tax data traversed by the preliminary routing links.

20. LCRA TSC and AEP Texas held a public open house meeting at the Pecos County Civic Center in Fort Stockton on July 12, 2018, to solicit public input about the proposed transmission line. A total of 49 individuals attended the public meeting. People that attended the public meeting were provided with a questionnaire and were asked to rank factors in routing the proposed transmission line. A total of 23 questionnaire responses were received.

5. Notice of Application

21. The notice required for an application to amend a CCN for an electric transmission line and the manner to prove that notice is contained in 16 Texas Administrative Code (TAC) § 22.52(a).

22. On November 7, 2018, LCRA TSC and AEP Texas mailed notice of the application by first-class mail to owners of land directly affected by the construction of the Bakersfield to Solstice Project, as listed on the current county tax rolls in Pecos County who would be within 500 feet of the proposed centerline of any route. The notice included a map and a written description of the routing options, the Commission brochure entitled *Landowners and Transmission Line Cases at the PUC*, and forms for submitting comments or a request to intervene.

23. On November 7, 2018, LCRA TSC and AEP Texas mailed notice of the application, including a map and written description of the routing options, by first-class mail to all electric utilities providing the same utility service within five miles of the proposed transmission facilities, to the county judge and county commissioners of Pecos County, and to the mayors of the cities within five miles of the proposed transmission facilities.

24. On November 7, 2018, LCRA TSC and AEP Texas sent notice of the application to the Office of Public Utility Counsel by first-class mail. The notice sent to the Office of Public Utility Counsel included a map and a written description of the routing options.

25. On November 7, 2018, LCRA TSC and AEP Texas hand delivered a copy of the application, including the environmental assessment and routing analysis and all other attachments, to the Texas Parks and Wildlife Department.

26. On November 7, 2018, LCRA TSC and AEP Texas sent notice of the application, including a map of the routing options, to the Department of Defense Siting Clearinghouse by first-class mail.

27. On November 15, 2018, notice of the publication was published in *The Fort Stockton Pioneer*, a Fort Stockton newspaper having general circulation in Pecos County. In an affidavit filed on November 28, 2018, Steve Fountain, publisher of *The Fort Stockton Pioneer*, attested that LCRA TSC and AEP Texas had provided public notice of the application as described in this finding of fact.

28. On November 28, 2018, LCRA TSC filed affidavits attesting that it had provided notice of the application as described in Finding of Fact Nos. 22 - 27, and that LCRA TSC's representatives had had some formal and informal contact concerning the proceeding with landowners, other than the notice of application.

29. On December 6, 2018, LCRA TSC attested to an additional landowner mailed notice by next day air delivery on December 5, 2018.

30. In Order No. 2 issued on March 20, 2018, the State Office of Administrative Hearings (SOAH) ALJs deemed LCRA TSC's and AEP Texas' notice of the application sufficient and established a procedural schedule.

31. In Order No. 4 issued on January 24, 2019, the SOAH ALJs deemed LCRA TSC's and AEP Texas' supplemental notice sufficient.

6. <u>Intervenors</u>

32. In SOAH Order No. 2 issued on December 10, 2018, the SOAH ALJs granted in the consolidated docket the motions to intervene filed by Alan Zeman, the City of Garland, Oxy (comprised of Occidental Permian Ltd., Oxy Delaware Basin, LLC, Oxy USA Inc., Oxy USA WTP LP, Houndstooth Resources, LLC, and Occidental West Texas Overthrust, Inc.), Elizabeth Graybill, and Mary Graybill-Rees.

33. In SOAH Order No. 3 issued on January 15, 2019, the SOAH ALJs granted, without objection, the requests to intervene filed by Cross V Ranch, LP, MMSmithfield Family Limited Partnership, Ltd., Pettus Czar, Ltd., Atmos Pipeline-Texas, Barbour, Inc., Forrister Generation-Skipping Trust, Plains Marketing, L.P. and Plains Pipeline, L.P., COG Operating LLC, Esther Dudley, MMEX Resources Corporation, Domingo A. Perez, Brockett & McNeel LLP, Kevin Wilson, and Gale and Dorothy Smith and granted, without objection, the motion to withdraw of the City of Garland. .

34. In SOAH Order No. 4 issued on January 24, 2019, the SOAH ALJs proposed that the intervenors who did not file either direct testimony or a statement of position by February 1, 2019 would be removed as parties to this docket.

35. At the prehearing conference held on February 15, 2019, the SOAH ALJs dismissed intervenors Cross V Ranch, L.P., Domingo A. Perez, MMEX Resources Corporation, Esther Dudley, Kevin Wilson, and Brockett & McNeel Limited LLP, D/B/A Brockett & McNeel LLP for failure to file direct testimony or a statement of position.

7. Alignment of Intervenors

36. No voluntary alignment of parties was noticed, nor was any alignment requested or ordered.

8. Route Adequacy

37. LCRA TSC and AEP Texas's application presented 25 routes utilizing a combination of 82 routing links for the Commission's consideration.

38. No party filed testimony or a position statement challenging whether the application provided an adequate number of reasonably differentiated routes to conduct a proper evaluation, and no party requested a hearing on route adequacy.

39. The application provided an adequate number of reasonably differentiated routes to conduct a proper evaluation.

9. Pre-filed Testimony

40. On November 7, 2018, LCRA TSC and AEP Texas filed the direct testimonies of Ms. Sonya Strambler, Mr. Brent Harris, Ms. Lisa Meaux, and Mr. Curtis Symank in support of the application.

41. On November 7, 2018, Oncor filed direct testimony of Mr. Brent Kawakami in support of the need for the application.

42. On January 10, 2019, intervenors filed the direct testimony of Eric Dygert for Atmos, Albert Mendoza for Oxy, Molly McComb Smithfield, Margaret Czar, and Mark Turnbough for MMSmithfield and Pettus Czar, and Gale and Dorothy Smith.

43. On January 30, 2019, Commission Staff filed the direct testimony of Blake Ianni.

10. Referral to SOAH for Hearing

44. On November 7, 2018, LCRA TSC, AEP Texas and Oncor filed a joint motion for expedited referral to SOAH.

45. On November 14, 2018, the Commission issued an order of referral and preliminary order referring this application to SOAH for assignment of an ALJ to conduct a hearing and issue a proposal for decision, if necessary. The Commission also specified the issues to be addressed in this proceeding.

46. In SOAH Order No. 1 issued on November 15, 2018, the SOAH ALJs ruled that the Commission has jurisdiction over the application and that SOAH has jurisdiction over all matters related to the hearing on the application, provided notice of a prehearing conference, established the intervention deadline, and consolidated Docket Nos. 48785 and 48787 into Docket No. 48785.

47. In SOAH Order No. 2 issued on December 10, 2018, the SOAH ALJs memorialized the prehearing conference, adopted a procedural schedule, and provided notice that the hearing on the merits would convene at the SOAH offices in Austin at 9:00 a.m. on February 15, 2019, and continue on February 19-22, 2019.

48. On February 8, 2019, the SOAH ALJs issued Order No. 6, admitting the testimony of Mr. Kawakami supporting the need for the Bakersfield to Solstice Project.

49. On February 19, 2019, the hearing on the merits concerning routing of the Bakersfield to Solstice Project was held, at which exhibits were offered by the parties and admitted by the ALJs. LCRA TSC offered the following exhibits, all of which were admitted into the record: (1) Joint Application of LCRA TSC and AEP Texas to Amend their CCNs for the Bakersfield to Solstice 345-kV Transmission Line in Pecos County, Texas; (2) Direct

Testimony of Sonya Strambler (Miranda) on behalf of LCRA TSC and AEP Texas; (3) Direct Testimony of Brent Harris on behalf of LCRA TSC and AEP Texas; (4) Direct Testimony of Lisa Meaux on behalf of LCRA TSC and AEP Texas; (5) Direct Testimony of Curtis Symank on behalf of LCRA TSC and AEP Texas; (6) LCRA TSC and AEP Texas' Mailer's Affidavit of Notice, filed on November 28, 2018, as supplemented on December 6, 2018, and January 15, 2019; (7) LCRA TSC and AEP Texas' Publisher's Affidavit of Notice, filed on November 28, 2018; (8) Settlement Testimony of Sonya Miranda in Support of the Route Stipulation; (9) The Unanimous Route Stipulation and its attachments, including the Proposed Route Findings of Fact, Conclusions of Law, and Proposed Ordering Provisions; (10) The Unanimous Need Stipulation and its attachments, including the Proposed Need Findings of Fact, Conclusions of Law, and Proposed Ordering Provisions; and (11) Direct Testimony of Brent R. Kawakami, and attached exhibits (which had been previously admitted by SOAH Order No. 6). Commission Staff offered the following exhibit, which was admitted into the record: Direct Testimony of Blake P. Ianni. Oxy offered the direct testimony of Albert Mendoza regarding the Bakersfield to Solstice Portion (Routing Phase), MMSmithfield offered the direct testimony of Molly McComb Smithfield, Margaret Czar, and Mark Turnbough, and Gale and Dorothy Smith offered the direct testimony of Gale and Dorothy Smith. All of the offered intervenor testimony was admitted. After the introduction of evidence, LCRA TSC and AEP Texas made an oral motion on the record, jointly requesting that the Application be severed and remanded to the Commission.

50. On February __, 2019, the SOAH ALJs issued SOAH Order No. __, severing the CCN application for the Bakersfield to Solstice Project from consolidated Docket No. 48785 and remanding the Application to the Commission to consider in light of the parties' settlement.

11. Description of the Settlement Route

51. In the settlement agreement, the parties agreed on settlement route 24.

52. The settlement route agreed upon by the parties for the proposed transmission line is route 24 and consists of the following routing links described in the application and the notice of the application: A, C, D, E, F, M, R, W, X, and Y.

53. The settlement route comprises noticed links that were not changed or modified from the links in the application and that were identified together as filed route 24.

54. The settlement route is 71.1 miles in length.

12. Adequacy of Existing Service and Need for Additional Service

55. The proposed transmission facilities are needed to (1) support load growth in the Far West Texas area; (2) address reliability violations under Electric Reliability Council of Texas (ERCOT) reliability criteria and North American Electric Reliability Corporation (NERC) reliability standards; and (3) provide the infrastructure necessary to facilitate future transmission system expansion to continue to support that load growth.

56. The Far West Texas area is experiencing rapidly growing load due primarily to oil and natural gas production, processing, and transportation, as well as associated economic expansion. On the nearby Culberson Loop transmission lines, between 2012 and 2017 the load rose from 29.3 megawatts (MW) to 246.4 MW, a more than eight-fold increase.

57. Based solely on actual load increases for Oncor substations and confirmed customer load increases (based on financially committed customer contracts), loads on the Culberson Loop lines are expected to increase significantly, with projected 2019 non-coincident summer peak load on these lines of 902 MW, and ultimately 1,549 MW of projected non-coincident summer peak load on these lines by 2022.[3]

58. In April 2016, Oncor and AEP Texas submitted for review by ERCOT's Regional Planning Group (RPG), an independent organization under PURA § 39.151, a suite of projects known as the "Far West Texas Project."

59. ERCOT conducted detailed analyses and tests of four short-listed options and, in June 2017, ERCOT's Board of Directors endorsed construction of, among other things, a new 345 kV transmission line extending from Bakersfield to Solstice, to be built by LCRA TSC and AEP Texas on double-circuit-capable 345 kV structures with one 345 kV circuit initially installed, and expansion of Solstice to include the installation of a 345 kV ring-bus arrangement with two 600 MVA, 345/138 kV autotransformers.

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[3] *See* LCRA TSC and AEP Texas Ex. 12 (Kawakami Direct), p. 7.

60. In February 2018, Oncor submitted a suite of projects known as the "Far West Texas Project 2" to the ERCOT RPG.

61. ERCOT conducted an independent review of the Far West Texas Project 2, found multiple reliability violations under NERC Reliability Standard TPL-001-4, and conducted detailed analyses of three short-listed options. In June 2018, ERCOT's Board of Directors endorsed construction of, among other things, a variation of the proposed Far West Texas Project 2 to include the Sand Lake—Solstice double-circuit 345 kV line, expansion of Sand Lake Switch, and a second circuit on the Bakersfield—Solstice line, and it endorsed them as Tier 1 transmission projects needed to support the reliability of the ERCOT transmission system. Further, ERCOT's Board of Directors endorsed the proposed transmission facilities as critical to the reliability of the ERCOT transmission system pursuant to 16 Texas Administrative Code (TAC) § 25.101(b)(3)(D).

62. As approved by ERCOT, the Far West Texas Project 2 includes the following components relevant to the proposed transmission facilities: (i) expansion of the Sand Lake Switching Station to install two new 600 MVA, 345/138 kV autotransformers; (ii) construction of an approximately 40-mile, 345 kV transmission line on double-circuit structures, with two circuits in place between Sand Lake and Solstice; and (iii) installation of a second 345 kV circuit on the Bakersfield—Solstice line.

63. During the course of its independent reviews, ERCOT evaluated numerous alternatives based on variations of different transmission solutions before endorsing the proposed transmission facilities as components of ERCOT's overall recommended transmission solution.

64. The proposed transmission facilities are not proposed to interconnect new transmission service customers.

65. Voltage upgrades, conductor bundling, and additional transformers were each considered and rejected as inadequate alternatives.

66. Distribution alternatives to the proposed transmission facilities were considered and rejected because they would not improve the reliability and operational capability of the transmission system in the area.

13. Effect of Granting the Application on Applicants and Other Utilities and Probable Improvement of Service or Lowering of Cost

67. LCRA TSC and AEP Texas are the only electric utilities involved in the construction of the project.

68. Construction of the proposed transmission line will result in a more reliable transmission system for the reasons described in the findings of fact addressing the need for the proposed transmission line.

69. The proposed transmission line begins at an existing AEP Texas station and ends at an existing LCRA substation.

14. Estimated Costs

70. The estimated cost for the 25 application routes range from $148.9 million to $192.5 million. The estimated cost of settlement route 24 is $156.0 million.

71. Route 24 is the 4th least expensive route of the 25 application routes. The cost of the settlement route is reasonable considering the range of the cost estimates for the routes.

72. The estimated cost of the expansion of the existing LCRA Bakersfield Station that is required to connect the proposed transmission line is $6.5 million.

73. The estimated cost of the expansion of the AEP Texas Solstice Switch Station that is required to connect the proposed transmission line is $38.5 million.

15. Prudent Avoidance

74. Prudent avoidance is defined in 16 TAC § 25.101(a)(6) as the "limiting of exposures to electric and magnetic fields that can be avoided with reasonable investments of money and effort."

75. There are five habitable structures within 500 feet of the centerline of the settlement route.

76. Routing of the proposed transmission line is in accordance with the Commission's policy of prudent avoidance.

16. Community Values

77. To develop community values for the proposed transmission facilities, LCRA TSC and AEP Texas held a public-participation meeting on July 12, 2018.

78. The predominant land use within the study area is rangeland and pasture land.

79. Information was received from the public meeting and from local, state, and federal agencies and incorporated into POWER Engineers' routing analysis and LCRA TSC's and AEP Texas' eventual selection of the routes filed in the application.

80. The settlement route will not adversely affect community values.

17. Using or Paralleling Compatible Rights-of-Way and Paralleling of Property Boundaries

81. The settlement route is adjacent and parallel to existing transmission lines, other existing ROW, and apparent property lines for 86% of its length (the highest percent of paralleling of the primary alternative routes).

82. The settlement route uses or parallels existing compatible corridors and apparent property lines to a reasonable extent.

18. Engineering Constraints

83. No known engineering constraints have been identified in the application that would prevent construction of the proposed transmission line along the settlement route.

19. Other Comparisons of Land Uses and Land Types

a. Radio Towers and Other Electronic Installations

84. No AM radio transmitters were identified within 10,000 feet of the centerline of the settlement route.

85. The settlement route is within 2,000 feet of two microwave or other electronic communication towers.

b. *Airstrips and Airports*

86. There are no airports registered with the Federal Aviation Administration that have runways more than 3,200 feet in length within 20,000 feet of the centerline of the settlement route.

87. There are no airports registered with the Federal Aviation Administration that have runways less than 3,200 feet in length within 10,000 feet of the centerline of the settlement route.

88. There are no heliports located within 5,000 feet of the centerline of the settlement route.

89. There is one known private airstrip located within 10,000 feet of the centerline of the settlement route.

90. There are no significant impacts to any airports, airstrips, or heliports anticipated from construction of the proposed transmission line.

c. *Irrigation Systems*

91. The settlement route does not traverse any pasture or cropland irrigated by traveling irrigation systems.

20. Recreational and Park Areas

92. There are no parks or recreational areas crossed by the settlement route, and there are no parks or recreational areas located within 1,000 feet of the centerline of the settlement route.

93. The proposed transmission line will not significantly impact the use or enjoyment of parks or recreational areas.

21. Historical and Archaeological Values

94. The settlement route crosses two previously recorded cultural resource sites and comes within 1,000 feet of two additional recorded cultural resource sites.

95. The settlement route crosses 15.3 miles of areas of high potential for archeological sites.

22. Aesthetic Values

96. The settlement route is not located within the foreground visual zone of any parks or recreational areas.

97. There are four miles of the settlement route within the foreground visual zone of Interstate, U.S., or state highways.

98. There are 12.6 miles of the settlement route located within the foreground visual zone of farm-to-market roads.

99. The settlement route will not significantly impact the aesthetic quality of the landscape.

23. Environmental Integrity

100. The study area traversed by the settlement route is primarily rural and is predominately rangeland and pastureland. The study area lies primarily within the High Plains, the Edwards Plateau, and the Basin and Range Physiographic Provinces.

101. POWER Engineers obtained information from the United States Fish and Wildlife Service and the Texas Parks and Wildlife Department regarding the possibility of encountering any endangered or threatened species in the area affected by the proposed transmission line.

102. LCRA TSC, AEP Texas, and POWER Engineers evaluated the potential impacts of the proposed transmission line on endangered and threatened species.

103. POWER Engineers evaluated potential impacts to soil and water resources, the ecosystem (including endangered and threatened vegetation and fish and wildlife), and land use within the study area.

104. LCRA TSC and AEP Texas do not anticipate significant impacts to wetland resources, ecological resources, endangered and threatened species, or land use as a result of construction of the proposed transmission line.

105. LCRA TSP and AEP Texas do not anticipate to significant adverse impacts to populations of any federally listed endangered or threatened species.

106. It is appropriate that LCRA TSC and AEP Texas protect raptors and migratory birds by following the procedures outlined in the following publications: *Reducing Avian Collisions with Power Lines: The State of the Art in 2012*, Edison Electric Institute and Avian Power Line Interaction Committee, Washington, D.C. 2012; *Suggested Practices for Avian Protection on Power Lines: The State of the Art in 2006*, Edison Electric Institute, Avian Power Line Interaction Committee, and the California Energy Commission, Washington, D.C. and Sacramento, CA 2006; and *Avian Protection Plan Guidelines*, Avian Power Line Interaction Committee and United States Fish and Wildlife Service, April 2005.

107. It is appropriate that LCRA TSC and AEP Texas minimize the amount of flora and fauna disturbed during construction of the proposed transmission line.

108. It is appropriate that LCRA TSC and AEP Texas revegetate cleared and disturbed areas using native species and consider landowner preferences and wildlife needs in doing so.

109. It is appropriate that LCRA TSC and AEP Texas avoid causing, to the maximum extent possible, adverse environmental impacts to sensitive plant and animal species and their habitats as identified by the Texas Parks and Wildlife Department and the United States Fish and Wildlife Service.

110. It is appropriate that LCRA TSC and AEP Texas implement erosion control measures and return each affected landowner's property to its original contours unless otherwise agreed to by the landowners. It is appropriate that LCRA TSC and AEP Texas not be required to restore original contours and grades where different contours or grades are necessary to ensure the safety or stability of the proposed transmission line's structures or the safe operation and maintenance of the transmission line.

111. It is appropriate that LCRA TSC and AEP Texas exercise extreme care to avoid affecting non-targeted vegetation or animal life when using chemical herbicides to control vegetation within rights-of-way. The use of chemical herbicides to control vegetation within rights-of-way must comply with the rules and guidelines established in the Federal Insecticide, Fungicide, and Rodenticide Act and with the Texas Department of Agriculture regulations.

112. It is appropriate that LCRA TSC and AEP Texas used best management practices to minimize the potential impact to migratory birds and threatened or endangered species.

24. Texas Parks and Wildlife Department's Comments and Recommendations

113. The Texas Parks and Wildlife Department provided recommendations and comments on the proposed transmission line in a letter dated December 14, 2018, and filed in this docket on December 20, 2018. The letter primarily addressed the mitigation of potential impacts to wildlife and natural resources.

114. The Texas Parks and Wildlife Department identified route 24 as the route having the least potential to impact fish and wildlife resources.

115. Before beginning construction, it is appropriate that LCRA TSC and AEP Texas undertake appropriate measures to identify whether a potential habitat for endangered or threatened species exists and respond as required.

116. The standard mitigation requirements included in the ordering paragraphs in this Order, coupled with LCRA TSC's and AEP Texas' current practices, are reasonable measures for a utility to undertake when constructing a transmission line and are sufficient to address the Texas Parks and Wildlife Department's comments and recommendations.

117. This Order addresses only those Texas Parks and Wildlife Department recommendations and comments for which there is record evidence.

118. No modifications to the proposed transmission line are required as the result of the recommendations and comments made by the Texas parks and Wildlife Department.

25. Permits

119. Before beginning construction of the proposed transmission line, it is appropriate for LCRA TSC and AEP Texas to conduct a field assessment of each utility's portion of the transmission line to identify water resources, cultural resources, potential migratory bird issues, and threatened or endangered-species habitat impacted as a result of the transmission line. As a result of these assessments, LCRA TSC and AEP Texas will identify any 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 their respective portions of the transmission line.

26. Coastal Management Program

120. Commission rule 16 TAC § 25.102(a) states that the Commission may grant a certificate for the construction of generating or transmission facilities within the coastal boundary only when it finds that the proposed facilities are in accordance with the applicable goals and policies of the Coastal Management Program or that the proposed facilities will not have any direct and significant impacts on any of the applicable coastal natural resource areas.

121. No part of the proposed transmission line is located in the boundary of the Coastal Management Program as defined in 31 TAC § 503.1(b).

27. Effect on the State's Renewable Energy Goal

122. The Texas Legislature established a goal in PURA § 39.904(a) for 10,000 megawatts of renewable capacity to be installed in Texas by January 1, 2025. This goal has already been met.

123. The proposed transmission line cannot adversely affect the goal for renewable energy development established in PURA § 39.904(a).

28. Limitation of Authority

124. It is reasonable and appropriate for a CCN order not to be valid indefinitely because it is issued based on the facts known at the time of issuance.

125. Seven years is a reasonable and appropriate limit to place on the authority granted in this Order to construct the proposed transmission line.

29. Informal Disposition

126. More than 15 days have passed since the completion of the provision of notice.

127. The decision is not adverse to any party.

II. Conclusions of Law

1. LCRA TSC and AEP Texas are public utilities as defined in PURA § 11.004(1) and electric utilities as defined in PURA § 31.002(6).

2. LCRA TSP and AEP Texas must obtain the approval of the Commission to construct the proposed transmission line and provide service to the public using that line.

3. The Commission has authority over this application under PURA §§ 14.001, 32.001, 37.051, 37.053, 37.054, and 37.056.

4. SOAH exercised jurisdiction over this proceeding in accordance with PURA § 14.053 and Texas Government Code § 2003.049.

5. The application is sufficient under 16 TAC § 22.75(d).

6. LCRA TSC and AEP Texas provided notice of the Application in compliance with PURA § 37.054 and 16 TAC § 22.52(a).

7. Additional notice of the settlement route is not required.

8. The hearing on the merits was set and notice of the hearing was given in compliance with PURA § 37.054 and Texas Government Code §§ 2001.051 and 2001.052.

9. This docket was processed in accordance with the requirements of PURA, the Administrative Procedure Act,[4] and Commission rules.

10. The proposed transmission line project using the settlement route is necessary for the service, accommodation, convenience or safety of the public within the meaning of PURA § 37.056(a).

11. The Texas Coastal Management Program does not apply to the proposed transmission line, and the requirements of 16 TAC § 25.102 do not apply to the application.

12. The requirements for informal disposition under 16 TAC § 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 orders:

1. The Commission amends LCRA TSC's CCN No. 30110 to include the construction and operation of the transmission facilities requested along links A, C, D, E, and F, as well as 2,490 feet of the eastern portion of link M from the tower structure to be owned by AEP Texas and labeled as the "Bakersfield – Solstice Terminus" that will establish a new interconnection between LCRA TSP and AEP Texas.

2. The Commission amends AEP Texas' CCN No. 30170 to include the construction and operation of the transmission facilities requested along links R, W, X, and Y, as well as the western portion of link M up to the Bakersfield – Solstice Terminus tower structure.

[4] Administrative Procedure Act, Tex. Gov't Code §§ 2001.001-.902.

3. LCRA TSC and AEP Texas must coordinate with pipeline owners or operators in the vicinity of the approved route regarding the pipeline owners or operators' assessment of the need to install measures to mitigate the effects of AC interference on existing natural gas pipelines that are paralleled by the proposed electric transmission facilities.

4. LCRA TSC and AEP Texas must conduct surveys, if not already completed, to identify pipelines that could be affected by the transmission line and cooperate with pipeline owners in modeling and analyzing potential hazards because of AC interference affecting pipelines being paralleled.

5. LCRA TSC and AEP Texas must obtain all permits, licenses, plans, and permission required by state and federal law that are necessary to construct the proposed transmission line. If LCRA TSC or AEP Texas fail to obtain any such permit, license, plan, or permission, they must notify the Commission immediately.

6. If LCRA TSC or AEP Texas encounter any archaeological artifacts or other cultural resources during project construction, work must cease immediately in the vicinity of the artifact or resource and the discovery must be reported to the Texas Historical Commission. In that situation, LCRA TSC or AEP Texas must take action as directed by the Texas Historical Commission.

7. LCRA TSC and AEP Texas must follow the procedures to protect raptors and migratory birds as outlined in the following publications: *Reducing Avian Collisions with Power Lines: The State of the Art in 2012*, Edison Electric Institute and Avian Power Line Interaction Committee, Washington, D.C. 2012; *Suggested Practices for Avian Protection on Power Lines: The State of the Art in 2006*, Edison Electric Institute, Avian Power Line Interaction Committee, and the California Energy Commission, Washington, D.C. and Sacramento, CA 2006; and *Avian Protection Plan Guidelines*, Avian Power Line Interaction Committee and United States Fish and Wildlife Service, April 2005. LCRA TSC and AEP Texas must take precautions to avoid disturbing occupied nests and take steps to minimize the impact of construction on migratory birds during the nesting season of the migratory bird species identified in the area of construction.

8. LCRA TSC and AEP Texas must exercise extreme care to avoid affecting non-targeted vegetation or animal life when using chemical herbicides to control vegetation within

rights-of-way. LCRA TSC and AEP Texas must ensure that the use of chemical herbicides to control vegetation within rights-of-way complies with rules and guidelines established in the Federal Insecticide, Fungicide and Rodenticide Act and with Texas Department of Agriculture regulations.

9. LCRA TSC and AEP Texas must minimize the amount of flora and fauna disturbed during construction of the transmission line, except to the extent necessary to establish appropriate right-of-way clearance for the transmission line. In addition, LCRA TSC and AEP Texas must re-vegetate using native species and must consider landowner preferences and wildlife needs in doing so. Furthermore, to the maximum extent practical, LCRA TSC and AEP Texas must avoid adverse environmental impact to sensitive plant and animal species and their habitats, as identified by the Texas Parks and Wildlife Department and the United States Fish and Wildlife Service.

10. Before beginning construction, LCRA TSC and AEP Texas must undertake appropriate measures to identify whether a potential habitat for endangered or threatened species exists and must respond as required.

11. LCRA TSC and AEP Texas must use best management practices to minimize the potential impact to migratory birds and threatened or endangered species.

12. LCRA TSC and AEP Texas must implement erosion control measures as appropriate. Erosion control measures may include inspection of the right-of-way before and during construction to identify erosion areas and implement special precautions as determined reasonable to minimize the impact of vehicular traffic over the areas. LCRA TSC and AEP Texas must return each affected landowner's property to its original contours and grades unless otherwise agreed to by the landowner or the landowner's representative. LCRA TSC and AEP Texas are not required to restore the 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.

13. LCRA TSC and AEP Texas must cooperate with directly affected landowners to implement minor deviations from the approved route to minimize the impact of the transmission line. Any minor deviations from the approved route must only directly

affect landowners who were sent notice of the transmission line in accordance with 16 TAC § 22.52(a)(3) and landowners that have agreed to the minor deviation.

14. LCRA TSC and AEP Texas are not authorized to deviate from the approved route in any instance in which the deviation would be more than a minor deviation without further amending their CCNs.

15. If possible, and subject to the other provisions of this Order, LCRA TSC and AEP Texas must prudently implement appropriate final design for this transmission line so as to avoid being subject to the FAA's notification requirements. If required by federal law, LCRA TSC or AEP Texas must notify and work with the FAA to ensure compliance with applicable federal laws and regulations. LCRA TSC and AEP Texas are not authorized to deviate materially from this Order to meet the FAA's recommendations or requirements. If a material change would be necessary to comply with the FAA's recommendations or requirements, then LCRA TSC and AEP Texas must file an application to amend their CCNs as necessary.

16. LCRA TSC and AEP Texas must include the transmission line approved by this Order on their monthly construction progress reports before the start of construction to reflect the final estimated cost and schedule in accordance with 16 TAC § 25.83(b). In addition, LCRA TSC and AEP Texas must provide final construction costs, with any necessary explanation for cost variance, after completion of construction when all costs have been identified.

17. Entry of this Order in accordance with the agreement does not indicate the Commission's endorsement or approval of any principle or methodology that may underlie the agreement and must not be regarded as precedential as to the appropriateness of any principle or methodology underlying the agreement.

18. The authority granted by this Order is limited to a period of seven years from the date this Order is signed unless, before that time, the transmission line is commercially energized.

19. The Commission denies all other motions and any other requests for general or specific relief, if not expressly granted.

Signed at Austin, Texas the ____ day of _____, 2019.

PUBLIC UTILITY COMMISSION OF TEXAS

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DEANN T. WALKER, CHAIRMAN

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ARTHUR C. D'ANDREA, COMMISSIONER

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SHELLY BOTKIN, COMMISSIONER