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APPLICATION OF THE CITY OF SAN ANTONIO TO AMEND ITS CERTIFICATE OF CONVENIENCE AND NECESSITY FOR THE SCENIC LOOP 138-KV TRANSMISSION LINE IN BEXAR COUNTY	§ § § § § §	**PUBLIC UTILITY COMMISSION** **OF TEXAS**

ORDER

This Order addresses the application of the City of San Antonio, acting by and through the City Public Service Board (CPS Energy), to amend its certificate of convenience and necessity (CCN) for the Scenic Loop 138-kilovolt (kV) transmission line in Bexar County, Texas. The Commission referred this proceeding to the State Office of Administrative Hearings (SOAH) on September 29, 2020, and SOAH issued a proposal for decision on July 26, 2021. The SOAH administrative law judges (ALJs) recommended that the Commission approve the proposed transmission line and associated facilities along route Z2, which will comprise segments 54, 20, 36, 42a, 46, and 46b. The SOAH ALJs filed a letter making some minor corrections to the proposal for decision on October 27, 2021, including to finding of fact 27. The Commission adopts the proposal for decision to the extent provided in this Order.

The Commission makes the following changes to the proposal for decision. The Commission finds that the SOAH ALJs erred in their analysis of community values. The questionnaire responses at the public meeting and afterwards reflected that *impact to residences* was a major concern. The SOAH ALJs analyzed the impact to residences by considering bisecting property—particularly undeveloped property—and cutting through neighborhoods. However, neither of these necessarily relates to impact to residences. The overriding consideration of the impact to residences in this proceeding is the number of habitable structures affected, i.e., the Commission's policy of prudent avoidance. The Commission's analysis of the impact to residences should focus on that factor.

Not cutting through neighborhoods and not bisecting undeveloped property are still valid considerations in terms of aesthetics and environmental integrity. They simply do not pertain to the impact to residences. The Commission also clarifies that although route Z2 has more habitable

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structures within 300 feet of its centerline compared to some of the other focus routes, route Z2 is still on balance the route that best addresses all the factors in PURA and the Commission's rules. To correct the proposal for decision's analysis regarding community values, the Commission modifies finding of fact 98, deletes findings of fact 108 and 123, adds finding of fact 132A, and moves findings of fact 106 and 107 to become 193A and 193B. The Commission also modifies finding of fact 133 to clarify that consideration of private recreational and park areas is limited to those that are *open to the public*.

The Commission adds new findings of fact 65A through 65I to reflect additional procedural history that occurred after the proceeding was remanded from SOAH to the Commission. The Commission deletes proposed finding of fact 1 because it is improper as a finding of fact. The Commission modifies proposed finding of fact 2 for completeness. The Commission modifies proposed findings of fact, conclusions of law, and ordering paragraphs throughout the Order to delete the terms *Project* and *transmission facilities* and replace them with alternative phrasing such as *transmission line* or *transmission line and associated facilities*, depending on the context.

The Commission expands proposed finding of fact 11 into multiple findings of fact for completeness and modifies proposed finding of fact 20 to become new finding of fact 11B. The Commission deletes proposed findings of fact 18, 19, 126, and 127 because they are duplicative of facts stated elsewhere in the Order. The Commission modifies proposed findings of fact 53, 55, and 57 to accurately reflect the parties that filed direct testimony, cross-rebuttal testimony, and requests for a hearing and corrects factual errors in proposed findings of fact 103 and 170. The Commission modifies proposed finding of fact 162 and adds new finding of fact 162A to include language that is standard in the Commission's electric CCN orders.

Finally, the Commission makes non-substantive changes for such matters as capitalization, spelling, grammar, punctuation, style, correction of numbering, and readability.

I. Findings of Fact

The Commission adopts the following findings of fact.

Applicant

1. DELETED.

2. CPS Energy owns and operates facilities to generate, transmit, distribute, and sell electricity in the Electric Reliability Council of Texas (ERCOT) region.

3. CPS Energy provides electric service under CCN number 30031.

Application

4. On July 22, 2020, CPS Energy filed with the Commission an application to amend CCN number 30031 to build, own, and operate a transmission line and associated facilities: a new double-circuit 138-kV transmission line in Bexar County connecting a new substation to the electric grid.

5. The application was assigned Docket No. 51023.

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

7. In Order No. 5 filed on August 21, 2020, the Commission ALJ found the application sufficient and materially complete.

8. SOAH Order No. 5, filed on December 11, 2020, required CPS Energy to file an amendment to the application on or before December 23, 2020. On December 22, 2020, CPS Energy filed amendments to the application and the environmental assessment and routing analysis (the amended application).

9. No party challenged the sufficiency of the application or the amended application.

Description of Transmission Line

10. The new transmission line will connect a new load-serving electric substation (the Scenic Loop substation) located in the vicinity of the intersection of Scenic Loop Road and Toutant Beauregard Road in northwestern Bexar County to the existing Ranchtown-to-Menger Creek 138-kV transmission line to the west.

11. The transmission line will have two 138-kV circuits, with each circuit having two conductors per phase.

11A. The supporting structures will be steel monopole structures for the typical tangent, angle, and dead-end structures. The structures for the transmission line will generally be from 70 to 130 feet tall.

11B. CPS Energy proposed a right-of-way width for operational clearances of approximately 100 feet.

11C. CPS Energy plans to use 795 kilo circular mils ACSS/TW Drake conductors, with a continuous summer static current rating of 1848 amperes and a continuous static line capacity at operating and design voltage of 441 megavolt-amperes.

Description of the Associated Facilities

11D. The Scenic Loop substation is a new load-serving electric substation in northwestern Bexar County. The Scenic Loop substation is a three-unit site with one 138–35 kV, 100-megavolt-ampere transformer and one four-feeder switchgear. The substation will be looped into the existing Ranchtown-to-Menger Creek 138-kV transmission line, requiring two 138-kV line terminals. The substation will include one 138-kV circuit switcher and a 2000-A main bus design. It will also be configured for the future installation of a 138-kV capacitor bank.

12. CPS Energy will design, operate, maintain, and own the transmission line and all associated facilities approved in this Order, including conductors, wires, structures, hardware, and easements. CPS Energy will also design, operate, maintain, and own the new electric load-serving Scenic Loop substation that will be constructed in conjunction with the transmission line.

Routes

13. The original application included 29 primary alternative routes composed from 48 route segments.

14. The amended application includes 31 primary alternative routes composed from 49 route segments.

15. During this proceeding, two additional alternative routes configured from route segments in the amended application (routes Z2 and AA2), were determined to be viable and were proposed and supported by some intervening parties.

16. The alternative routes range from approximately 4.46 to 6.91 miles in length.

17. The route alternatives under consideration in this proceeding have an estimated total cost ranging between approximately $37.6 million and approximately $56.1 million for transmission and substation facilities.

18. DELETED.

19. DELETED.

20. The routes for the transmission line are based on a typical right-of-way width for operational clearances of approximately 100 feet.

Public Input

21. CPS Energy held the public open house meeting for the transmission line and associated facilities on October 3, 2019, at the Cross Mountain Church student center in the study area.

22. CPS Energy mailed written notices of the open house meeting to all owners of property within 300 feet of the centerline of each preliminary alternative segment.

23. CPS Energy also mailed or hand-delivered notices of the public meeting to local public officials and various state and federal officials, including the United States Department of Defense Siting Clearinghouse.

24. In total, CPS Energy mailed 592 meeting notices for the public meeting.

25. Notice of the public meeting was additionally published in the *San Antonio Express-News*, a newspaper of general circulation in Bexar County on September 22 and 29, 2019.

26. A total of 172 people signed in as attending the public meeting.

27. Attendees were provided questionnaires, and CPS Energy received a total of 186 completed questionnaires.

28. The purpose of the public meeting was to solicit input from landowners, public officials, and other interested persons about the transmission line and associated facilities, the preliminary alternative route segments, and the alternative substation sites. Further, the public meeting was designed to promote a better understanding of the transmission line and associated facilities, including the purpose, need, potential benefits and impacts, and Commission certification process; inform the public about the routing procedure, schedule, and route-approval process; and gather and understand the values and concerns of the public and community leaders.

29. The public feedback received by CPS Energy was evaluated and considered in determining the routes to be included in the application. Based on input, comments, information received at and following the public meeting, and additional analyses conducted by CPS Energy and POWER Engineers, some preliminary alternative route segments were modified, some preliminary alternative route segments were deleted, and additional alternative route segments were added. One substation alternative was relocated, and two additional substation options were added.

30. Written information was provided to the Department of Defense Siting Clearinghouse about the study area and the nature of the transmission line and associated facilities.

31. On September 11, 2019, the Department of Defense Siting Clearinghouse reported that the transmission line and associated facilities will have minimal impact on military operations conducted in the area.

Notice of Application

32. On July 22, 2020, CPS Energy:

    a. mailed by first class mail or hand-delivered direct written notice of the filing of the application to each landowner directly affected by the construction of the transmission line and associated facilities, as determined by review of the appraisal district tax data for Bexar County;

    b. mailed by first-class mail or hand-delivered direct written notice of the filing of the application to the county government of Bexar County, as well as the municipalities of the City of San Antonio, the City of Fair Oaks Ranch, the City of Grey Forest, and the City of Helotes as the municipalities located within five miles of the requested facilities;

c. mailed by first class mail or hand-delivered direct written notice of the filing of the application to Pedernales Electric Cooperative and Bandera Electric Cooperative, which are neighboring utilities that provide electric utility service within five miles of the requested facilities, and sent notice of the application to LCRA Transmission Services Corporation; and

d. mailed by first class mail or hand-delivered written notice of the filing of the application to other interested entities, including the Office of Public Utility Counsel, the Texas Department of Transportation, the Northside Independent School District, and the Department of Defense, and provided a copy of the application via FedEx to the Texas Parks and Wildlife Department.

33. Attachment 12 to the application is a copy of the letter provided to the Texas Parks and Wildlife Department in conjunction with delivery of the application.

34. On July 28, 2020, CPS Energy published public notice of the application in the *San Antonio Express-News*, a newspaper of general circulation in Bexar County, Texas.

35. On August 11, 2020, CPS Energy filed an affidavit attesting to the provision of notice of the application to the Office of Public Utility Counsel; and notice of the application to cities, counties, neighboring utilities, the Department of Defense Siting Clearinghouse, and directly affected landowners.

36. On August 11, 2020, CPS Energy filed an affidavit attesting to published notice of the application in the *San Antonio Express-News*, a newspaper of general circulation in Bexar County, Texas.

37. In Order No. 5 filed on August 21, 2020, the Commission ALJ approved CPS Energy's provision of notice of the application in this proceeding.

Intervenors

38. In Order No. 4 filed on August 19, 2020, the Commission ALJ granted the motions to intervene filed by Bexar Ranch, L.P., Jerry Rumpf, Monica Gonzalez De La Garza, Patrick Cleveland, Monica Esparza, Lucia Zeevaert, and Clint and Mary Hurst.

39. In Order No. 7 filed on August 25, 2020, the Commission ALJ granted the motions to intervene filed by Peter Eick, Jay and Amy Gutierrez and The Gutierrez Management Trust, Clearwater Ranch Property Owners Association, Toutant Ranch, Ltd. and ASR Parks, LLC, and Lisa and Clinton Chandler.

40. In Order No. 8 filed on September 17, 2020, the Commission ALJ granted the motions to intervene filed by Nick Valenti, Jeff Audley and Darrell Cooper, Islam Hindash, Laura Rendon, Elis Latorre-Gonzalez, Brad Jauer, BVJ Properties LLC, Hamzeh Alrafati, Adrianna Rohlmeier, Anton Shadrock, Byron Eckhart, Carlos Garcia, Casey and Molly Keck, Francis Van Wisse, Kurt and Brenda Ohrmundt, Max and Meg Garoutte, Michael and Rosalinda Sivilli, Paolo Salvatore and Clear Run LLC, Samer and Elizabeth Ibrahim, Lonnie Arbuthnot, Gregory Hamon, Miao Zhang, Ronald Meyer, Ed Chalupa, Sophia Polk, The San Antonio Rose Palace, Inc. and Strait Promotions, Inc., Margaret Couch, Sunil Dwivedi, Brandon McCray, Steven Herrera, Gregory Altemose, Mark Dooley, Jesse Delee, Raul and Katie Garcia, Adam Schrage, Adam Sanchez, Lori Espinoza, Vic Vaughan, Primarily Primates, Inc., Clifford Stratton, Scott Lively, Beatriz Odom, Bernd Vogt and Inge Lechner-Vogt, Gail Ribalta, Kenneth Mark and Tawana Timberlake, Thomas Parker, Douglas Comeau for the Comeau Family Trust, Steve and Cathy Cichowski, Olytola Adetona, Vincent Billingham, Alfred and Janna Shacklett, Ruben and Kristin Mesa, Don Durflinger, Robert Ralph, Paul Rockwood, Anaqua Springs Homeowners Association, Laura Biemer, Joan Arbuckle and John Huber, Lawrence Barocas, Roy Barrera III, Brittany Sykes, Aline Knoy, Roy Barrera, Jr., Cynthia Rocha, Charlene Jean Alvarado Living Trust, Robert Barrera, Brian Woods for Northside Independent School District, Eric and Laurie White, Sanjay Kumar, Martin Salinas, Jr., Lynn Ginader, Lauren Pankratz, Michael Berry, Guillermo Cantu, Jr., and Amanda Barrella.

41. In Order No. 9 filed on September 28, 2020, the Commission ALJ granted the motions to intervene filed by Save Huntress Lane Area Association, Stephen Rockwood, Mark Barrera, Henry and Rosan Hervol, Jennifer Royal, Michael Wilburn, Burdick-Anaqua Homes, Ltd, Armando Valdez, James Lee, Francisco and Barbara Arroyo, Anne Warner, Doug Boazman, Paul Craig, Adrian and Catherine Chavez, Richard Olivarez, Eloy Olivarez, Dora Broadwater, Guajalote Ranch, Inc., Yvette Reyna, Lawrence Kroeger, Mike Swientek, Carmen Ramirez, Roy Barrera Sr., Robert and Leslie Bernsen, Russell and Brook Harris, Raul Martinez, Chip and Pamela Putnam, John Taylor, Brian Lee, Linda Hansen, Charles Rockwood, Melissa and Michael Rosales, Philip and

Yajaira Paparone, Alejandro Medina, Robert Freeman, Duaine and Joann Smith, Kristy Woods, John Jared Phipps, Charlie Zimmer, and Andrew and Yvonne Krzywonski.

42. In SOAH Order No. 3 filed on December 1, 2020, the SOAH ALJs granted the motions to intervene filed by Chris and Michelle Booth, Geoffrey Grant, Kristina and Christopher Stroud, Kim Ury, Monica and Chris Casady, James Brigham, Mike Leonard, David Burke, Elizabeth and John Kupferschmid, Rodolfo Santoscoy, Joy and Michael Escriva, Mark and Maricela Siegel, James Galusha, Marlin Sweigart, Suzan Corral, James Gillingham, Scott Streifert, Donna Balli, Judith Catalon, Carrie Clayton, David Walts, Michael and Maria Roxana Hope-Jones, Gregory Godwin, Roberto Sanchez, Chandler Mross, Jim Flores, Joel and Cortney Comp, Daniel Lonergan, James Middleton, Alan Hibberd, Richard Hauptfleisch, Ronald Schappaugh, The Deitchle Family Trust, Joshua and Kristi-Marie Standing Cloud, Raul Figueroa, Betsy Omeis, Anupama Atluri, Barbara and Ernie Centeno, Jordan and Donna Reed, Peter Eick, Mary Ebensberger, and Pinson Interests Ltd LLP, and Crighton Development Co.

43. In SOAH Order No. 10 filed on March 26, 2021, the SOAH ALJs dismissed the following intervenors for failing to file direct testimony or a statement of position: Olytola Adetona, Francisco and Barbara Arroyo, Anupama Atluri, Denise Baker, Donna Balli, Amanda Barrella, Mark Barrera, Vincent Billingham, Doug Boazman, Dora Broadwater, Burdick-Anaqua Homes, Ltd, Guillermo Cantu, Carrie Clayton, Joel and Cortney Comp, Douglas Comeau, Joy and Michael Escriva, Monica Esparza, Lori Espinoza, Raul and Katie Garcia, Linda Hansen, Henry and Rosan Hervol, Islam Hindash, Lawrence Kroeger, Andrew and Yvonne Krzywonski, Inge Lechner-Vogt, Brian Lee, Mike Leonard, Kenneth Mark, Brandon McCray, Eloy and Raquel Olivarez, Thomas Parker, Robert Ralph, Bruce Reid, Evangelina Reyes, Gail Ribalta, Cynthia Rocha, Ryan and Jennifer Royal, Adam Sanchez, Roberto Sanchez, Alfred and Janna Shacklett, Duaine and Joann Smith, Joshua and Kristi-Marie Standing Cloud, Marlin Sweigart, Mike Swientek, John and Renee Taylor, The Deitchle Family Trust, Tawana Timberlake, Armando Valdez, Vic Vaughan, Bernd Vogt, Anne Warner, Michael Wilburn, Kristy Woods, Miao Zhang, and Charlie Zimmer.

44. In SOAH Order No. 14 filed on May 4, 2021, the SOAH ALJs dismissed the following intervenors for failing to file direct testimony or a statement of position: Hamzeh Alrafati, Michael and Kenya Berry, Chris and Michelle Booth, Monica and Chris Casady, Barbara and Ernie Centeno, Dooley Properties, LLC (Mark Dooley), Mary Bensberger, James Galusha, Geoffrey Grant, Richard Hauptfleisch, Michael and Maria Roxana Hope-Jones, Elis Latorre-Gonzalez, James Lee, Scott Lively, Daniel Lonergan, Ronald Meyer, Chandler Mross, Richard Olivarez, Philip and Yajaira Paparone, John Jared Phipps, Jordan and Donna Reed, Laura Rendon, Rodolfo Santoscoy, Adam Schrage, Scott Streifert, Kim Ury, and David Walts. In the order, the SOAH ALJs also granted the late-filed motion to intervene of Maria Concepcion Uriarte-Azcue and denied the late-filed motion to intervene of Scott Luedke.

Alignment of Intervenors

45. Except to the extent that parties with similar interests chose to be represented jointly by the same legal counsel when making an appearance, no parties were formally aligned by the ALJs for purposes of the hearing.

Route Adequacy

46. Patrick Cleveland, Anaqua Springs Homeowners Association, and Brad Jauer and BVJ Properties, LLC filed pleadings challenging whether the application provided an adequate number of reasonably differentiated routes to conduct a proper evaluation or seeking modifications to the routes proposed in the application and requesting a hearing on route adequacy. Clearwater Ranch Property Owners Association filed a response in opposition to the challenges to route adequacy.

47. Toutant Ranch LTD, Pinson Interests LTD, LLP, and Crighton Development Co. (the Dreiss Interests) filed a statement on route adequacy and request for approval of proposed agreed amendments to CPS Energy's application.

48. In SOAH Order No. 4 filed on December 4, 2020, the SOAH ALJs granted the Dreiss Interests' request, ordered CPS Energy to amend the application in accordance with the request, and ordered a hearing on route adequacy, which was held on December 10, 2020.

49. In SOAH Order No. 5 filed on December 11, 2020, the SOAH ALJs denied the challenges to route adequacy described in finding of fact 46 and found that CPS Energy had proven that the application proposed an adequate number of reasonably differentiated routes for the ALJs and the Commission to conduct a proper evaluation.

50. The amended application provides an adequate number of reasonably differentiated routes to conduct a proper evaluation.

Pre-Filed Testimony

51. On November 6, 2020, CPS Energy filed in support of the application the direct testimonies of Scott Lyssy, Adam Marin, Lisa Meaux, and George Tamez. The testimony of Ms. Meaux was admitted at the route adequacy hearing and the remaining testimony was admitted at the hearing on the merits.

52. On December 22, 2020, CPS Energy filed the supplemental direct testimony of Ms. Meaux as attachment 6 to the amended application. This testimony was subsequently admitted at the hearing on the merits.

53. The direct testimony of the following witnesses was filed by intervening parties: Richard LePere, on behalf of Guajalote Ranch, Inc.; Steve and Cathy Cichowski, on behalf of themselves; Steve Cichowski, Sunil Dwivedi, M.D., and Lauren Pankratz, M.D. on behalf of Anaqua Springs Homeowners Association; Mark Anderson on behalf of Anaqua Springs Homeowners Association and Brad Jauer and BVJ Properties, LLC; Roy R. Barrera, Sr., Carmen Barrera Ramirez, Roy R. Barrera III, Robert J. Barrera, and Roy R. Barrera, Jr., on behalf of themselves; Mark Turnbough, PhD, Michael Bitter, Sarah Bitter, Stephen Bitter, and Vincent Terracina, on behalf of Bexar Ranch L.P.; Brad Jauer and Carl Huber, on behalf of Brad Jauer and BVJ Properties, LLC; Brian Andrews, on behalf of Lisa Chandler, Clinton R. Chandler, and Chip and Pamela Putnam; Rosemarie Alvarado, on behalf of the Charlene Jean Alvarado Living Trust; Joe R. Acuna and Villa Strangianto, LLC, L.W. Arbuthnot, Jeffrey Audley and Darrell Cooper, Byron and Gina Eckhart, Carlos Garcia and Christina Garcia, Max and Peggy Garoutte, Gume Garza, Robert Gume Garza and Loredo Sol Investments LLC, Carlos and Rosa Guzman and CRG Properties LLC, Gregory Hamon, Russell Harris and Brook Harris, Samer

Ibrahim and Elizabeth Ibrahim, Casey and Molly Keck, Alejandro Medina, Peter and Melanie Morawiec, Kurt Ohrmundt and Brenda Ohrmundt, Kurt Rohlmeier and Adrianna Rohlmeier, Paolo Salvatore and Clear Run LLC, Michael and Rosalinda Sivilli, Mariana and Francis VanWisse, and Michael and Shawn Stevens, on behalf of Clearwater Ranch Property Owners Association and Michael Stevens on behalf of Sven and Sofia Kusterman and Clearwater Ranch Property Owners Association; Paul Craig, on behalf of himself; Jay A. Gutierrez, on behalf of himself, Amy L. Gutierrez, and the Gutierrez Management Trust; Patrick Cleveland, on behalf of himself; Stephen Rockwood, on behalf of himself; Paul Rockwood, on behalf of himself; Jacob Villareal, on behalf of Northside Independent School District; Brooke Chavez, on behalf of Primary Primates; Jason Buntz, on behalf of San Antonio Rose Palace and Strait Promotions; Cynthia Grimes, David Clark, Jerry Rumpf, and Harold L. Hughes Jr., on behalf of the Save Huntress Lane Area Association; Joan Arbuckle, Robert Bernsen, Laura Biemer, Steven Gomez Herrera, Betsy Omeis, Yvette Reyna, and Brittany Sykes, all Scenic Hills and Serene Hills pro se intervenors; Tom Dreiss, on behalf of the Dreiss Interests; Robert C. Freeman and Rachel M. Freeman, on behalf of themselves; and Lucia Zeevaert on behalf of herself. With the exception of the Freeman testimony, the remaining testimony was admitted at the hearing on the merits. The Freemans did not appear at the hearing on the merits, and their testimony was not offered.

54. On March 22, 2021, Commission Staff filed the direct testimony of its witness, John Poole. Commission Staff filed errata to Mr. Poole's testimony on April 26 and 27, 2021. This testimony was admitted at the hearing.

55. Cross-rebuttal testimony of the following witnesses was filed by intervening parties and subsequently admitted at the hearing: Mr. LePere, on behalf of Guajalote Ranch, Inc.; Mr. Turnbough, Mr. Bitter, and Ms. Bitter on behalf of Bexar Ranch L.P.; and Ms. Grimes, Mr. Clark, Mr. Rumpf, and Mr. Hughes Jr., on behalf of the Save Huntress Lane Area Association. This testimony was admitted at the hearing.

56. On April 7, 2021, CPS Energy filed the rebuttal testimony of Mr. Lyssy, Mr. Marin, Ms. Meaux, and Mr. Tamez. CPS Energy filed errata to Mr. Lyssy's rebuttal testimony on April 26, 2021. This testimony was admitted at the hearing.

Referral to SOAH for Hearing

57. On August 5, 2020, Clearwater Ranch Property Owners Association filed a request for hearing at SOAH. Anaqua Springs Homeowners Association, Patrick Cleveland, and Bexar Ranch L.P. also requested a hearing.

58. On September 14, 2020, Commission Staff requested that the docket be referred to SOAH for a hearing.

59. On September 29, 2020, the Commission referred this case to SOAH and identified a number of issues to be addressed.

Hearing and Post-Hearing

60. In SOAH Order No. 1 filed on October 2, 2020, the SOAH ALJs provided notice of a prehearing conference, described jurisdiction, and provided other information.

61. On October 22, 2020, the SOAH ALJs convened a prehearing conference by videoconference.

62. In SOAH Order No. 2 filed on November 23, 2020, the SOAH ALJs memorialized the prehearing conference held on October 22, 2020, and provided notice of the hearing on the merits set to begin on March 29, 2021.

63. In SOAH Order No. 6 filed on January 6, 2021, the SOAH ALJs adopted proposed amendments to the procedural schedule and noted that the hearing on the merits would be held by videoconference beginning on May 3, 2021, and that a prehearing conference would be held by videoconference beginning at 10:00 a.m. on April 30, 2021.

64. The hearing on the merits convened by videoconference on May 3, 2021 and concluded on May 7, 2021. The following parties made appearances, either personally or through their representatives, and participated in the hearing on the merits: CPS Energy; Lisa and Clinton R. Chandler; Chip and Pamela Putnam; the Charlene Jean Alvarado Living Trust; Maria Conception Uriarte-Azcue; Roy Barrera, III; Roy Barrera, Jr.; Roy R. Barrera, Sr.; Robert Barrera; the Save Huntress Lane Area Association; Jay and Amy Gutierrez; the Gutierrez Management Trust; Primarily Primates, Inc.; Bexar Ranch, LP; Guajalote Ranch, Inc.; the Clearwater Ranch Property Owners Association; Patrick Cleveland; Northside

Independent School District; The San Antonio Rose Palace, Inc. and Strait Promotions, Inc.; Anaqua Springs Homeowners Association; Brad Jauer and BVJ Properties, LLC; Steven and Cathy Cichowski; Robert and Leslie Bernsen; Laura Biemer; James Brigham; Paul Craig; Peter Eick; Raul Figueroa; Steven Herrera; John Huber and Joan Arbuckle; Betsy Omeis; Yvette Reyna; Paul Rockwood; Stephen Rockwood; Mark Siegel; Brittany Sykes; Dreiss Interests; Melissa Rosales; Ronald Schappaugh; Kristina Stroud; and Commission Staff.

65. The evidentiary record closed on May 7, 2021, and the hearing record closed on May 28, 2021, after the filing of closing written arguments and proposed findings of fact and conclusions of law.

Return to the Commission

65A. The SOAH ALJs filed a proposal for decision on July 26, 2021.

65B. On October 27, 2021, the SOAH ALJs filed a letter making minor corrections to the proposal for decision.

65C. The Commission considered this proceeding at its October 28, 2021 open meeting and heard oral argument.

65D. On November 2, 2021, the Commission remanded the docket to Docket Management for CPS Energy to file additional evidence regarding need for the proposed transmission line and associated facilities as well as information regarding route Y.

65E. On November 8, 2021, CPS Energy filed additional evidence regarding need for the proposed transmission line and associated facilities.

65F. In Order No. 12 filed on November 8, 2021, the Commission ALJ admitted the additional evidence filed by CPS Energy on that same day.

65G. At its November 18, 2021 open meeting, the Commission determined that CPS Energy had not complied with its order requesting additional evidence regarding need.

65H. On December 2, 2021, CPS Energy filed additional evidence regarding need for the proposed transmission line and associated facilities.

65I. In Order No. 13 filed on December 8, 2021, the Commission ALJ admitted the additional evidence filed by CPS Energy on December 2, 2021.

Adequacy of Existing Service and Need for the Project

66. CPS Energy retained Burns & McDonnell Engineering Company, Inc. to prepare an independent need analysis for the transmission line and associated facilities, which was included as part of the application.

67. The transmission line and associated facilities are needed to meet the existing and forecasted retail electric service demand of customers in northwest Bexar County and to address reliability risks and improve reliability in the area.

68. Load growth at a compound annual growth rate of approximately four to seven percent in northwest Bexar County is currently served by the existing La Sierra and Fair Oaks Ranch substations. The forecasted load growth for the La Sierra and Fair Oaks Ranch substations is expected to exceed the planning capacity for the area by 2025.

69. The existing distribution circuits within the La Sierra substation and some of the circuits originating at the Fair Oaks Ranch substation are up to eight times longer than the average distribution circuit within CPS Energy's system and serve thousands of customers.

70. The average length of the eight distribution circuits primarily serving the Scenic Loop area from the La Sierra and Fair Oaks Ranch substations is approximately 36.13 miles. Following the construction of the Scenic Loop substation, the length of the circuits connected to La Sierra, Fair Oaks Ranch, and Scenic Loop will decrease to an average of approximately 24 miles.

71. The length and loading on these La Sierra and Fair Oaks Ranch circuits have resulted in lower reliability to the customers served by those circuits.

72. CPS Energy's analysis shows that even with system reconfiguration improvements on the existing distribution facilities immediately prior to the filing of this application, without a new substation in northwest Bexar County, the CPS Energy customers served from the La Sierra and Fair Oaks Ranch substations will continue to experience lower reliability than CPS Energy's system averages.

73. The Scenic Loop substation provides CPS Energy with a load serving substation geographically intermediate to the Fair Oaks Ranch and La Sierra substations in a manner that will cut the average length and loading of distribution circuits serving end-use customers by 50% or more.

74. The transmission line and associated facilities are needed to address local reliability needs of existing and future end-use consumers based on actual and forecasted electric load and identified system limitations in meeting this electric load.

75. The transmission line and associated facilities are a tier 4 neutral project under the classifications established by ERCOT. Therefore, the transmission line and associated facilities are not required to be, and were not, submitted to the ERCOT regional planning group for review and comment.

76. No party challenged the need for the transmission line and associated facilities.

77. Electric customers within the area of the transmission line and associated facilities will benefit from the improved transmission system reliability and capacity provided by the transmission line and associated facilities.

78. CPS Energy considered a distribution-only alternative.

79. Distribution alternatives are not adequate to resolve the need for the transmission line and associated facilities in a cost-effective manner.

80. A distribution-only alternative would only delay the need for the transmission line and associated facilities by a few years at most or would cost significantly more than the transmission line and associated facilities and would not address the reliability concerns of the lengthy circuits currently existing in the area because of the lack of a substation in the vicinity.

81. No party has argued that a distribution alternative would resolve the need for the transmission line and associated facilities.

Effect of Granting Certificate on the Applicant and Other Utilities and Probable Improvement of Service or Lowering of Cost

82. Electric utilities serving the proximate area of the transmission line and associated facilities include Pedernales Electric Cooperative and Bandera Electric Cooperative. LCRA interconnects with the CPS Energy transmission line that serves as the tap point for the transmission line approved in this Order.

83. The transmission line approved in this Order taps into an existing CPS Energy transmission line and is proposed to provide service wholly within CPS Energy's existing service territory.

84. CPS Energy has coordinated with LCRA, and LCRA has not raised any concerns with the transmission line interconnection other than identifying protective relay setting changes at the Menger Creek substation.

85. Pedernales Electric Cooperative and Bandera Electric Cooperative did not intervene or otherwise express any concern or opposition to the transmission line and associated facilities.

86. The transmission line and associated facilities will not adversely affect service by other utilities in the area.

87. With the new transmission line and facilities, CPS Energy will be able to continue to provide reliable service.

Alternative Routes

88. POWER Engineers' project team included professionals with expertise in different environmental and land-use disciplines (geology and soils, hydrology and water quality, terrestrial ecology, wetland ecology, land use and aesthetics, and cultural resources) who were involved in data acquisition, routing analysis, and environmental assessment for the transmission line and associated facilities.

89. To identify preliminary alternative route segments for the transmission line, POWER Engineers delineated a study area, sought public official and agency input, gathered data regarding the study area, performed constraints mapping, identified preliminary alternative route segments and alternative substation sites, and reviewed and adjusted the preliminary

alternative route segments and alternative substation sites following field reconnaissance and the public meeting.

90. From the preliminary alternative route segments, POWER Engineers and CPS Energy identified 29 reasonable, feasible alternative routes. In identifying these, POWER Engineers considered a variety of information, including input from the public and public officials, geographic diversity within the study area, and an inventory and tabulation of a number of environmental and land use criteria.

91. The amended application identified 31 reasonable, feasible alternative routes. Two additional routes were subsequently identified, bringing the number of viable routes to 33. The 33 alternative routes range from approximately 4.5 to 6.9 miles in length.

92. CPS Energy reviewed the alternative routes with regard to cost, construction, engineering, and right-of-way maintenance issues and constraints and conducted field reviews.

93. At the time it filed its original application, CPS Energy identified route Z as the route that best addressed the Commission's routing criteria. Route Z was functionally replaced by route Z1 with the filing of the amended application.

94. The Texas Parks and Wildlife Department provided comments recommending route DD as having the least impact on environmental integrity and wildlife habitat.

95. Commission Staff submitted evidence supporting the choice of route P as the route that best meets the statutory and regulatory criteria and best addresses the concerns raised by the Texas Parks and Wildlife Department and the parties.

96. Intervenors and intervenor groups also opposed or supported certain routes based on a southern or northern orientation in the study area. Eight focus routes were identified by CPS Energy as the routes most opposed or supported by intervenors, Commission Staff, and the Texas Parks and Wildlife Department: the southern routes (routes P, R1, and W) and northern routes (routes Z1, Z2, AA1, AA2, and DD).

Community Values

97. To ascertain community values for the transmission line and associated facilities, CPS Energy held a public meeting on October 3, 2019.

98. The most common concerns or issues presented by the landowners at the public meeting and afterward were impact to residences (58%); visibility of the structures (6%); proximity to schools, places of worship, and cemeteries (2%); and impact to endangered species and their habitat (2%).

99. POWER Engineers and CPS Energy added, removed, and modified segments in response to engineering constraints; landowner comments; landowner offers to donate right-of-way; previously unidentified features (such as a cemetery); and better paralleling of property lines. In addition, CPS Energy added substations 6 and 7 and moved substation 1 to the south—all due to landowner willingness to sell the respective properties to CPS Energy.

Impact to Residences

100. Land use in the study area is primarily residential, mostly suburban and some rural. All routes have habitable structures within 300 feet of the route centerline.

101. Much of the study area is under active development for residential use, and the number of habitable structures is therefore expected to increase significantly.

102. Routes Q1 and U1 have the fewest habitable structures within 300 feet of the route centerline (12 structures), and route A has the most habitable structures within 300 feet of the route centerline (72 structures). The average number of habitable structures for all routes is 37 structures within 300 feet of the centerline.

103. For the focus routes, the number of habitable structures within 300 feet of the centerline ranges from 13 to 33, as follows: route R1 (13); route P (17); route W (29); route AA2 (30); routes Z1 and AA1 (31); route Z2 (32); and route DD (33).

104. Routes DD, Z1, Z2, AA1, and AA2 originate at substation 7, cross the northern portion of the study area, and follow Toutant Beauregard Road for some length.

105. Routes P, R1, and W originate at substation 6 and cross the southern portion of the study area.

106. DELETED.

107. DELETED.

108. DELETED.

Visual Impact and Aesthetics

109. None of the alternative routes has any portion of the routes located within the foreground visual zone of interstate highways, U.S. highways, or state highways; farm-to-market roads; or parks or recreational areas.

110. All of the alternative routes will have visual impacts on the surrounding areas. The study area is in the Texas Hill Country, where the views and vistas are valued by the community.

111. An existing distribution line runs along Toutant Beauregard Road. The road also has natural gas and water pipelines running along it, a tall cell phone tower, and a recently-added microwave transmission corridor.

112. The visual landscape along Toutant Beauregard Road has already been disturbed, including by multiple contemporary yard art pieces on the Heidemann Ranch along the east side of Toutant Beauregard Road.

113. Substation 7 is located on a large lot with heavy vegetation that can be used to screen the substation from view. Substation 7 is triangular in shape and only a small section at one point of the triangle borders a short section of road.

114. Substation 6 is rectangular in shape and the longer edge fronts onto Scenic Loop Road, where there is less vegetation to screen the substation from view.

115. The intervenors whose properties are closest to substation 7 support substation 7 because it causes less overall harm to their neighborhood than substation 6.

116. Route Z2 uses an existing transportation and utility corridor that has already fragmented the visual landscape and uses a substation that has heavy vegetation and provides the potential to screen the substation from view.

Impact to Schools

117. One school is currently in the study area: Sara McAndrew Elementary School, part of the Northside Independent School District. The elementary school property was purchased under a dual-campus plan, and a middle school is planned for the site.

118. Northside Independent School District opposes routes using segment 41, including route DD. Northside Independent School District is concerned about routes using segments 34 and 35 (route DD) and 42a (routes Z1, Z2, AA1, and AA2).

119. Eight existing elementary schools in Northside Independent School District have electric transmission lines at distances comparable to the distance between routes Z1, Z2, AA1, and AA2 and Sara McAndrew Elementary School. One school is also in relative proximity to a substation.

120. Some intervenors whose children currently attend the elementary school expressed support for route Z2.

121. Route Z2 reduces the impact to the elementary school and future middle school.

122. All routes in the application adequately address the expressed community values.

123. DELETED.

Prudent Avoidance

124. 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."

125. Whenever possible, CPS Energy and POWER Engineers avoided identifying alternative route segments near habitable structures.

126. DELETED.

127. DELETED.

128. Route W has three habitable structures within 100 feet of its centerline. The other focus routes have one structure within 100 feet of the centerline.

129. Route R1 has 19 fewer habitable structures within 300 feet of its centerline than does route Z2. Route R1 costs $5.88 million more than route Z2. Each of the 19 additional structures avoided by route R1 is avoided at an average cost of $309,000 per structure.

130. All the alternative routes presented in the amended application, as well as the additional routes presented in the course of this proceeding, conform to the Commission's policy of prudent avoidance.

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

132. The construction of the transmission line along route Z2 complies with the Commission's policy of prudent avoidance.

132A. Although route Z2 has more habitable structures within 300 feet of its centerline compared to some of the other focus routes, route Z2 is still on balance the route that best addresses all the factors in PURA and the Commission's rules.

Recreational and Park Areas

133. CPS Energy and POWER Engineers did not identify any parks and recreational areas crossed by or within 1,000 feet of any alternative route. Private recreational areas that are not open to the public were not included.

134. Two private recreational areas were identified by intervenors. The owners of the 15 lots in High Country Ranch hold undivided interests in a 300-acre preserve that is open to the owners for hunting, wildlife observation, and other outdoor recreational activities. Anaqua Springs has acreage on either side of the guardhouse at the neighborhood entrance that the property owners consider to be dedicated parkland.

135. Neither the High Country Ranch preserve nor the Anaqua Springs parkland is a park and recreational area required to be considered by the Commission.

136. Route Z2 has no parks or recreational areas within 1,000 feet of its centerline.

137. None of the alternative routes for the transmission line, including route Z2, is expected to have a significant impact on the use or enjoyment of a park or recreational area.

Texas Parks and Wildlife Department

138. The Texas Parks and Wildlife Department provided information and recommendations regarding the preliminary study area for the transmission line and associated facilities to POWER Engineers on August 1, 2019.

139. On September 16, 2020, after the application had been filed, the Texas Parks and Wildlife Department filed a letter (dated September 10, 2020) containing its comments and recommendations regarding the transmission line and associated facilities. The letter primarily addressed the mitigation of potential burdens on wildlife and natural resources. The Texas Parks and Wildlife Department initially recommended route AA.

140. On March 1, 2021, after the amended application had been filed by CPS Energy, the Texas Parks and Wildlife Department filed a second letter containing its comments and recommendations regarding the transmission line and associated facilities.

141. In its comment letter filed on March 1, 2021, the Texas Parks and Wildlife Department recommended route DD for the transmission line. The Texas Parks and Wildlife Department stated that route DD appears to be the route that causes the least adverse impacts to natural resources.

142. The Texas Parks and Wildlife Department comment letter addressed issues relating to effects on ecology and the environment but did not consider other factors the Commission and utilities must consider in siting transmission lines and associated facilities.

143. Among the focus routes, route DD has the highest number of habitable structures within 300 feet of its centerline (33 structures). Route DD uses segment 41 that crosses over Northside Independent School District property slated for a construction of a new middle school, and it is estimated to cost $1.36 million more than the estimated cost of route Z2.

144. POWER Engineers and CPS Energy have taken into consideration the recommendations offered by the Texas Parks and Wildlife Department.

145. It is appropriate that, before beginning construction, CPS Energy undertake appropriate measures to identify whether a potential habitat for endangered or threatened species exists and to respond as required.

146. The standard mitigation requirements included in the ordering paragraphs in this Order, coupled with CPS Energy's 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.

Environmental Integrity

147. CPS Energy and POWER Engineers evaluated the effects on environmental integrity from the transmission line and associated facilities and set out those effects in detail in the environmental assessment and routing analysis.

148. Correspondence with the Texas Natural Diversity Database, the Texas Parks and Wildlife Department, and the United States Fish and Wildlife Service indicates 40 animal species are federally or state-listed endangered or threatened or have candidate status, for Bexar County.

149. Of the 40 federally or state-listed endangered or threatened (or candidate) species in Bexar County, the following species may occur in the study area:

    a. the whooping crane may potentially occur temporarily as a rare transient during migration if suitable foraging habitat is available;

    b. state-listed species such as the wood stork and Cagle's map turtle may, but are not expected to, occur due to lack of potential suitable habitat;

    c. if suitable habitat is available, the reddish egret, tropical parula, white-faced ibis, and zone-tailed hawk may occur;

    d. bald eagles and their nests may be present if suitable habitat is available;

    e. if suitable aquatic habitat is available, the Cascade Caverns salamander, Texas salamander, toothless blindcat, and widemouth blindcat may occur;

    f. if suitable cave or karst habitat is present and available, the study area may contain the Madla Cave meshweaver, two unnamed beetles (*Rhadine exilis* and *Rhadine infernalis*), and the Helotes mold beetle;

    g. Texas wild rice is not expected to occur due to the lack of suitable habitat; and

    h. the Bracted twistflower may occur if suitable habitat is available.

150. If any of these species is observed or encountered, CPS Energy will coordinate with the Texas Parks and Wildlife Department or the United States Fish and Wildlife Service, or both, as appropriate, to determine necessary avoidance and mitigation measures. CPS Energy will also conduct a site-specific karst survey before construction. CPS Energy plans to span all surface waters crossed by the approved route and to implement sedimentation prevention measures.

151. If suitable habitat is available, the golden-cheeked warbler may occur in the study area as indicated by the Diamond Model C (2010) and 2019 aerial imagery used by POWER Engineers. The golden-cheeked warbler is listed as endangered by both the Texas Parks and Wildlife Department and the United States Fish and Wildlife Service.

152. Crossing undisturbed upland woodlands or brushlands causes fragmentation of potential habitat for the golden-cheeked warbler as well as wildlife in general.

153. The study area is experiencing sustained residential growth, which is continuing to fragment the environment and wildlife habitat.

154. Route P crosses the most acreage of potential moderate-high- and high-quality modeled habitat for the golden-cheeked warbler of all 33 alternative routes at 25.11 acres. Route W is tied for the lowest acreage crossed by any alternative route over potential moderate-high- and high-quality modeled habitat for the golden-cheeked warbler at 2.95 acres.

155. Among the focus routes, route DD has the least right-of-way across upland woodlands or brushlands, at 3.12 miles. Among the focus routes, route W has the most right-of-way across upland woodlands or brushlands at 6.03 miles.

156. Among the focus routes, route Z2 has the second-lowest impact on acreage of moderate-high- and high-quality modeled habitat for the golden-cheeked warbler (8.92 acres); has the second-lowest length of right-of-way across upland woodlands or brushlands (3.53 miles); and does not disturb the large intact areas of wildlife and modeled golden-cheeked warbler habitat on Bexar Ranch and Guajalote Ranch.

157. None of the alternative routes has any length of right-of-way across designated habitat of federally listed endangered or threatened species.

158. The transmission line and associated facilities are not anticipated to significantly adversely impact populations of any federally listed endangered or threatened species.

159. The transmission line and associated facilities will cause only short-term impacts to soil, water, and ecological resources.

160. No significant effects are expected to occur on wetland resources, ecological resources, endangered and threatened species, or land use as a result of constructing the proposed transmission line and associated facilities.

161. CPS Energy will mitigate any effect on federally listed plant or animal species according to standard practices and measures taken in accordance with the Endangered Species Act.

162. It is appropriate that CPS Energy 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. It is appropriate for CPS Energy to take precautions to avoid disturbing occupied nests and take steps to minimize the burden of construction on migratory birds during the nesting season of the migratory bird species identified in the area of construction.

162A. It is appropriate for CPS Energy to 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 is required to comply with the rules and guidelines established in the Federal Insecticide, Fungicide, and Rodenticide Act and with Texas Department of Agriculture regulations.

163. It is appropriate that CPS Energy minimize the amount of flora and fauna disturbed during construction of the transmission line.

164. It is appropriate that CPS Energy re-vegetate cleared and disturbed areas using native species and consider landowner preferences and wildlife needs in doing so.

165. It is appropriate that CPS Energy avoid causing, to the maximum extent reasonably possible, adverse environmental effects on 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.

166. It is appropriate that CPS Energy 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 CPS Energy not be required to restore original contours and grades where different contours or grades are necessary to ensure the safety or stability of the transmission line's structures or the safe operation and maintenance of the transmission line.

167. It is unlikely that the presence of the transmission line and associated facilities along any route will adversely affect the environmental integrity of the surrounding landscape.

168. All of the alternative routes are environmentally acceptable.

Historical and Cultural Values

169. To identify historical and cultural resources in the study area, POWER Engineers and CPS Energy consulted the Texas Historical Commission; Texas Archeological Research Laboratory; Texas Archeological Sites Atlas and Texas Historical Sites Atlas; Texas Department of Transportation historic bridges database; National Park Service databases; and the National Registry of Historic Places. POWER Engineers also documented areas with a high potential for occurrence of historical and cultural resources not yet identified.

170. POWER Engineers identified 36 previously recorded archaeological sites and 11 cemeteries in the study area. Nineteen archaeological sites are within 1,000 feet of the alternative routes, and five of these sites are crossed by routes.

171. CPS Energy identified and summarized the number of known or recorded historic or prehistoric sites within 1,000 feet of the right-of-way of each proposed route. The

minimum number of known archaeological sites crossed by any route is zero, while the maximum is five.

172. The minimum number of additional known archaeological sites within 1,000 feet of the centerline of any route is zero, while the maximum is 12.

173. One official Texas historical marker is within the study area and commemorates the Scenic Loop, Boerne Stage, and Toutant historic corridor.

174. The Scenic Loop, Boerne Stage, and Toutant Beauregard Roads are also designated as a Texas Historic Highway.

175. The Texas Department of Transportation considers the Boerne Stage Road a historic resource eligible for listing in the National Registry of Historic Places.

176. The Scenic Loop, Boerne Stage, and Toutant historic corridor follows an existing transportation corridor, and parts of it parallel an interstate highway.

177. The visual landscape in the Scenic Loop, Boerne Stage, and Toutant historic corridor is already fragmented, including by multiple contemporary yard art pieces on the Heidemann Ranch along the east side of Toutant Beauregard Road.

178. In the study area, there are three resources listed in the National Registry of Historic Places: the R. L. White Ranch Historic District; the Heidemann Ranch Historic District; and the Maverick-Altgelt Ranch and Fenstermaker-Fromme Farm Historic District.

179. No adverse impacts are expected to known elements of any of the three sites listed in the National Registry of Historic Places.

180. All of the alternative routes cross areas with a high potential for cultural resources. The lowest right-of-way mileage across areas with a high potential for cultural resources is 1.44 miles (routes H and X1) and the most is 4.77 miles (route U1). The focus routes range between 2.34 miles (route DD) and 3.35 miles (route AA1).

181. Route Z2 adequately addresses concerns about archaeological, historical, or cultural resources while balancing other factors the Commission must consider.

182. Construction of the approved route is not expected to adversely affect archaeological or historical resources.

Engineering Constraints

183. There are no significant engineering constraints along any of the alternative routes that cannot be adequately addressed by using design and construction practices and techniques usual and customary in the electric utility industry.

184. All alternative routes are viable, feasible, and reasonable from an engineering perspective.

Other Comparisons of Land Uses and Land Types

a. Radio Towers and Other Electronic Installations

185. No known AM radio transmitters were identified within the study area or within 10,000 feet of the primary alternative routes.

186. The number of FM radio transmitters, microwave towers, and other electronic communication towers located within 2,000 feet of any of the alternative routes ranges from zero for numerous routes to one for multiple other routes.

187. Communication tower 501 is a tower that is registered with the Federal Communications Commission, includes microwave antennae, and is located 279 feet from the nearest segment, which is segment 32.

188. No routes or segments in this case are expected to create any concerns related to communications towers, including access to such, and no communications facilities present any concerns related to any routes or segments.

b. Airstrips and Airports

189. There is one public or military airport registered with the Federal Aviation Administration and equipped with at least one runway longer than 3,200 feet within 20,000 feet of the routes (the Boerne Stage Field Airport) located north of the study area.

190. No private airstrips were identified within 10,000 feet of the centerline of any of the alternative routes.

191. There are no heliports registered with the Federal Aviation Administration located within 5,000 feet of the centerline of any of the alternative routes and no public or military airports registered with the Federal Aviation Administration and equipped with runways shorter than 3,200 feet within 10,000 feet of the routes.

c. Irrigation Systems

192. None of the alternative routes presented in the application or proposed by intervenors crosses land irrigated by traveling irrigation systems.

193. The presence of the transmission line and associated facilities along the approved route is not expected to adversely affect any agricultural lands with known traveling irrigation systems.

d. Miscellaneous

193A. Routes P and R1 bisect the interior of the Save Huntress Lane Area Association and Clearwater Ranch neighborhoods and cross through individual properties.

193B. Routes P, R1, and W cut across and bisect large portions of the Bexar Ranch, one of the largest intact properties in the study area. Route W also crosses and bisects the Guajalote Ranch, another large and undeveloped tract.

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

194. In developing alternative routes, CPS Energy and POWER Engineers took into account the use or paralleling of existing right-of-way (e.g., public roads and highways, railroads, and telephone utilities), apparent property boundaries, and natural or cultural features.

195. The highest percentage of paralleling of compatible right-of-way or property boundaries is on route A (83%).

196. The lowest percentage of paralleling of compatible right-of-way or property boundaries is on route S (49%).

197. The percentage of paralleling of compatible right-of-way and property boundaries on route Z2 is 71%.

Costs

198. CPS Energy prepared cost estimates for all 31 alternative routes presented in the amended application, as well as two additional routes presented for consideration in this proceeding.

199. Route Z2 is estimated to be the least expensive route of all 33 alternative routes, with an estimated cost of $37.6 million, which includes the cost of the new Scenic Loop substation.

200. Route O is estimated to be the most expensive route, with an estimated cost of $56.1 million, which includes the cost of the new Scenic Loop substation.

Alternative Routes Accommodations Due to Landowner Preference

201. CPS Energy entered into an agreement with the Dreiss Interests that altered originally proposed segments that were contained entirely within property owned or controlled by the Dreiss Interests.

202. The CPS Energy agreement with the Dreiss Interests provided mechanisms whereby the Dreiss Interests would donate right-of-way for the construction of the transmission line such that no additional costs would be incurred as a result of the accommodations.

203. The accommodations resulting from the CPS Energy agreement with the Dreiss Interests would not diminish the electric efficiency or reliability of the transmission line and associated facilities.

Seven-Year Time Limit

204. 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.

205. Seven years is a reasonable and appropriate limit to place on the authority granted in this Order for CPS Energy to construct the transmission line and associated facilities.

Renewable Energy

206. 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.

207. The transmission line and associated facilities approved in this Order will not affect the goal for renewable energy development established in PURA § 39.904(a).

Coastal Management Program

208. Under 16 TAC § 25.102(a), the Commission may grant a certificate for the construction of a transmission line and associated facilities within the coastal management program boundary only when it finds that the proposed facilities comply with the goals and applicable policies of the Coastal Management Program or that the proposed facilities will not have any direct and significant effect on any of the applicable coastal natural resource areas specified in 31 TAC § 501.3(b).

209. No part of the transmission line and associated facilities approved by this Order is located within the coastal management program boundary as defined in 31 TAC § 503.l(b).

Permits

210. Before beginning construction of the transmission line and associated facilities approved by this Order, CPS Energy will obtain any necessary permits from the Texas Department of Transportation if the facilities cross state-owned or -maintained properties, roads, or highways.

211. Before beginning construction of the transmission line and associated facilities approved by this Order, it is appropriate for CPS Energy to conduct a field assessment to identify water resources, cultural resources, potential migratory bird issues, and threatened and endangered species' habitats impacted as a result of the transmission line and associated facilities. As a result of these assessments, CPS Energy will identify any additional permits that are necessary, will consult any required agencies, will obtain all necessary permits, and will comply with the relevant permit conditions during construction and operation of the transmission line and associated facilities.

212. Before beginning construction of the transmission line and associated facilities, CPS Energy will obtain any necessary permits or clearances from federal, state, or local authorities.

213. Before commencing construction, CPS Energy will obtain a general permit to discharge under the Texas pollutant discharge elimination system for stormwater discharges associated with construction activities as required by the Texas Commission on Environmental Quality. In addition, because more than five acres will be disturbed during

construction of the transmission line and associated facilities, CPS Energy will prepare the necessary stormwater-pollution-prevention plan, submit a notice of intent to the Texas Commission on Environmental Quality, and comply with all other applicable requirements of the general permit.

214. Before construction, CPS Energy will obtain all permit or regulatory approvals that are required from the United States Army Corps of Engineers, the United States Fish and Wildlife Service, the Texas Commission on Environmental Quality, the Texas Historical Commission, the state historic preservation offices, and any county in which the transmission line and associated facilities are built.

215. After designing and engineering the alignments, structure locations, and structure heights, CPS Energy will make a final determination of the need to notify the Federal Aviation Administration based on the final structure locations and designs. If necessary, CPS Energy will use lower-than-typical structure heights, line marking, or line lighting on certain structures to avoid or accommodate requirements of the Federal Aviation Administration.

II. Conclusions of Law

The Commission adopts the following conclusions of law.

1. CPS Energy is a municipally owned utility as defined in PURA § 11.003(11) and 16 TAC § 25.5(71).

2. CPS Energy is required to obtain the approval of the Commission to construct the proposed transmission line and associated facilities and provide service to the public using the line and those facilities. PURA § 37.051(g).

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

4. SOAH exercised jurisdiction over this proceeding under PURA § 14.053 and Texas Government Code §§ 2003.021 and 2003.049.

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

6. Notice of the application was provided in compliance with PURA § 37.054 and 16 TAC § 22.52(a).

7. Additional notice of the approved route is not required under 16 TAC § 22.52(a)(2) because it is wholly composed of properly noticed segments contained in the original CCN application or modifications agreed to by all affected landowners.

8. CPS Energy provided notice of the public meeting in compliance with 16 TAC § 22.52(a)(4).

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

10. The Commission processed this docket in accordance with the requirements of PURA, the Administrative Procedure Act,[1] and Commission rules.

11. Construction of the transmission line on route Z2 is necessary for the service, accommodation, convenience, or safety of the public within the meaning of PURA § 37.056(a).

12. The Texas Coastal Management Program does not apply to the transmission line or associated facilities approved by this Order, and the requirements of 16 TAC § 25.102 do not apply to the application.

III. Ordering Paragraphs

In accordance with these findings of fact and conclusions of law, the Commission issues the following orders:

1. The Commission adopts the proposal for decision, including findings of fact and conclusions of law, except as discussed in this Order.

2. The Commission amends CPS Energy's CCN number 30031 to include the construction and operation of the transmission line along route Z2, which will comprise the following segments: 54, 20, 36, 42a, 46, and 46b. The new transmission line will connect the Scenic Loop substation, a new load-serving electric substation in northwestern Bexar County to

[1] Administrative Procedure Act, Tex. Gov't Code §§ 2001.001–.902.

be constructed at substation site 7, to the existing Ranchtown-to-Menger Creek 138-kV transmission line to the west. The Commission is certificating two circuits in this proceeding.

3. CPS Energy must consult 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 alternating-current interference on existing metallic pipelines paralleled by the electric transmission line approved by this Order.

4. CPS Energy must conduct surveys, if not already completed, to identify metallic pipelines that could be affected by the transmission line approved by this Order and cooperate with pipeline owners in modeling and analyzing potential hazards because of alternating-current interference affecting metallic pipelines being paralleled.

5. CPS Energy must obtain all permits, licenses, plans, and permission required by state and federal law that are necessary to construct the transmission line and associated facilities approved by this Order, and if CPS Energy fails to obtain any such permit, license, plan, or permission, it must notify the Commission immediately.

6. CPS Energy must identify any additional permits that are necessary, consult any required agencies (such as the United States Army Corps of Engineers and United States Fish and Wildlife Service), obtain all necessary environmental permits, and comply with the relevant conditions during construction and operation of the transmission line and associated facilities approved by this Order.

7. Before commencing construction, CPS Energy must obtain a general permit to discharge under the Texas pollutant discharge elimination system for stormwater discharges associated with construction activities as required by the Texas Commission on Environmental Quality. In addition, because more than five acres will be disturbed during construction of the transmission line and associated facilities, CPS Energy must, before commencing construction, prepare the necessary stormwater-pollution-prevention plan, submit a notice of intent to the Texas Commission on Environmental Quality, and comply with all other applicable requirements of the general permit.

8. If CPS Energy encounters any archeological artifacts or other cultural resources during construction, work must cease immediately in the vicinity of the artifact or resource. CPS Energy must report the discovery to, and take action as directed by, the Texas Historical Commission.

9. Before beginning construction, CPS Energy must undertake appropriate measures to identify whether a potential habitat for endangered or threatened species exists and must respond as required.

10. CPS Energy must use best management practices to minimize the potential impact to migratory birds and threatened or endangered species that is presented by the route approved by this Order.

11. CPS Energy must follow the procedures to protect raptors and migratory birds as outlined in the publications: *Reducing Avian Collisions with Power Lines: 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 the *Avian Protection Plan Guidelines*, Avian Power Line Interaction Committee and United States Fish and Wildlife Service, April 2005. CPS Energy must take precautions to avoid disturbing occupied nests and take steps to minimize the burden of construction of the transmission line on migratory birds during the nesting season of the migratory bird species identified in the area of construction.

12. CPS Energy must exercise extreme care to avoid affecting non-targeted vegetation or animal life when using chemical herbicides to control vegetation within the rights-of-way. Herbicide use must comply with rules and guidelines established in the Federal Insecticide, Fungicide, and Rodenticide Act and with Texas Department of Agriculture regulations.

13. CPS Energy must minimize the amount of flora and fauna disturbed during construction of the transmission line and associated facilities, except to the extent necessary to establish appropriate right-of-way clearance for the transmission line. In addition, CPS Energy must re-vegetate using native species and must consider landowner preferences and wildlife

needs in doing so. Furthermore, to the maximum extent practical, CPS Energy must avoid adverse environmental effects on 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.

14. CPS Energy must implement erosion-control measures as appropriate. Erosion-control measures may include inspection of the rights-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. Also, CPS Energy 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. However, the Commission does not require CPS Energy to restore original contours and grades where a different contour or grade is necessary to ensure the safety or stability of the transmission line's structures or the safe operation and maintenance of the line.

15. CPS Energy must cooperate with directly affected landowners to implement minor deviations in the approved route to minimize the disruptive effect of the transmission line and associated facilities approved by this Order. Any minor deviations from the approved route must only directly affect the landowners who were sent notice of the transmission line in accordance with 16 TAC § 22.52(a)(3) and have agreed to the minor deviation.

16. The Commission does not permit CPS Energy to deviate from the approved route in any instance in which the deviation would be more than a minor deviation without first further amending the relevant CCN.

17. If possible, and subject to the other provisions of this Order, CPS Energy must prudently implement appropriate final design for this transmission line so as to avoid being subject to the Federal Aviation Administration's notification requirements. If required by federal law, CPS Energy must notify and work with the Federal Aviation Administration to ensure compliance with applicable federal laws and regulations. The Commission does not authorize CPS Energy to deviate materially from this Order to meet the Federal Aviation Administration's recommendations or requirements. If a material change would be

necessary to comply with the Federal Aviation Administration's recommendations or requirements, then CPS Energy must file an application to amend its CCN as necessary.

18. CPS Energy must include the transmission line and associated facilities approved by this Order on its 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, CPS Energy must provide final construction costs, with any necessary explanation for cost variance, after the completion of construction when CPS Energy identifies all costs.

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

20. The Commission denies all other motions and any other requests for general or specific relief that the Commission has not expressly granted.

Signed at Austin, Texas the 12th day of January 2022.

PUBLIC UTILITY COMMISSION OF TEXAS

PETER M. LAKE, CHAIRMAN

WILL MCADAMS, COMMISSIONER

LORI COBOS, COMMISSIONER

JIMMY GLOTFELTY, COMMISSIONER

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