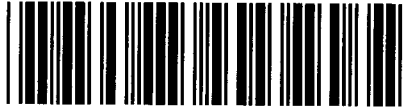




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Donna L. Nelson
Chairman

Kenneth W. Anderson, Jr.
Commissioner

Brandy D. Marty
Commissioner

Brian H. Lloyd
Executive Director



Rick Perry
Governor

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Public Utility Commission of Texas

TO: Southwestern Public Service Company
Legal Division
Infrastructure & Reliability Division

FROM: Susan E. Goodson
Administrative Law Judge

RE: Docket No. 42388 – *Application of Southwestern Public Service Company to Amend a Certificate of Convenience and Necessity for a Proposed 115-kV Transmission Line Project in Wheeler County, Texas (Wheeler to Coburn Creek)*

NOTICE OF APPROVAL

This Notice approves the application of Southwestern Public Service Company (SPS) to amend its Certificate of Convenience and Necessity (CCN) for a 115-kilovolt (kV) transmission line within Wheeler County, Texas. There were no interventions in this docket and no party requested a hearing. On July 17, 2014, the Public Utility Commission of Texas (Commission) Staff recommended approval of the application. There are no contested issues of law or fact in this proceeding. Based on Commission Staff's recommendation, the following fact statements and legal conclusions are approved effective as of the date of this notice.

I. Fact Statements

Procedural History

1. SPS is an investor-owned electric utility providing retail electric service in Texas under CCN No. 30153.
2. On May 19, 2014, SPS filed an application to amend its CCN for a proposed 115-kV transmission line in Wheeler County, Texas. SPS provided a copy of the application and the Environmental Assessment and Alternative Route Analysis (EA) to the Texas Parks and Wildlife Department (TPWD) at the time of filing.

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3. On May 20, 2014, Order No. 1 was filed requiring Commission Staff to comment on the sufficiency of the application and proposed notice and SPS to provide proof of notice and answers to certain issues related to potential options to the proposed project.
4. On May 29, 2014, SPS filed additional information in response to the questions in Order No. 1.
5. On May 29, 2014, SPS filed an affidavit attesting to the provision of notice by first class mail to affected cities, counties, neighboring utilities and land owners. Additionally, SPS provided written notice of the application to companies who own transmission pipelines in the area where the proposed project is located
6. On June 9, 2014, SPS filed an affidavit of publication attesting to notice of the application being published in *The County Star-News* on May 29, 2014, and a revised notice published in *The County Star-News* on June 5, 2014. The revised notice indicated an extended intervention deadline of July 7, 2014.
7. On June 12, 2014, Commission Staff filed a response to Order No. 1 recommending the application and notice be found sufficient.
8. On June 20, 2014, Order No. 2 found SPS's application and notice to be sufficient and provided a procedural schedule for administrative approval.
9. TPWD submitted comments and recommendations in this docket on July 9, 2014.
10. No party requested to intervene in the docket by the July 7, 2014 intervention deadline.
11. On July 17, 2014, Commission Staff filed a recommendation on final disposition recommending administrative approval of SPS's CCN application and routing on Route 5 as proposed. Staff further recommended that SPS comply with the reporting requirements of P.U.C. SUBST. R. 25.83, and follow mitigation measures specified in Staff's recommendation

Notice

12. Notice of the application was mailed on May 19, 2014 to directly affected landowners, in addition to county and municipal officials and pipeline operators in the area.

13. One public open-house meeting was held for the project on November 19, 2013 in Wheeler, Texas. A total of 12 individuals signed in at the public meeting and one landowner submitted comments by email.
14. Notice of the application was published in the *Texas Register* on May 30, 2014.
15. SPS complied with the notice requirements of P.U.C. PROC. R. 22.52(a).

Project Description and Cost

16. The proposed 115-kV transmission line begins at the existing Wheeler County Substation located in Wheeler County, approximately 5.2 miles south-southeast of the city of Wheeler, and extends generally northeast until it reaches the proposed Coburn Creek Substation located along State Highway 152, approximately 7.5 miles east of the city of Wheeler. The proposed line was estimated to be approximately 10-12 miles in length depending upon the chosen route.
17. SPS filed nine alternate routes consisting of 36 segments. SPS identified proposed Route 5 as the route best addressing the requirements of PURA and the Commission's Substantive Rules. Proposed Route 5 is comprised of segments A-E-H-I-J-N-U-CC-FF-GG-HH-II as described in the application. The length of proposed Route 5 is approximately 10.9 miles.
18. The proposed transmission line will be built using primarily single-pole, steel structures.
19. The cost to construct proposed Route 5 is approximately \$6,151,683 and the cost for the substation facilities is approximately \$6,668,993. The total estimated cost of the project is approximately \$12,820,676. Proposed Route 5 is the third least expensive route proposed by SPS. The estimated cost of the proposed transmission line and substation facilities is reasonable when compared to the estimated cost of construction of the other proposed alternative routes for this project.

Need for the Project

20. SPS is a member of, and its entire transmission system is located within, the Southwest Power Pool (SPP). The SPP is a regional transmission organization approved by the Federal Energy Regulatory Commission (FERC) that meets the requirements of PURA § 39.151 as an independent system operator.

21. SPS determined that increased distribution capacity is necessary in the Wheeler, Texas area. The proposed 115-kV transmission line is needed to provide a source for the new 28MVA Coburn Creek Substation. The new substation will address the distribution capacity need and allow SPS to meet the increased distribution demand in the area.
22. In the past two years, the SPS distribution planning group received approximately 30 new load requests totaling 14 MW. These new load requests are mainly comprised of large oil and gas equipment, ranging from 50 to 3500 horsepower, which would require additional voltage support at the 115-kV transmission voltage level to accommodate large motor starting and additional load. Currently, the Howard Substation distribution transformer is the only source serving the distribution load in that area and with the additional load requests, this distribution transformer will reach its maximum load capacity. Because the Howard Substation will reach maximum distribution capacity, SPS has reached the point of having to delay service for new load requests.
23. By the end of 2014, SPS expects an additional 5.5 MW of load to be added to the system. SPS has approved most of these requests contingent upon the construction of the new Coburn Creek Substation. The Coburn Creek Substation is needed to address new load requests that the Howard Substation will not be able to serve and provide the capacity for the large motor load starting. The Coburn Creek Substation will also serve as a second source in the area in the event Howard Substation trips, which would allow SPS to return service to its customers by serving them from the Coburn Creek Substation.
24. SPS conducted a load forecast study to project summer load from 2014 to 2024 for the Texas Panhandle portion of SPS's service territory. Based on that study, SPS distribution planning requested a system impact study be performed to explore the system impact of a new delivery point at the Coburn Creek Substation energized by a radial transmission line from the Wheeler County Substation. SPS anticipates serving a total of 9 MW of load at the Coburn Creek Substation, including 3.5 MW transferred from Howard Substation and 5.5 MW of new load expected in 2014. The SPS transmission planning group also conducted a power flow study of the impact of the new Docket No. 42388 load and provided its analysis in the Howard Load System Impact Study Report No.120807, DPA-

2012-June-201 dated October 8, 2012. This report reviewed the potential transmission system violations that would result from adding the 9 MW load at the Howard Substation and recommended the proposed Wheeler to Coburn Creek transmission line project as required to mitigate the thermal violation of the Bowers-Grapevine 115-kV line during a single contingency event that could occur during the loss of the Wheeler County Substation 230/115-kV, 250 MVA Transformer.

25. The new transmission line and substation will also increase reliability in the service territory by serving as backup in the event the Howard Substation fails. The proposed line will be a new 115-kV radial line from the Wheeler County Substation to the new Coburn Creek Substation to provide service to the new delivery point requested due to the fact that there is no other existing 115-kV substation source in that area.

Alternatives to the Project

30. SPS analyzed potential alternatives to the project, but determined the proposed line to be the only potentially viable alternative. A new substation in this part of the service territory is needed, which requires a new transmission line to energize the substation facility. Building additional distribution facilities could not meet the requirements to serve future loads or improve system reliability without another source into the service territory. Due to the distance of the Howard Substation to the load center, the addition of a transformer or bundling of conductors could not remedy the reliability issues. SPS did not consider adding generation as an alternative because more generation would not address the lack of distribution capacity and the need for the Coburn Creek Substation. SPS also did not consider this alternative due to its prohibitive capital cost relative to the proposed project.
31. SPS demonstrated the need for the proposed project in order to address additional load and to ensure reliable service. The need for the proposed project was not disputed in this docket. The proposed project is the most reasonable option to address the need.

Routes

26. SPS proposed nine alternative routes in the application.

27. SPS considered and submitted a sufficient number of geographically diverse routes for the proposed transmission line.
28. An environmental assessment was completed by Power Engineers, Inc.
29. Route 5 complies with all aspects of PURA § 37.056 and P.U.C. SUBST. R. 25.101 and is the best alternative weighing the factors contained therein.

Community Values

30. Pursuant to P.U.C. PROC. R. 22.52(a)(4), SPS and Power Engineers, Inc. conducted an open-house meeting at which the proposed project was discussed. The meeting was conducted on November 19, 2013 at the Wheeler County Ag & Family Life Center, 7939 US Hwy 83 in Wheeler, Texas.
31. Information received from the public open-house meetings and from local, state, and federal agencies was considered and incorporated into both Power's routing analysis and SPS's selection of alternative routes.
32. There are no habitable structures located within 300 feet of the proposed transmission line.
33. There are no known AM radio towers within 10,000 feet of the proposed transmission line.
34. There is one electronic communication tower located within 2,000 feet of the transmission line.
35. One FAA registered airport with a runway over 3,200 feet was identified within 20,000 feet of the proposed route.
36. No FAA registered airports with a runway under 3,200 feet were identified within 10,000 feet of the proposed route.
37. No heliports were identified within 5,000 feet of the proposed route or private airstrips within 10,000 feet of the proposed route.

Park and Recreational Areas

38. No parks or recreational areas were identified as being located within 1,000 feet of the proposed route.

Historical Values

39. No-eligible historical or archeological sites were identified as being located within 1,000 feet of the proposed route.
40. Route 5 does not cross any previously recorded historical or archeological sites, and there are no such sites within 1,000 feet of the route.

Aesthetic Values

41. The aesthetic impacts of the proposed transmission line have been considered and minimized to the extent possible.
42. The proposed project will have minimal impact on aesthetic values.

Environmental Impacts

43. The route for the proposed project is not anticipated to have a significant impact to the natural resources of the area.
44. Construction of the proposed transmission line will not have a significant effect on the geologic or physiographic features of the area.
45. The proposed transmission line will not have a long-term impact on soils. SPS will inspect the right-of-way (ROW) during and after construction to identify erosion areas and will take special precautions to minimize vehicular traffic over areas with very shallow soils. SPS will also exercise special care when clearing near waterways.
46. The proposed transmission line will have minimal impact on prime farmland and will be limited to the physical occupation of small areas at the base of support structures.
47. The construction of the proposed transmission line should have little to no impact on surface water.
48. Route 5 will cross 16 streams and will have .04 mile of ROW across open water. SPS will span the streams and open water where possible. Lines that cross or are located near

- streams and open water will have line markers installed at the crossings or closest points to the streams or playa lakes.
49. There are no 100-year floodplain maps available for Wheeler County. Careful siting should minimize the possible impacts and the structures should not significantly affect flooding. SPS will coordinate with the appropriate floodplain administrators for Wheeler County as necessary.
 50. Construction of the proposed transmission line and substation should have no significant impact on the groundwater resources of the area.
 51. The main impact of the transmission line on vegetation will be the removal of woody vegetation along the proposed ROW. When clearing vegetation, SPS will retain native ground cover, where possible, to minimize impacts to local vegetation and will re-seed as required by this Order.
 52. The transmission line will have no significant impact on aquatic/hydric habitat.
 53. The transmission line will have no significant impact on local wildlife.
 54. No plants currently listed as threatened or endangered by United States Fish and Wildlife Service (USFWS) and TPWD are known to occur along the proposed transmission line routes or on substation sites. No impacts to any federally or state-protected plant species are expected to result from this project.
 55. No significant impacts to unique, sensitive, or protected wildlife habitats are anticipated.
 56. No impacts to federal or state-listed threatened or endangered species are anticipated. SPS will consult with USFWS should any federally listed species be observed during construction.
 57. No impacts are expected to non-listed sensitive species that may occur in the study area. SPS will consult USFWS or TPWD for any required surveys.
 58. SPS has conducted reasonable evaluation of potential environmental impacts of the proposed transmission line in the impacted area.

Prudent Avoidance

59. The proposed transmission line has been routed in accordance with the Commission's policy of prudent avoidance. There are no habitable structures within 300 feet of the centerline of Route 5.

Coastal Management Program

60. The proposed transmission line is not located within the inland boundary of the Coastal Management Program.

Engineering Constraints

61. For purposes of this Notice of Approval, an "engineering constraint" shall be construed as any physical condition or physical obstacle to construction along the Commission-approved route that would be impossible, unsafe, or unreasonably cost-prohibitive to overcome with design and construction solutions alone.
62. Using the best information available to it without access to the subject properties, SPS has not identified any engineering constraints along the approved route that cannot be resolved with additional consideration during the design and construction phase of the proposed transmission line project.

TPWD Written Comments and Recommendations

63. TPWD reviewed the EA for the proposed project and filed a letter in this docket on July 9, 2014 with comments and recommendations.
64. In the letter, TFWD provided mitigation recommendations to minimize impacts to state listed and federally-listed animal species. SPS has committed to comply with all environmental laws and regulations independent of any language included by the Commission in an Order.
65. In addition to obtaining a CCN from the Commission, SPS may need additional permits, and may be required to make additional notification in order to construct the project.
66. After a transmission line route has been selected and approved by the Commission, qualified individuals will, if necessary, conduct a field assessment of the entire length of the project to identify water resources, cultural resources, potential migratory bird issues,

and threatened or endangered species habitat that may be impacted as a result of the project. As a result of these assessments, SPS will identify additional permits that are necessary, will consult any required agencies, will obtain all necessary environmental permits, and will comply with the relevant permit conditions during construction and operation of the transmission line.

67. It is appropriate that SPS will utilize permitted biological monitors to ensure compliance with the Endangered Species Act.
68. SPS will implement construction practices that are sufficient to avoid the need for additional permitted biological monitors during clearing and construction activities for state-listed species.
69. It is proper that SPS undertake measures necessary to comply with the Migratory Bird Treaty Act.
70. The standard mitigation requirements included in the ordering paragraphs in this Order, coupled with SPS's construction and mitigation practices are reasonable measures for SPS to undertake when constructing a transmission line.
71. It is appropriate that SPS use best management practices to minimize the potential impact to migratory birds and threatened or endangered species.
72. To the extent Lesser Prairie Chicken habitat is in the immediate proximity of the route, SPS shall implement TPWD and USFWS approved measures for avoiding and minimizing habitat loss and fragmentation, collision and other direct and indirect sources of mortality and disturbance of breeding, nesting, and brood rearing activities.
73. This Notice of Approval addresses only those TPWD recommendations and comments for which there is record evidence.

Informal Disposition

74. At least 15 days have passed since the completion of all notice requirements.
75. No party intervened by the July 7, 2014 deadline.
76. No party requested a hearing on the CCN application.
77. Commission Staff recommended this application for administrative approval.

II. Legal Conclusions

1. SPS is an electric utility as defined in PURA §§ 11.004 and 31.002(6) of the Public Utility Regulatory Act, TEX. UTIL. CODE ANN. §§ 11.001 - 66.016 (Vernon 2007 & Supp. 2013) (PURA).
2. SPS is not a participant in the retail competition market under PURA, Chapter 39, Subchapter I.
3. The Commission has jurisdiction over this matter pursuant to PURA §§ 14.001, 32.001, 37.051, 37.053, 37.054, and 37.056.
4. Notice of the application was provided in compliance with PURA § 37.054 and P.U.C. PROC. R. 22.52(a).
5. This docket was processed in accordance with the requirements of PURA and Administrative Procedure Act, TEX GOV'T CODE ANN. Chapter 2001 (Vernon 2008 & Supp. 2013) and Commission rules.
6. SPS is entitled to approval of the application described in the findings of fact, having demonstrated that the proposed transmission line facilities are necessary for the service, accommodation, convenience, and safety of the public within the meaning of PURA § 37.056(a), taking into consideration the factors set out in PURA § 37.056(a), taking into consideration the factors set out in PURA § 37.056(c).
7. SPS's proposed project complies with PURA § 37.056 and P.U.C. SUBST. R. 25.101, as well as the Commission's policy of prudent avoidance.
8. This application does not constitute a major rate proceeding as defined by P.U.C. PROC. R. 22.2.
9. The requirements for administrative approval pursuant to P.U.C. SUBST. R. 25.101(b)(3)(C) have been met in this proceeding.
10. The requirements for informal disposition under P.U.C. PROC. R. 22.35 have been met in this proceeding.

III. Ordering Paragraphs

In accordance with these statements of fact and legal conclusions, the Commission issues the following order:

1. SPS's application is approved for construction of approximately 10.9 miles of new 115-kv transmission line in Wheeler County, Texas. SPS will use Route 5 comprised of segments A-E-H-I-J-N-U-CC-FF-GG-HH-II, as described in the application.
2. SPS's CCN No. 30153 is amended to include the construction and operation of the transmission line facilities requested in the application.
3. SPS shall comply with the following measures to mitigate construction impacts:
 - (a) In the event SPS or its contractors encounter any archaeological artifacts or other cultural resources during project construction, work shall cease immediately in the vicinity of the resource and the discovery shall be reported to the Texas Historical Commission (THC). SPS shall take action as directed by the THC.
 - (b) SPS shall follow the procedures described in the following publications for protecting raptors: *Suggested Practices for Avian Protection on Power Lines: The State of the Art in 2006*, Avian Power Line Interaction Committee (APLIC), 2006; the *Avian Protection Plan Guidelines* published by APLIC in April 2005; and *Reducing Avian Collisions with Power Lines: The State of the Art in 2012*, published by APLIC in October 2012.
 - (c) SPS shall exercise extreme care to avoid affecting non-targeted vegetation or animal life when using chemical herbicides to control vegetation within the right-of-way (ROW), and shall ensure that such herbicide use complies with the rules and guidelines established in the Federal Insecticide, Fungicide and Rodenticide Act and with the Texas Department of Agriculture regulations.
 - (d) SPS shall minimize the amount of flora and fauna disturbed during construction of the transmission line, except to the extent necessary to establish appropriate ROW clearance for the transmission line. In addition, SPS shall re-vegetate using native species and shall consider landowner preferences in doing so. Furthermore, to the maximum extent practicable, SPS shall avoid adverse

environmental impacts to sensitive plant and animal species and their habitats as identified by TPWD and the United States Fish and Wildlife Service (USFWS).

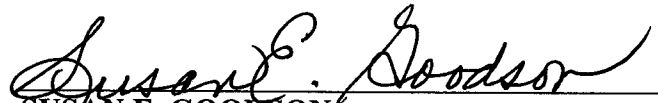
- (e) SPS shall implement erosion control measures as appropriate. Also, SPS shall return each affected landowner's property to its original contours and grades unless otherwise agreed to by the landowner or landowners' representatives. SPS shall not be required to restore original contours and grades where a different contour or grade is necessary to ensure the safety or stability of the project's structures or the safe operation and maintenance of the line.
- (f) SPS shall use best management practices to minimize the potential impact to migratory birds and threatened or endangered species.
- (g) SPS shall cooperate with directly affected landowners to implement minor deviations in the approved route to minimize the impact of the proposed transmission line. Any minor deviations to the approved route shall directly affect only landowners who were sent notice of the transmission line in accordance with P.U.C. PROC. R. 22.52(a)(3) and shall directly affect only those landowners that have agreed to the minor deviation, excluding public right-of-ways. SPS may make minor deviations to the constructed location of the line to safely and reasonably accommodate engineering constraints, but only to the minimum extent necessary. Minor deviations that are caused by engineering constraints do not require landowner consent. Minor deviations that are not caused by engineering constraints shall directly affect only those landowners that have agreed to the minor deviation.
- (h) SPS shall be permitted to deviate from the approved route in any instance in which the deviation would be more than the minor deviation, but only if the following two conditions are met. First, SPS shall receive consent from all landowners who would be affected by the deviation regardless of whether the affected landowner received notice of or participated in this proceeding. Second, the deviation shall result in a reasonably direct path towards the terminus of the line and not cause an unreasonable increase in cost or delay the project. Unless these two conditions are met, this paragraph does not authorize SPS to deviate

from the approved route except as allowed by the other ordering paragraphs in this Notice of Approval

4. SPS shall comply with the reporting requirements of P.U.C. SUBST. R. 25.83.
5. All other motions, requests for entry of specific findings of fact and conclusions of law, and any other requests for general or specific relief, if not expressly granted herein, are denied.

SIGNED AT AUSTIN, TEXAS the 1ST day of August 2014.

PUBLIC UTILITY COMMISSION OF TEXAS



SUSAN E. GOODSON
ADMINISTRATIVE LAW JUDGE