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PUBLIC UTILITY COMMISSION
FILING CLERK

OPEN MEETING COVER SHEET

Revised Proposed Order

MEETING DATE:	May 23, 2019
DATE DELIVERED:	May 16, 2019
AGENDA ITEM NO.:	10
CAPTION:	Docket No. 48787; SOAH Docket No. 473-19-1266 - Application of LCRA Transmission Services Corporation and AEP Texas Inc. to Amend their Certificates of Convenience and Necessity for the Proposed Bakersfield to Solstice 345-kV Transmission Line in Pecos County
DESCRIPTION:	Revised Proposed Order and Memorandum

Distribution List:
- Commissioners' Offices (6)
- Central Records (Open Meeting Notebook)
- Pemberton, Margaret (5)
- Journeay, Stephen
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- Burch, Chris
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- Wharton, Laurie

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DeAnn T. Walker
Chairman

Arthur C. D'Andrea
Commissioner

Shelly Botkin
Commissioner

John Paul Urban
Executive Director

Public Utility Commission of Texas

Greg Abbott
Governor

TO: DeAnn T. Walker, Chairman
Arthur C. D'Andrea, Commissioner
Shelly Botkin, Commissioner

All Parties of Record

FROM: Office of Policy & Docket Management

RE: **Open Meeting of May 23, 2019**
PUC Docket No. 48787
SOAH Docket No. 473-19-1266 – *Application of LCRA Transmission Services Corporation and AEP Texas Inc. to Amend their Certificates of Convenience and Necessity for the Proposed Bakersfield to Solstice 345-kV Transmission Line in Pecos County*

DATE: May 16, 2019

Enclosed is a copy of the Revised Proposed Order in the above-referenced docket. The Commission will consider this docket at an open meeting presently scheduled to begin at 9:30 a.m. on Thursday, May 23, 2019, at the Commission's offices, 1701 North Congress Avenue, Austin, Texas.

On May 1, 2019, LCRA Transmission Services Corporation filed its recommended modifications to the proposed order. On May 15, 2019, Commission Staff filed its corrections to the proposed order.

The Revised Proposed Order addresses the proposed corrections.

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

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

REVISED PROPOSED ORDER

This Order addresses the application of LCRA Transmission Services Corporation and AEP Texas Inc. to amend their certificates of convenience and necessity (CCN) to construct, own, and operate the Bakersfield-to-Solstice 345-kilovolt (kV) transmission line in Pecos County. This docket was severed from Docket No. 48785,[1] the docket in which this proceeding was previously consolidated, and remanded to the Commission. There is a unanimous agreement resolving certain issues among the parties to this proceeding. The Commission amends LCRA's CCN number 30110 and AEP Texas' CCN number 30170 as provided by this Order.

I. Findings of Fact

The Commission makes the following findings of fact.

1. Applicants

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

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

3. LCRA provides electric service under CCN number 30110.

4. AEP Texas provides electric service under CCN number 30170.

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

2. *Application*

5. On November 7, 2018, LCRA and AEP Texas filed a joint application to amend their CCNs for authority to construct, own, and operate the proposed transmission line in Pecos County. The application was assigned Docket No. 48787.

6. LCRA and AEP Texas 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 SOAH Order No. 2 issued on December 10, 2018, the State Office of Administrative Hearings (SOAH) administrative law judges (ALJs) deemed LCRA and AEP Texas' notice of the application sufficient and established a procedural schedule.

3. *Description of Proposed Transmission Line*

8. The proposed transmission line is a double-circuit 345-kV transmission line connecting LCRA's Bakersfield substation, as expanded, and AEP Texas' Solstice switching substation, as expanded. LCRA owns and operates the Bakersfield substation and will own the eastern half of the transmission line, and AEP Texas owns and operates the Solstice switching substation and will own the western half of the transmission line.

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

10. AEP Texas will expand the existing 138-kV Solstice switching station with the construction of a new 345-kV substation yard adjacent to the existing 138-kV Solstice switching substation as the western termination of the Bakersfield-to-Solstice transmission line.

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

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

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

14. On route 24, the point of interconnection between the LCRA and AEP Texas facilities will be at a dead-end structure owned by AEP Texas on segment M. The point of interconnection on route 24 will be located approximately 14.4 miles north of Interstate 10 and 2200 feet west of Farm-to-Market 1053.

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

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

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

18. LCRA and AEP Texas propose to use a combination of debt and equity to fund the project.

4. Public Input

19. On November 7, 2018, LCRA and AEP Texas mailed notice of the public meeting to landowners who own property located within 500 feet of the centerlines of the preliminary routing links. Notices were mailed to 1,440 landowners and entities for the public meeting. LCRA and AEP Texas obtained the property owners' names and addresses for the property traversed by the preliminary routing links from the tax rolls in the Pecos County Appraisal

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

District tax data. This notice included a map of the study area depicting the preliminary route segments and a frequently asked questions document. An example of the notice mailed to landowners and a copy of the attachments are located in appendix B of the environmental assessment.

20. Notices of the public meeting were mailed to local officials, other interested parties, and the U.S. Department of Defense Siting Clearinghouse. This notice included a map of the study area depicting the preliminary route segments and a frequently asked questions document.

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

5. Notice of Application

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

23. On November 7, 2018, LCRA and AEP Texas mailed notice of the application by first-class mail to owners of land directly affected (land for which an easement or other property interest would be obtained over all or any portion of it or containing a habitable structure within 500 feet of the centerline of any proposed transmission line) by the construction of the Bakersfield-to-Solstice transmission facilities, as listed on the current county tax rolls in Pecos County. The notice included a map and a written description of the routing options, the Commission brochure entitled *Landowners and Transmission Line Cases at the PUC*, and forms for submitting comments or a request to intervene.

24. On November 7, 2018, LCRA and AEP Texas mailed notice of the application, including a map and written description of the routing options, by first-class mail to all electric utilities providing the same utility service within five miles of the proposed transmission

facilities, to the county judge and county commissioners of Pecos County, and to the mayors of the cities within five miles of the proposed transmission facilities.

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

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

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

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

29. On November 28, 2018, LCRA and AEP Texas filed the affidavit of Ms. Sonya Strambler, an employee of LCRA, attesting that LCRA and AEP Texas had provided notice of the application as described in finding of fact numbers 23 to 27.

30. On December 6, 2018, LCRA and AEP Texas filed the affidavit of Ms. Sonya Strambler, an employee of LCRA, attesting that an additional landowner was mailed notice by next-day air, with delivery occurring on December 5, 2018, and that LCRA's and AEP Texas' representatives had some formal contact concerning the proceeding with landowners, other than the notice of application.

31. Notice of the application was published on December 21, 2018 in volume 43 of the *Texas Register* at page 8502.

32. In SOAH Order No. 2 issued on December 10, 2018, the SOAH ALJs deemed LCRA and AEP Texas' notice of the application sufficient and established a procedural schedule.

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

6. Intervenors

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

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

36. In SOAH Order No. 4 issued on January 24, 2019, the SOAH ALJs stated that the intervenors who did not file either direct testimony or a statement of position by the deadline of January 10, 2019, could be removed as parties to this docket and set a February 1, 2019 deadline for any comment or hearing request on this issue.

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

7. Alignment of Intervenors

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

8. Route Adequacy

39. LCRA and AEP Texas' application presented 25 routes utilizing a combination of 82 routing links.

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

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

9. Pre-filed Testimony

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

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

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

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

10. Referral to SOAH for Hearing

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

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

48. In SOAH Order No. 1 issued on November 15, 2018, the SOAH ALJs ruled that the Commission has jurisdiction over the application and that SOAH has jurisdiction over all

matters related to the hearing on the application. The SOAH ALJs also provided notice of a prehearing conference and established the intervention deadline.

49. On the joint motion of LCRA and AEP Texas, SOAH Order No. 1 also consolidated this docket into Docket No. 48785, a joint application to amend CCNs filed by Oncor and AEP Texas for the proposed Sand Lake-to-Solstice transmission line, a transmission line having the same Solstice point of interconnection.

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

51. On December 19, 2018, Commission Staff requested a hearing on the merits.

52. In SOAH Order No. 6 issued on February 8, 2019, the SOAH ALJs admitted the testimony of Mr. Kawakami supporting the need for the Bakersfield-to-Solstice transmission facilities.

53. On February 19, 2019, the hearing on the merits concerning routing of the Bakersfield-to-Solstice transmission line was held, at which exhibits were offered by the parties and admitted by the ALJs as follows: (a) the joint application of LCRA and AEP Texas to amend their CCNs for the Bakersfield-to-Solstice 345-kV Transmission Line in Pecos County, Texas and all attachments including the direct testimonies of Sonya Strambler (Miranda), Brent Harris, Lisa Meaux, and Curtis Symank filed on November 7, 2018; (b) LCRA and AEP Texas' mailer's affidavit of notice, filed on November 28, 2018, as supplemented on December 6, 2018, and January 15, 2019; (c) LCRA and AEP Texas' publisher's affidavit of notice, filed on November 28, 2018; (d) the settlement testimony of Sonya Miranda in support of the route stipulation filed on February 19, 2019; (e) the unanimous route agreement and its attachments, including the proposed route findings of fact, conclusions of law, and proposed ordering provisions filed on February 20, 2019; (f) the unanimous agreement and its attachments, including the proposed need findings of fact, conclusions of law, and proposed ordering provisions filed on February 19, 2019; (g) the direct testimony of Blake P. Ianni on behalf of Commission

Staff filed on January 30, 2019; (h) the direct testimony of Albert Mendoza regarding the Bakersfield-to-Solstice portion (routing phase) on behalf of Oxy filed on January 10, 2019; (i) the direct testimony of Molly McComb Smithfield on behalf of MMSmithfield filed on January 10, 2019; (j) the direct testimony of Margaret Czar on behalf of Pettus Czar Ltd. filed on January 10, 2019; (k) the direct testimony of Mark Turnbough on behalf of MMSmithfield and Pettus Czar Ltd. filed on January 10, 2019; and (l) the direct testimony of Gale and Dorothy Smith filed on January 9, 2019. After the introduction of evidence, LCRA and AEP Texas made an oral motion on the record, jointly requesting that the application be severed and remanded to the Commission.

54. In SOAH Order No. 10 issued on February 22, 2019, the SOAH ALJs severed the CCN application and supporting documentation for the Bakersfield-to-Solstice transmission facilities from consolidated Docket No. 48785, returning the Bakersfield-to-Solstice proceeding to its original Docket No. 48787 and remanding the application to the Commission to consider in light of the parties' agreement.

11. Description of the Settlement Route

55. In the settlement agreement, the parties agreed to route 24 for the proposed Bakersfield-to-Solstice transmission line.

56. Route 24 consists of the following routing links described in the application and the notice of the application: A, C, D, E, F, M, R, W, X, and Y.

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

58. Route 24 is 71.1 miles in length.

12. Adequacy of Existing Service and Need for Additional Service

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

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

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

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

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

64. In February 2018, Oncor submitted a suite of projects known as the Far West Texas Project 2 to the ERCOT Regional Planning Group.

65. ERCOT conducted an independent review of the Far West Texas Project 2, found multiple reliability violations under NERC Reliability Standard TPL-001-4, and conducted detailed analyses of three short-listed options. In June 2018, ERCOT's Board of Directors endorsed construction of, among other things, a variation of the proposed Far West Texas Project 2 to include the Sand Lake-to-Solstice double-circuit 345-kV line, expansion of the Sand Lake Switch, and a second circuit on the Bakersfield-to-Solstice line. ERCOT's Board of Directors endorsed these circuits as tier-1 transmission projects needed to support the reliability of the ERCOT transmission system. Further, ERCOT's Board of Directors

endorsed the proposed transmission facilities as critical to the reliability of the ERCOT transmission system in accordance with 16 TAC § 25.101(b)(3)(D).

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

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

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

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

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

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

71. LCRA and AEP Texas are the only electric utilities involved in the construction of the proposed transmission facility.

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

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

14. Estimated Costs

74. The estimated cost for the 25 application routes range from $148.9 million to $192.5 million. The estimated cost of route 24 is $156 million.

75. Route 24 is the fourth least expensive route of the 25 application routes. The cost of the route is reasonable considering the range of the cost estimates for the routes.

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

77. The estimated cost of the required expansion of the AEP Texas Solstice switching station is $38.5 million.

15. Prudent Avoidance

78. 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."

79. There are five habitable structures within 500 feet of the centerline of route 24.

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

16. Community Values

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

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

83. A review of the landowner questionnaires from the public meeting indicated that the factors with the most importance regarding routing of the proposed transmission line project include maintaining reliable electric service (30%), maximizing the distance from residences (22%), and paralleling other existing utility right-of-way (9%).

84. Route 24 will not adversely affect community values.

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

85. Route 24 is adjacent and parallel to existing transmission lines, other existing rights-of-way, and apparent property lines for 86% of its length (the highest percentage of paralleling among the routes).

86. Route 24 uses or parallels existing compatible corridors and apparent property lines to a reasonable extent.

18. Engineering Constraints

87. No known engineering constraints have been identified in the application that would prevent construction of the proposed transmission line along route 24.

19. Other Comparisons of Land Uses and Land Types

a. Radio Towers and Other Electronic Installations

88. No AM radio transmitters were identified within 10,000 feet of the centerline of route 24.

89. Route 24 is within 2,000 feet of two microwave or other electronic communication towers.

b. *Airstrips and Airports*

90. There are no airports registered with the Federal Aviation Administration that have runways more than 3,200 feet in length within 20,000 feet of the centerline of route 24.

91. There are no airports registered with the Federal Aviation Administration that have runways less than 3,200 feet in length within 10,000 feet of the centerline of route 24.

92. There are no heliports located within 5,000 feet of the centerline of route 24.

93. There are no private airstrips located within 10,000 feet of the centerline of route 24.

94. There are no significant consequences for any airports, airstrips, or heliports anticipated from construction of the proposed transmission line.

c. *Irrigation Systems*

95. Route 24 does not traverse any pasture or cropland irrigated by traveling irrigation systems.

d. Other Route Attributes

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

20. Recreational and Park Areas

97. There are no parks or recreational areas crossed by route 24 and there are no parks or recreational areas located within 1,000 feet of the centerline.

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

21. Historical and Archaeological Values

99. Route 24 crosses two previously recorded cultural resource sites and comes within 1,000 feet of two additional recorded cultural resource sites.

100. Route 24 crosses 15.3 miles of areas of high potential for archeological sites.

22. Aesthetic Values

101. Route 24 is not located within the foreground-visual zone of any parks or recreational areas.

102. There are four miles of route 24 within the foreground-visual zone of interstate, U.S., or state highways.

103. There are 12.6 miles of route 24 located within the foreground-visual zone of farm-to-market roads.

104. Route 24 will not significantly alter the aesthetic quality of the landscape.

23. Environmental Integrity

105. The study area traversed by route 24 is primarily rural and is predominately rangeland and pastureland. The study area lies primarily within the High Plains, the Edwards Plateau, and the Basin and Range Physiographic Provinces.

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

107. LCRA, AEP Texas, and POWER Engineers evaluated the potential burdens of the proposed transmission line on endangered and threatened species.

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

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

110. LCRA and AEP Texas do not anticipate significant adverse consequences for populations of any federally listed endangered or threatened species.

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

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

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

114. It is appropriate that LCRA and AEP Texas avoid causing, to the maximum extent possible, adverse environmental burdens 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.

115. It is appropriate that LCRA and AEP Texas implement erosion control measures and return each affected landowner's property to its original contours unless otherwise agreed to by the landowners. It is appropriate that LCRA and AEP Texas not be required to restore original contours and grades where different contours or grades are necessary to ensure the

safety or stability of the proposed transmission line's structures or the safe operation and maintenance of the transmission line.

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

117. It is appropriate that LCRA and AEP Texas use best management practices to minimize the potential burdens on migratory birds and threatened or endangered species.

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

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

119. The Texas Parks and Wildlife Department identified route 24 as the route having the least potential to impinge on fish and wildlife resources.

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

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

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

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

25. Permits

124. LCRA and AEP Texas state that they will obtain a permit from Texas Department of Transportation for instances where the proposed transmission line crosses a state-maintained road or highway or if any portion of the transmission line will be accessed from a state-maintained road or highway.

125. LCRA and AEP Texas state that they will obtain a miscellaneous easement from the General Land Office if the transmission line crosses a state-owned riverbed or navigable stream.

126. LCRA and AEP Texas state that because more than one acre will be disturbed during construction of the project LCRA and AEP Texas will prepare the necessary storm-water pollution-prevention plan and will field monitor the controls specified in the storm-water pollution-prevention plan. In addition, because more than five acres will be disturbed during construction of the project, LCRA and AEP will prepare a notice of intent for the Texas Commission on Environmental Quality.

127. LCRA and AEP Texas state that upon approval of the application and prior to construction, LCRA and AEP Texas will perform a detailed natural resources assessment and cultural resources assessment on the approved route. LCRA and AEP Texas will obtain, before construction, all permits or regulatory approvals from the U.S. 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 Pecos County that are required by the results of these assessments.

128. LCRA and AEP Texas state that after designing and engineering the alignments, structure locations, and structure heights, LCRA and AEP Texas will make a determination of the need for Federal Aviation Administration notification, based on the final structure locations and designs. If necessary, LCRA and AEP Texas will use lower-than-typical structure heights, line marking, or line lighting on certain structures to avoid or accommodate Federal Aviation Administration requirements.

26. Coastal Management Program

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

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

27. Effect on the State's Renewable Energy Goal

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

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

28. Limitation of Authority

133. 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.

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

29. Informal Disposition

135. More than 15 days have passed since the completion of notice provided in this docket.

136. All intervenors have withdrawn their opposition to the application and requests for a hearing.

137. No hearing is needed.

138. Commission Staff recommended approval of the application.

139. This decision is not adverse to any party.

II. Conclusions of Law

The Commission makes the following conclusions of law.

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

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

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

4. PURA § 37.0541 required the consolidation of this proceeding (the application to amend LCRA's and AEP Texas' CCNs for construction of the Bakersfield-to-Solstice transmission line) with a separate proceeding (the application in Docket No. 48785 to amend Oncor's and AEP Texas' CCNs for construction of the Sand Lake-to-Solstice transmission line) because the two lines share a common point of intersection.

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

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

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

8. Under 16 TAC § 22.52(a)(3)(D) LCRA and AEP Texas were required to file proof of notice of the application on November 27, 2018. Based on the facts of this proceeding, under 16 TAC § 22.5(b), there is good cause to grant an exception to 16 TAC § 22.52(a)(3)(D) that requires proof of notice of the application to landowners to be filed no later than 20 days after the filing of the application.

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

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

11. This docket was processed in accordance with the requirements of PURA, the Administrative Procedure Act,[3] and Commission rules.

12. The proposed transmission line using route 24 is necessary for the service, accommodation, convenience or safety of the public within the meaning of PURA § 37.056(a).

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

14. The requirements for informal disposition under 16 TAC § 22.35 have been met in this proceeding.

III. Ordering Paragraphs

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

1. The Commission amends LCRA's CCN number 30110 to include the construction and operation of the transmission facilities requested along links A, C, D, E, and F, as well as 2,490 feet of the eastern portion of link M up to the tower structure to be owned by AEP Texas and labeled as the Bakersfield–Solstice terminus that will establish a new interconnection between LCRA and AEP Texas.

2. The Commission amends AEP Texas' CCN number 30170 to include the construction and operation of the transmission facilities requested along links R, W, X, and Y, as well as the western portion of link M up to and including the Bakersfield–Solstice terminus tower structure.

3. LCRA and AEP Texas must cooperate 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 natural gas pipelines that are paralleled by the proposed electric transmission facilities.

4. LCRA and AEP Texas must conduct surveys, if not already completed, to identify metallic pipelines that could be affected by the transmission line and cooperate with pipeline owners

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

in modeling and analyzing potential hazards because of alternating-current interference affecting metallic pipelines being paralleled.

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

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

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

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

9. LCRA and AEP Texas must minimize the amount of flora and fauna disturbed during construction of the transmission line, except to the extent necessary to establish appropriate right-of-way clearance for the transmission line. In addition, LCRA and AEP Texas must re-vegetate using native species and must consider landowner preferences and wildlife needs in doing so. Furthermore, to the maximum extent practical, LCRA and AEP Texas must avoid adverse environmental influence 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.

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

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

12. LCRA and AEP Texas must implement erosion control measures as appropriate. Erosion control measures may include inspection of the right-of-way before and during construction to identify erosion areas and implement special precautions as determined reasonable to minimize the burden of vehicular traffic over the areas. LCRA and AEP Texas must return each affected landowner's property to its original contours and grades unless otherwise agreed to by the landowner or the landowner's representative. LCRA and AEP Texas are not required to restore the original contours and grades where a different contour or grade is necessary to ensure the safety or stability of the project's structures or the safe operation and maintenance of the line.

13. LCRA and AEP Texas must cooperate with directly affected landowners to implement minor deviations from the approved route to minimize the burden of the transmission line. Any minor deviations from the approved route must only directly affect landowners who were sent notice of the transmission line in accordance with 16 TAC § 22.52(a)(3) and landowners that have agreed to the minor deviation.

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

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

16. LCRA and AEP Texas must identify any additional permits that are necessary, must consult any required agencies (such as the United States Army Corps of Engineers and United States Fish and Wildlife Service), must obtain all necessary environmental permits, and must comply with the relevant conditions during construction and operation of the proposed transmission facilities.

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

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

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

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

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

PUBLIC UTILITY COMMISSION OF TEXAS

_____
DEANN T. WALKER, CHAIRMAN

_____
ARTHUR C. D'ANDREA, COMMISSIONER

_____
SHELLY BOTKIN, COMMISSIONER

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