

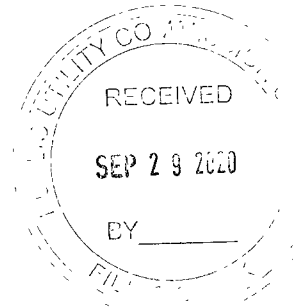


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**PUC DOCKET NO. 51023**  
**SOAH DOCKET NO. 473-21-0247**

**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** §  
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**PUBLIC UTILITY COMMISSION OF TEXAS**

**ORDER OF REFERRAL AND PRELIMINARY ORDER**

On July 22, 2020, The City of San Antonio, acting by and through the City Public Service Board (CPS Energy), filed an application with the Public Utility Commission of Texas to amend its certificate of convenience and necessity (CCN) for a 138-kilovolt (kV) transmission line in Bexar County, Texas.

The Commission refers this docket to the State Office of Administrative Hearings (SOAH) and requests the assignment of an administrative law judge (ALJ) to conduct a hearing and issue a proposal for decision, if such is necessary in the event one or more issues are contested by the parties. The Commission has delegated authority to Office of Policy and Docket Management to issue this Preliminary Order, which is required under Texas Government Code § 2003.049(e).

All subsequent pleadings in this docket must contain both the SOAH and PUC docket numbers to allow for efficient processing. Parties must make filings in accordance with 16 Texas Administrative Code (TAC) § 22.71(c) regarding the number of copies to be filed or 16 TAC § 22.71(d)(1)(C) regarding the number of confidential items to be provided. In addition, if any party has filed confidential material before referral of this matter to SOAH, that party must provide a copy of each such confidential filing to the SOAH ALJ assigned to this matter, if ordered.

**I. Procedural History**

The proposed project is designated as the Scenic Loop 138-kV Transmission Line Project. CPS Energy proposes to design and construct a new substation (the Scenic Loop substation) and

a double-circuit 138-kV transmission line connecting the new Scenic Loop substation to the electric grid from CPS Energy's existing Ranchtown-to-Menger Creek 138-kV transmission line. The total estimated cost for the project ranges from approximately \$24,846,018 to \$41,314,863 for the transmission facilities and \$9,774,880 to \$11,004,617 for the substation facilities, depending on the route selected. The proposed project is presented with 29 alternate routes ranging from approximately 4.6 miles to approximately 6.9 miles.

Any route presented in the application could, however, be approved by the Commission. Any combination of routes or route links could also be approved by the Commission.

The Electric Reliability Council of Texas, Inc. (ERCOT) Independent System Operator (ISO) has not deemed this transmission line as critical to the reliability of the ERCOT system.

CPS Energy provided notice at the time of filing to all cities and neighboring utilities within five miles of the requested facilities or territory, to county governments of all counties in which any portion of the requested facility or territory is located, and to directly affected landowners. The deadline for affidavits of notice was August 11, 2020, and the deadline for proof of publication was August 17, 2020. A number of local landowners requested protestant or intervenor status in the docket. Additionally, numerous motions to intervene are contested, which have not yet been ruled on. The deadline for intervention was September 7, 2020.

## **II. Deadline for Decision**

Under 16 TAC § 25.101(b), the Commission must render a decision approving or denying an application for a certificate within one year of the date of filing a complete application for such certificate. Therefore, a Commission decision must be issued by July 21, 2021.

## **III. Conditional Approval**

If the Commission determines that it should approve this application and grant the amendment to CPS Energy's CCN, the Commission will limit the authority granted in the order. The authority granted by the order will be limited to a period of seven years from the date the order is signed unless, before that time, the transmission line is commercially energized. It is reasonable, appropriate, and in the public interest for a CCN order not to be valid indefinitely because it is

issued based on the facts known at the time of issuance. The Commission may extend the seven-year time period if the applicant shows good cause. However, Issue 8 below under the issues to be addressed allows the parties to demonstrate that the circumstances of this line are such that the above condition should be changed (e.g., a longer period of time may be more appropriate).

#### **IV. Issues to be Addressed**

Under Texas Government Code § 2003.049(e), the Commission must provide to the ALJ a list of issues or areas to be addressed in any proceeding referred to the SOAH. The Commission identifies the following issues that must be addressed in this docket:

##### **Application**

1. Is CPS Energy's application to amend its CCN adequate? Does the application contain an adequate number of reasonably differentiated alternative routes to conduct a proper evaluation? In answering this question, consideration must be given to the number of proposed alternatives, the locations of the proposed transmission line, and any associated proposed facilities that influence the location of the line. Consideration may also be given to the facts and circumstances specific to the geographic area under consideration, and to any analysis and reasoned justification presented for a limited number of alternative routes.<sup>1</sup> A limited number of alternative routes is not in itself a sufficient basis for finding an application inadequate when the facts and circumstances or a reasoned justification demonstrates a reasonable basis for presenting a limited number of alternatives. If an adequate number of routes is not presented in the application, the ALJ must allow CPS Energy to amend the application and to provide proper notice to affected landowners; if CPS Energy chooses not to amend the application, the ALJ may dismiss the case without prejudice.

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<sup>1</sup> See *Application of Wood County Electric Cooperative, Inc. for a Certificate of Convenience and Necessity for a Proposed Transmission Line in Wood County, Texas*, Docket No. 32070, Order on Appeal of Order No. 8 at 6 (Nov. 1, 2006).

Need

2. Are the proposed facilities necessary for the service, accommodation, convenience, or safety of the public within the meaning of PURA<sup>2</sup> § 37.056(a) taking into account the factors set out in PURA § 37.056(c)? In addition,
  - a) How does the proposed facility support the reliability and adequacy of the interconnected transmission system?
  - b) Does the proposed facility facilitate robust wholesale competition?
  - c) What recommendation, if any, has an independent organization, as defined in PURA § 39.151, made regarding the proposed facility?
  - d) Is the proposed facility needed to interconnect a new transmission service customer?
3. Is the transmission project the better option to meet this need when compared to employing distribution facilities? If CPS Energy is not subject to the unbundling requirements of PURA § 39.051, is the project the better option to meet the need when compared to a combination of distributed generation and energy efficiency?

Route

4. Which proposed transmission line route is the best alternative weighing the factors set forth in PURA § 37.056(c) and 16 TAC § 25.101(b)(3)(B)?
5. Are there alternative routes or facilities configurations that would have a less negative impact on landowners? What would be the incremental cost of those routes?
6. If alternative routes or facility configurations are considered due to individual landowner preference:
  - a) Have the affected landowners made adequate contributions to offset any additional costs associated with the accommodations?

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<sup>2</sup> Public Utility Regulatory Act, Tex. Util. Code §§ 11.001–66.016.

- a) Have the accommodations to landowners diminished the electric efficiency of the line or reliability?

**Texas Parks and Wildlife Department**

7. On or after September 1, 2009, did the Texas Parks and Wildlife Department provide any recommendations or informational comments regarding this application in accordance with Section 12.0011(b) of the Texas Parks and Wildlife Code? If so, please address the following issues:
  - a) What modifications, if any, should be made to the proposed project as a result of any recommendations or comments?
  - b) What conditions or limitations, if any, should be included in the final order in this docket as a result of any recommendations or comments?
  - c) What other disposition, if any, should be made of any recommendations or comments?
  - d) If any recommendation or comment should not be incorporated in this project or the final order, or should not be acted upon, or is otherwise inappropriate or incorrect in light of the specific facts and circumstances presented by this application or the law applicable to contested cases, please explain why that is the case.

**Other Issues**

8. Are the circumstances for this line such that the seven-year limit discussed in section III of this Order should be changed?

This list of issues is not intended to be exhaustive. The parties and the ALJ are free to raise and address any issues relevant in this docket that they deem necessary, subject to any limitations imposed by the ALJ or by the Commission in future orders issued in this docket. The Commission reserves the right to identify and provide to the ALJ in the future any additional issues or areas that must be addressed, as permitted under Texas Government Code § 2003.049(e).

#### **V. Issue Not To Be Addressed**

The following issue should not be addressed in this proceeding for the reasons stated:

1. What is the appropriate compensation for right-of-way or condemnation of property?

The Commission does not have the authority to adjudicate or set the amount of compensation for rights-of-way or for condemnation.

#### **VI. Effect of Preliminary Order**

The Commission's discussion and conclusions in this Order regarding issues that are not to be addressed should be considered dispositive of those matters. Questions, if any, regarding issues that are not to be addressed may be certified to the Commission for clarification if the SOAH ALJ determines that such clarification is necessary. As to all other issues, this Order is preliminary in nature and is entered without prejudice to any party expressing views contrary to this Order before the SOAH ALJ at hearing. The SOAH ALJ, upon his or her own motion or upon motion of any party, may deviate from this Order when circumstances dictate that it is reasonable to do so. Any ruling by the SOAH ALJ that deviates from this Order may be appealed to the Commission. The Commission will not address whether this Order should be modified except upon its own motion or the appeal of a SOAH ALJ's order. Furthermore, this Order is not subject to motions for rehearing or reconsideration.

**SIGNED AT AUSTIN, TEXAS the 29th day of September 2020.**

**PUBLIC UTILITY COMMISSION OF TEXAS**

**Electronically signed by Stephen Journeay**  
**STEPHEN JOURNEAY**  
**COMMISSION COUNSEL**