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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 FOR THE PROPOSED SCENIC LOOP 138-KV TRANSMISSION LINE IN BEXAR COUNTY § BEFORE THE STATE OFFICE OF ADMINISTRATIVE HEARINGS

COMMISSION STAFF'S INITIAL BRIEF

Dated: May 21, 2021

Respectfully submitted,

PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION

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DATE: MAY 21, 2021

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COMMISSION STAFF’S INITIAL BRIEF

I. INTRODUCTION

The applicant, the City of San Antonio, acting by and through the City Public Service Board (CPS Energy), seeks to amend its certificate of convenience and necessity (CCN) for a proposed 138-kV transmission line in Bexar County, Texas. The proposed transmission line will connect the existing Ranchtown to Menger Creek 138-kV line to the proposed Scenic Loop Substation that will be located in one of several locations in the area of the intersection of Scenic Loop Road and Toutant Beauregard Road (the Project). The Project will be approximately 4.53 miles to 6.73 miles long, depending on the route selected.

The Staff (Staff) of the Public Utility Commission of Texas (Commission) supports the routing of the Project along what is designated as Route P (Substation Site 6, Segments 50, 15, 22, 25, 37, 38, and 43) in the Application.¹ As discussed below, it is Staff’s position that Route P best meets the criteria in PURA² § 37.056 and 16 Texas Administrative Code (TAC) § 25.101 when compared to all the proposed routes.

Staff’s witness, Mr. John Poole, recommended Route P as the route that best meets PURA and the Commission’s criteria.³ CPS Energy identified Route Z as the route it believes best meets

¹ Direct Testimony of John Poole, Staff Ex. 1 at 12:6-8.

² Public Utility Regulatory Act, Tex. Util. Code Ann. §§ 11.001–66.016 (PURA).

³ Staff Ex. 1 at 10:1-3.

PURA and the Commission's criteria.⁴ However, CPS Energy amended its application on December 22, 2020 and Route Z was functionally replaced by Route Z1.⁵ Texas Parks and Wildlife Department (TPWD) recommended Route DD.⁶

A total of 31 routes were originally proposed by CPS Energy and were included in the notice of the application.⁷ Eight additional routes were proposed by intervenors in this proceeding.⁸ Based on the information provided by CPS Energy, Staff considers all 39 proposed routes viable. It is Staff's position that, based on the route alternatives, Route P adequately balances the desire to select a route exhibiting reasonable quantitative criteria, while also exhibiting qualitative features consistent with the community values expressed by parties and residents.

PURA and the Commission's substantive rules list the requirements for approving an application for a CCN and for approving a route for a proposed transmission line, stating that "To approve an application to obtain or amend a CCN, the [Commission] must find that the proposed CCN is necessary for the service, accommodation, convenience, or safety of the public."⁹ In addition, the plain language of the Commission's rule grants the Commission authority to "consider and weigh a variety of factors—engineering constraints, costs, grid reliability, and security, along with the criteria in PURA section 37.056—in addition to use of existing rights-of-way in determining the most reasonable route for a transmission line."¹⁰ On being given authority to consider and weigh the various routing factors, "the [Commission] may in some cases be required to adjust or accommodate the competing policies and interests involved"¹¹ and "no one factor controls or is dispositive."¹²

⁴ *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 for the Proposed Scenic Loop 138-kV Transmission Line Project in Bexar County* (Application) CPS Energy Ex. 1, at 2 (July 22, 2020).

⁵ Rebuttal Testimony of Adam R. Marin on behalf of CPS Energy, CPS Energy Ex. 12 at 5 (April 7, 2021).

⁶ Letter from TPWD to Rachelle Robles dated February 18, 2021, Bexar Ranch Ex. 10 at 2 (Feb 18, 2021).

⁷ Staff Ex. 1 at 17:3-15.

⁸ *Id.*

⁹ *Dunn v Pub Util Comm'n of Tex.*, 246 S.W.3d 788, 791 (Tex. App.—Austin 2008, no pet.).

¹⁰ *Id.* at 795.

¹¹ *Pub Util Comm'n of Tex v. Texland Elec. Co.*, 701 S.W.2d 261, 266 (Tex. App.—Austin 1985).

¹² *Dunn*, 246 S.W.3d at 795.

A. Route P exhibits positive quantitative features.

Staff supports Route P because it exhibits certain positive quantitative features. While these quantitative features are discussed in greater detail in Section III (Evaluation of Proposed Routes) below, the quantitative criteria that most favor Route P are the following:

- Route P is the 14th least costly of the 39 alternative routes.¹³
- Route P is tied for the 4th fewest habitable structures with 300 feet of the centerline of the 39 alternative routes.¹⁴
- Route P is the 9th shortest route of the 39 alternative routes.¹⁵

B. Route P exhibits positive qualitative features.

Staff supports Route P because it performs well with regard to “community values”—a broadly construed term that “is properly interpreted as a shared appreciation of an area or other natural or human resource by members of a national, regional, or local community.”¹⁶ Moreover, “community values may include landowner concerns and opposition.”¹⁷

Staff Witness Poole considered the feedback provided by landowners at the public meeting held by CPS Energy.¹⁸ Mr. Poole also considered impacts to recreational and park areas, historical values, aesthetic values, environmental integrity, engineering constraints, costs, and moderation of impact on the affected community and landowners.¹⁹

¹³ CPS Energy Ex. 17 at Estimated Costs.

¹⁴ *Id.* at Evaluation Criteria 2.

¹⁵ *Id.* at Evaluation Criteria 1.

¹⁶ *Application of LCRA Transmission Services Corporation to Amend its Certificate of Convenience and Necessity (CCN) for a 138-kV Transmission Line in Kerr County*, Docket No. 33844, Finding of Fact No. 65 (Mar. 4, 2008).

¹⁷ *Application of LCRA Transmission Services Corporation to Amend its Certificate of Convenience and Necessity for the Gillespie to Newton 345-kV CREZ Transmission Line in Gillespie, Llano, San Saba, Burnet, and Lampasas Counties, Texas*, Docket No. 37448, Proposal for Decision at 14 (Mar. 18, 2010).

¹⁸ Staff Ex. 1 at 22:4-24:12.

¹⁹ *Id.* at 25:6-30:3.

Consideration of these factors supports the selection of Route P. Staff will further discuss these and other criteria in Section III below and will respond to the specific questions set out in the Order of Referral and Preliminary Order in Section IV.²⁰

II. JURISDICTION AND NOTICE

The Commission has jurisdiction over this matter under PURA §§ 32.001, 37.053, 37.056, 37.057, and 16 TAC § 25.101. The State Office of Administrative Hearings (SOAH) has jurisdiction over this proceeding under Tex. Gov't Code § 2003.049 and PURA § 14.053.

CPS Energy provided proper notice of the application in compliance with PURA § 37.054 and 16 TAC § 22.52(a). In Commission Order No. 5, the administrative law judge (ALJ) found notice to be sufficient.²¹ In the Order of Referral and Preliminary Order dated September 29, 2020, the docket was transferred to SOAH.²²

III. EVALUATION OF PROPOSED ROUTES

A. Routing Criteria under PURA § 37.056(c)(4)

The Commission may grant a CCN only if it finds that it is necessary for the service, accommodation, convenience, or safety of the public.²³ PURA § 37.056 provides certain routing criteria to be considered in an electric CCN proceeding, which are analyzed in turn below.²⁴

1. Community Values

Staff's analysis of community values supports selection of Route P. In order to facilitate community involvement, CPS Energy held a public meeting as required by 16 TAC § 22.52(a)(4).

²⁰ Order of Referral and Preliminary Order (Sept. 29, 2020) (Preliminary Order).

²¹ Order No. 5 Finding Corrected Notice Sufficient (August 21, 2020).

²² Preliminary Order at 1.

²³ PURA § 37.056(a).

²⁴ PURA § 37.056(c).

The public meeting was conducted on October 3, 2020.²⁵ The respondents were asked to rank criteria in routing the project that they considered to be the most important. The criterion that was ranked as most important to members of the community was maximizing distance from residences.²⁶ The most obvious factor related to maximizing distance from residences is the ranking of routes in terms of how many habitable structures are impacted by a route. Route P has 17 habitable structures within 300 feet of the centerline, tied for the 4th fewest of all the alternative routes.²⁷ The route preferred by CPS Energy has 31 habitable structures within 300 feet of the centerline, ranking tied for 11th.²⁸ The only routes that rank higher than Route P in this category are Routes R1, Q1, and U1, each of which are more expensive than Route P.²⁹

2. Park and Recreational Areas

There are no parks or recreational areas located within 1,000 feet of the centerline of any of the proposed alternative routes listed in the route data provided by CPS Energy.³⁰ According to CPS Energy, no significant impacts to the use of the parks and recreation facilities located within the study area are anticipated from any of the alternative routes.³¹

3. Historical Values

There are seventeen recorded archeological or historical sites with an additional three National Register of Historic Places (NRHP) listed resources and two cemeteries within 1,000 feet from the centerline of at least one routing segment of the proposed alternative routes.³² Route P

²⁵ CPS Energy Ex. 3 at 15.

²⁶ CPS Energy Ex. 1, Attachment 1 at 6-2.

²⁷ CPS Energy Ex. 17 at Evaluation Criteria 2.

²⁸ *Id.*

²⁹ CPS Energy Ex. 17 at Estimated Costs.

³⁰ *Id.* at Evaluation Criteria 10.

³¹ CPS Energy Ex. 1 at 40.

³² Staff Ex. 1 at 25:19-26:1.

crosses one recorded archeological or historic site and crosses one NRHP listed site.³³ Route P has 10 additional archeological or historic sites within 1,000 feet of its centerline along with one cemetery within 1,000 feet of its centerline.³⁴ Staff witness Poole concluded that Route P is acceptable from a historical values perspective.³⁵

4. Aesthetic Values

Mr. Poole testified that the negative impact on aesthetic values from constructing Route P is comparable to the negative impact from constructing other alternative routes.³⁶ According to the data provided by CPS Energy, three factors that are considered in the aesthetic values category are: (1) estimated length of route within foreground visual zone of Interstate, US and State highways, (2) estimated length of route within foreground visual zone of FM/RM roads, and (3) estimated length of route within foreground visual zone of parks/recreational areas.³⁷ None of the routes proposed, including Route P, have any length within the foreground visual zone of Interstate, US and State Highways, FM/RM roads, or parks/recreational areas.³⁸ Further, Route P is among the shortest routes and is only 0.36 miles longer than the shortest route, which would help mitigate aesthetic impacts.³⁹ Additionally, Route P impacts the fourth fewest habitable structures of the proposed alternative routes, which would also help mitigate aesthetic impacts.⁴⁰ For these reasons, it is Staff's position that Route P is acceptable from an aesthetic impact perspective.

³³ *Id.*

³⁴ *Id.*

³⁵ Staff Ex. 1 at 28:9-10.

³⁶ Staff Ex. 1 at 30:1-9.

³⁷ CPS Energy Ex. 17 at Evaluation Criteria 30-33.

³⁸ *Id.*

³⁹ CPS Energy Ex. 1 at Table 4-1, Evaluation Criteria 1.

⁴⁰ CPS Energy Ex. 17 at Evaluation Criteria 2

5. Environmental Integrity

The proposed project is expected to cause only short-term effects to water, soil, and ecological resources during the initial construction phase.⁴¹ Although it is possible erosion and soil compaction will occur during the initial construction phase, CPS Energy has confirmed it will employ erosion control during this phase.⁴² Route P is among the shortest routes, only 0.36 miles longer than the shortest route, which would help mitigate environmental impacts.⁴³ Route P also performs well in its utilization of compatible rights-of-way (ROW), with approximately 71% of its length paralleling or utilizing compatible ROW.⁴⁴

After reviewing the information provided by CPS Energy and TPWD, Staff believes that Route P is acceptable and comparable to the other routes from an environmental perspective.

B. Routing Criteria under 16 TAC § 25.101(b)(3)(B)

The relevant rule presents additional criteria to be considered in an electric CCN, which are discussed below.⁴⁵

1. Engineering Constraints

Mr. Poole noted that CPS Energy did not identify any specific engineering constraints along any of the alternative routes.⁴⁶

⁴¹ Staff Ex. 1 at 32:10-11.

⁴² *Id.* at 31:7-9.

⁴³ CPS Energy Ex. 17 at Evaluation Criteria 1.

⁴⁴ *Id.* at Evaluation Criteria 7.

⁴⁵ 16 TAC § 25.101.

⁴⁶ Staff Ex. 1 at 33:11-15.

According to CPS Energy, minimal impacts on electronic communications are anticipated from construction of the Project.⁴⁷ No AM radio transmitters were identified within 10,000 feet of the alternative routes.⁴⁸ Many of the alternative routes are within 2,000 feet of at least one FM radio transmitter, microwave tower, or other similar electronic installation; however, Route P is not.⁴⁹

According to CPS Energy, no significant impacts to aviation operations within the study area are anticipated from construction of the Project.⁵⁰ There are no FAA-registered public or private airports having a runway less than 3,200 feet within 10,000 feet of any of the primary alternative routes.⁵¹ There are no private airstrips located within 10,000 feet of Route P.⁵²

2. Cost

The cost of each route has three components: the proposed CPS Energy Scenic Loop Substation, the transmission line, and a 10% contingency fee to cover unknown project costs not evident at the time of the estimate.⁵³ Route P is the 14th least expensive route, with an estimated cost of \$43,408,742.18.⁵⁴ All of the routes less expensive than Route P impact more habitable structures.⁵⁵

3. Moderation of Impact on Affected Community and Landowners

⁴⁷ CPS Energy Ex. 1 at 36.

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ CPS Energy Ex. 1 at 37.

⁵¹ CPS Energy Ex. 7 at Evaluation Criteria 23.

⁵² *Id.* at Evaluation Criteria 24.

⁵³ *Amendment to CPS Energy's Application*, CPS Ex. 6 at 136-138 (Dec 22, 2020).

⁵⁴ CPS Energy Ex. 17 at Estimated Costs.

⁵⁵ Staff Ex. 1 at 35:4-36:1.

At the open house meeting that CPS Energy held on October 3, 2019, CPS Energy encouraged attendees to ask questions and submit questionnaires.⁵⁶ As discussed above, the most important factor to members of the community who submitted questionnaires was maximizing distance from residences and the visibility of structures.⁵⁷ Route P impacts seventeen habitable structures, tied for the 4th fewest of all the alternative routes.⁵⁸

Staff reviewed and analyzed the application and its attachments, the direct testimonies, supplemental testimonies, and statements of position filed in the docket, as well as other filed responses, requests for information, and comments. As addressed above in Section III.A, Route P is the 14th least expensive route, has the 4th fewest habitable structures with 300 feet of the centerline, and is the ninth shortest route overall. To further moderate impact, Staff recommends the addition of language in the ordering paragraphs requiring the utility to work with directly affected landowners to implement minor deviations from the approved route in order to minimize any impact on those landowners, similar to ordering paragraphs that have been adopted in the past.⁵⁹

4. Use of Compatible Rights-of-Way, Paralleling Existing Rights-of-Way

The paralleling of existing transmission line ROW, existing public roads, highways and railways for all 39 routes ranges from 49.09% of total length to 82.59% of total length.⁶⁰ The percentage of Route P's length that parallels or utilizes existing transmission or distribution line ROW, other existing compatible ROW (highways, roads, railways, etc.), and apparent property boundaries is 71% of its length.⁶¹ One of the main benefits of paralleling compatible ROW is to

⁵⁶ CPS Energy Ex. 1 at 6-1.

⁵⁷ CPS Energy Ex. 1, Attachment 1 at 6-2.

⁵⁸ CPS Energy Ex. 17 at Evaluation Criteria 2.

⁵⁹ See *Application of Electric Transmission Texas, LLC to Amend Certificates of Convenience and Necessity for the Stewart Road 345-kV Transmission Line in Hidalgo County*, Docket No. 47973, Ordering Paragraph No. 11 (Feb. 13, 2019) (adopting similar ordering language).

⁶⁰ Staff Ex. 1 at 38-39.

⁶¹ *Id.*

minimize the impact on landowners. In this proceeding, all of the routes with a higher paralleling percentage also directly impacted more habitable structures.⁶² Routes A, H, E, T1, V, and M1 were all also at least one million dollars more expensive than Route P.⁶³ Staff carefully weighed these factors and concluded that, based on the information outlined above, Route P is the superior route.

5. Prudent Avoidance

The Commission's rules define prudent avoidance as "[t]he limiting of exposures to electric and magnetic fields that can be avoided with reasonable investments of money and effort."⁶⁴ Limiting exposure to electric and magnetic fields can be accomplished by choosing a route that has fewer habitable structures in close proximity to the route.

The alternative routes impact between 12 and 72 habitable structures. Route P impacts 17 habitable structures, making it tied for 4th overall.⁶⁵ Route Z1, recommended by CPS Energy and certain intervenors, impacts 31 habitable structures, ranking 11th overall.⁶⁶ Based on the above definition, Staff supports Route P as the route that best adheres to the concept of prudent avoidance.

IV. PRELIMINARY ORDER ISSUES RELATING TO THE APPLICATION

A. Application and Route Adequacy

- 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?**

⁶² CPS Energy Ex. 17.

⁶³ CPS Energy Ex. 17 at Estimated Costs.

⁶⁴ 16 TAC § 25.101(a)(6).

⁶⁵ Staff Ex. 1 at 41-42.

⁶⁶ *Id.*

A total of 31 routes were originally proposed by CPS Energy and were included in the notice of the application.⁶⁷ Eight additional routes were proposed by intervenors in this proceeding.⁶⁸ Based on the information provided by CPS Energy, Staff considers all 39 proposed routes viable. On December 10, 2020, a route adequacy hearing was convened to address challenges to route adequacy filed by Anaqua Springs Homeowners' Association, Brad Jauer, BVJ Properties, LLC, and Patrick Cleveland. After considering the evidence and argument, the ALJs denied the route-adequacy challenge and found that CPS Energy proved that its application proposed an adequate number of reasonably differentiated routes in order for the ALJs and the Commission to conduct a proper evaluation.⁶⁹ It is Staff's position that CPS Energy has presented an adequate number of reasonably differentiated alternative routes in its application.

B. Need and Project Alternatives

- 2. Are the proposed facilities necessary for the service, accommodation, convenience, or safety of the public within the meaning of PURA § 37.056(a) taking into account the factors set out in PURA § 37.056(c)? In addition,**
 - a) How do the proposed facilit[ies] support the reliability and adequacy of the interconnected transmission system?**
 - b) Do the proposed facilit[ies] facilitate robust wholesale competition?**
 - c) What recommendation, if any, has an independent organization, as defined in PURA § 39.151, made regarding the proposed facilit[ies]?**
 - d) Are the proposed facilit[ies] 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 [Rayburn] 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?**

⁶⁷ Staff Ex. 1 at 17:3-15.

⁶⁸ *Id*

⁶⁹ SOAH Order No. 5 at 1 (Dec. 11, 2020).

As outlined in Mr. Poole’s testimony and in CPS Energy’s application, this project is needed to address a projected 4-7 percent annual load in the northwest corner of Bexar County.⁷⁰ The load in the area of Scenic Loop is expected to grow from 149,952 kilowatts (kW) in 2018 to 255,932 kW by 2031.⁷¹ This project would also address the distribution circuits from the CPS Energy La Sierra and Fair Oaks Ranch Substations, which are up to seven times longer than the average CPS Energy distribution circuit needed to support the current load. The combination of the load growth and the long distribution circuits is projected by Burns & McDonnell Engineering Company, Inc. (Burns & McDonnell) to reach the existing distribution system’s reliability limit by 2024.⁷² Based on the data and load projections provided by Rayburn and Burns & McDonnell, it is evident that this project is necessary, and is the best way to address the reliability issues resulting from the load growth in the area.⁷³

C. 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)?⁷⁴

Consistent with the above discussion, Staff recommends approval of Route P after weighing the factors set forth in PURA § 37.056(c)(4) and 16 TAC § 25.101(b)(3)(B).⁷⁵ As is outlined in the above discussion, Route P best balances the criteria to be considered and has many advantages over the other routes.⁷⁶

⁷⁰ CPS Energy Ex. 1, Attachment 13 at 5.

⁷¹ *Id.*

⁷² Staff Ex. 1 at 20:1-2.

⁷³ Staff Ex. 1 at 12:6-8.

⁷⁴ Preliminary Order at 5.

⁷⁵ Staff Ex. 1 at 10:13-15.

⁷⁶ *Id.* at 43:20-23.

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?⁷⁷

Some intervenors assert that routes other than Route P would have less of a negative impact on landowners; however, the evaluation of this criterion is subjective and Staff recommends that Route P adequately balances the concerns regarding the impact on landowners with the other statutory criteria. Mr. Poole further recommended that the Commission include language that would allow the utility to make minor deviations under certain conditions if necessary.⁷⁸

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?

b.) Have the accommodations to landowners diminished the electric efficiency of the line or reliability?⁷⁹

On November 24, 2020, Toutant Ranch, Ltd, ASR Parks, LLC, Pinson Interests Ltd. LLP and Crighton Development Co. (Developer Intervenors) filed a request for a approval of proposed agreed amendments to CPS Energy's application that would add new segments that only impacted the Developer Intervenors' own properties and would not require additional notice.⁸⁰ The agreement between CPS Energy and Developer Intervenors included a donation of ROW on Segment 42a and twenty-percent discount on ROW acquisition costs on portions of Segment 46, 46a, 46b, 41, and 49a.⁸¹

D. Texas Parks and Wildlife Department

⁷⁷ Preliminary Order at 5.

⁷⁸ Staff Ex. 1 at 15:7-12.

⁷⁹ Preliminary Order at 4-5.

⁸⁰ SOAH Order No. 4 at 1 (Dec 4, 2020).

⁸¹ Tr. at 256:15-257:12 (Cross Examination of CPS Panel) (May 3, 2021)

7. On or after September 1, 2009, did the Texas Parks and Wildlife Department provide any recommendations or informational comments regarding this application pursuant to 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.⁸²

Mr. Poole recommended several mitigation measures that address most of TPWD's concerns.⁸³ These measures include the following proposed ordering paragraphs:⁸⁴

1. CPS Energy 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. CPS Energy 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.
2. CPS Energy must exercise extreme care to avoid affecting non-targeted vegetation or animal life when using chemical herbicides to control

⁸² Preliminary Order at 5.

⁸³ Staff Ex. 1 at 12:9-15.

⁸⁴ *Id.*

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

3. CPS Energy must minimize the amount of flora and fauna disturbed during construction of the transmission lines, except to the extent necessary to establish appropriate right-of-way clearance for the transmission lines. In addition, CPS Energy must revegetate, 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 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.
4. CPS Energy must use best management practices to minimize the potential impacts to migratory birds and threatened or endangered species.

E. 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?⁸⁵

CPS Energy has not described any circumstances that would support modifying the seven-year deadline for CPS Energy to commercially energize the transmission line.⁸⁶

VI. CONCLUSION

Based on the foregoing discussion, Staff supports the adoption of Route P. Specifically, Route P is comparable to, or superior to, the other alternative route options based on the evidence and the evaluation of the qualitative and quantitative criteria.

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⁸⁵ Preliminary Order at 5.

⁸⁶ Staff Ex. 1 at 33:17-20.

CERTIFICATE OF SERVICE

I certify that, unless otherwise ordered by the presiding officer, notice of the filing of this document was provided to all parties of record via electronic mail on May 21, 2021, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/ Rustin Tawater
Rustin Tawater