

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

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PUBLIC UTILITY COMMISSION
1100 E. ST. 1100
AUSTIN, TEXAS 78702

APPLICATION OF THE CITY OF § BEFORE THE STATE OFFICE
SAN ANTONIO TO AMEND ITS §
CERTIFICATE OF CONVENIENCE § OF
AND NECESSITY FOR THE §
SCENIC LOOP 138 KV TRANSMISSION § ADMINISTRATIVE HEARINGS
LINE IN BEXAR COUNTY §

COMMISSION STAFF'S PROPOSED
FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Staff (Staff) of the Public Utility Commission of Texas (Commission) files the following proposed Findings of Fact and Conclusions of Law.

I. Findings of Fact

Applicant

1. CPS Energy is a municipally owned utility as defined in PURA §11.003(11) and 16 TAC § 25.5(71).
2. CPS Energy owns and operates facilities to transmit electricity in the Electric Reliability Council of Texas (ERCOT) region.
3. CPS Energy provides electric service under Certificate of Convenience and Necessity (CCN) No. 30031.
4. CPS Energy must obtain the approval of the Commission to construct the proposed transmission facilities and provide service to the public using those facilities under PURA § 37.051(g).

Application

5. On July 22, 2020, CPS Energy filed with the Public Utility Commission of Texas (Commission) an application (Application) to amend CCN No. 30031 in order to build, own, and operate a new double circuit 138 kilovolt (kV) transmission line in Bexar County connecting a new substation to the electric grid (the Project).¹
6. The Application was assigned Docket No. 51023.

¹ CPS Energy Ex. 1.

859

7. CPS Energy retained POWER Engineers, Inc. (POWER) to prepare an Environmental Assessment (EA) and routing analysis for the proposed transmission line, which was included as part of the Application.
8. On August 21, 2020, the Commission's Administrative Law Judge (ALJ) issued Order No. 5 finding the Application to be sufficient and materially complete.
9. State Office of Administrative Hearings (SOAH) Order No. 5, issued on December 11, 2020, required CPS Energy to file an amendment to the application on or before December 23, 2020. On December 22, 2020, CPS Energy filed amendments to the Application and the EA (the Amended Application).
10. No party challenged the sufficiency of the Application.

Description of Proposed Transmission Facilities

11. The proposed new transmission line will connect a new load-serving electric substation (Scenic Loop Substation) located in the vicinity of the intersection of Scenic Loop Road and Toutant Beauregard Road in northwestern Bexar County to the existing Ranchtown to Menger Creek 138 kV transmission line to the west.²
12. The Project will be constructed on double circuit 138 kV steel monopole structures for typical tangent, angle, and dead-end structures. The heights of typical structures proposed for the Project range from 70 to 130 feet above ground.³
13. CPS Energy will design, operate, maintain, and own all of the proposed transmission line facilities including conductors, wires, structures, hardware, and easements. CPS Energy will also design, operate, maintain, and own the new electric load-serving Scenic Loop Substation that will be constructed in conjunction with the Project.
14. The Application included 29 primary alternative routes composed from 48 route segments.⁴
15. The Amended Application includes 31 primary alternative routes composed from 49 route segments.⁵
16. During this proceeding, eight additional alternative routes were proposed and supported by some intervening parties.
17. The primary alternative routes range from approximately 4.46 to 6.91 miles in length.⁶

² CPS Energy Ex. 1 at 3.

³ CPS Energy Ex. 1 at 5.

⁴ CPS Energy Ex. 1 at 29.

⁵ CPS Energy Ex. 6 at 12-13.

18. The route alternatives under consideration in this proceeding have an estimated total cost ranging between approximately \$37.6 million and approximately \$56.1 million for transmission and substation facilities.⁷
19. In the Application, CPS Energy identified Route Z as the route that best addresses the requirements of PURA and the PUC Substantive Rules.⁸
20. In the Amended Application, Route Z1 functionally replaced Route Z.⁹
21. The routes for the Project are based on a typical right-of-way width for operational clearances of approximately 100 feet.¹⁰

Public Input

22. CPS Energy held the public open house meeting for the Project on October 3, 2019, at the Cross Mountain Church Student Center in the study area.¹¹
23. CPS Energy mailed written notices of the open house meeting to all owners of property within 300 feet of the centerline of each preliminary alternative segment.¹²
24. CPS Energy also mailed or hand delivered notices of the open house meeting to local public officials and various state and federal officials, including the United States Department of Defense Siting Clearinghouse (DOD).¹³
25. In total, CPS Energy mailed 592 meeting notices for the open house.¹⁴
26. Notice of the open house meeting was additionally published in the *San Antonio Express News*, a newspaper of general circulation in the Project area county on September 22, 2019, and September 29, 2019.¹⁵
27. A total of 172 people signed in as attending the open house meeting.¹⁶

⁶ CPS Energy Ex. 17.

⁷ CPS Energy Ex. 17; also Bexar Ranch Ex. 12.

⁸ CPS Energy Ex. 1 at 29.

⁹ CPS Energy Ex. 12 at 5 (Rebuttal Testimony of Adam Marin).

¹⁰ CPS Energy Ex. 1 at 6.

¹¹ CPS Energy Ex. 1 at 30.

¹² CPS Energy Ex. 1 at 30.

¹³ CPS Energy Ex. 1 at 30.

¹⁴ CPS Energy Ex. 1 at 30.

¹⁵ CPS Energy Ex. 1 at 30.

¹⁶ CPS Energy Ex. 1 at 31.

28. Attendees were provided questionnaires, and CPS Energy received a total of 186 completed questionnaires, of which 72 were submitted at the open house and 114 more were submitted after the open house.¹⁷
29. The public feedback received by CPS Energy was evaluated and considered in determining the routes to be included in the Application. Based on input, comments, information received at and following the open house meeting, and additional analyses conducted by CPS Energy and POWER, some preliminary alternative route segments were modified, some preliminary alternative route segments were deleted, and additional alternative route segments were added. One substation alternative was relocated and two additional substation options were added.¹⁸
30. Written information was provided to DOD about the study area and the nature of the Project.
31. On September 11, 2019, DOD reported that the Project will have minimal impact on military operations conducted in the area.¹⁹

Notice of the Application

32. On July 22, 2020, CPS Energy:
 - a. mailed by first class mail or hand-delivered direct written notice of the filing of the Application to each owner of land directly affected by the construction of the Project, as determined by review of the Appraisal District tax data for Bexar County;²⁰
 - b. mailed by first class mail or hand-delivered direct written notice of the filing of the Application to the county government of Bexar County, as well as the municipalities of the City of San Antonio, the City of Fair Oaks Ranch, the City of Grey Forest, and the City of Helotes as the municipalities located within five miles of the requested facilities;²¹
 - c. mailed by first class mail or hand-delivered direct written notice of the filing of the Application to the following neighboring utilities providing electric utility service within five miles of the requested facilities: Pedernales Electric Cooperative (PEC) and Bandera Electric Cooperative (BEC). CPS Energy also

¹⁷ CPS Energy Ex. 1 at 31.

¹⁸ CPS Energy Ex. 1 at 31.

¹⁹ CPS Energy Ex. 1, EA at 186.

²⁰ CPS Energy Ex. 9 at 7; CPS Energy's Mailer's Affidavit (Interchange filing 24).

²¹ CPS Energy Ex. 9 at 7; CPS Energy's Mailer's Affidavit (Interchange filing 24).

sent notice of the Application to LCRA Transmission Services Corporation (LCRA TSC);²² and

- d. mailed by first class mail or hand-delivered written notice of the filing of the Application to other interested entities, including the Office of Public Utility Counsel (OPUC), the Texas Department of Transportation (TxDOT), the Northside Independent School District (Northside ISD); and the DOD, and provided a copy of the Application via FedEx to the Texas Parks and Wildlife Department (TPWD).²³
33. Attachment 12 to the Application is a copy of the letter provided to TPWD in conjunction with delivery of the Application.²⁴
34. On July 28, 2020, CPS Energy published public notice of the Application in the *San Antonio Express News*, a newspaper of general circulation in Bexar County, Texas.²⁵
35. On August 11, 2020, CPS Energy filed an affidavit attesting to, among other things, the provision of notice of the Application to OPUC; and notice of the Application to cities, counties, neighboring utilities, the DOD, and directly affected landowners.²⁶
36. On August 11, 2020, CPS Energy filed an affidavit attesting to published notice of the Application in the *San Antonio Express News*, a newspaper of general circulation in Bexar County, Texas.²⁷
37. On August 21, 2020, the Commission ALJ issued Order No. 5 approving CPS Energy's provision of notice of the Application in this proceeding.

Intervenors and Alignment of Intervenors

38. On August 19, 2020, the Commission ALJ issued Order No. 4 granting the motions to intervene filed by Bexar Ranch L.P., Jerry Rumpf, Monica Gonzalez De La Garza, Patrick Cleveland, Monica Esparza, Lucia Zeevdert, and Clint and Mary Hurst.
39. On August 25, 2020, the Commission ALJ issued Order No. 7 granting the motions to intervene filed by Peter Eick, Jay Gutierrez and Amy Gutierrez and The Gutierrez Management Trust, Clearwater Ranch Property Owners Association (Clearwater Ranch POA), Toutant Ranch, Ltd. and ASR Parks, LLC, and Lisa and Clinton Chandler.

²² CPS Energy Ex. 9 at 8; CPS Energy's Mailer's Affidavit (Interchange filing 24).

²³ CPS Energy Ex. 9 at 8; CPS Energy's Mailer's Affidavit (Interchange filing 24).

²⁴ CPS Energy Ex. 1 at Attachment 12.

²⁵ CPS Energy Ex. 9 at 8; CPS Energy's Publishers' Affidavit (Interchange filing 24).

²⁶ CPS Energy Ex. 5 at 9; CPS Energy's Mailer's Affidavit (Interchange filing 24).

²⁷ CPS Energy Ex. 5 at 8; CPS Energy's Publishers' Affidavit (Interchange filing 25).

40. On September 17, 2020, the Commission ALJ issued Order No. 8 granting the motions to intervene filed by Nick Valenti, Jeff Audley & Darrell Cooper, Islam Hindash, Laura Rendon, Elis Latorre-Gonzalez, Brad Jauer, BVJ Properties LLC, Hamzeh Alrafati, Adrianna Rohlmeier, Anton Shadrock, Byron Eckhart, Carlos Garcia, Casey and Molly Keck, Francis Van Wisse, Kurt and Brenda Ohrmundt, Max and Meg Garoutte, Michael & Rosalinda Sivilli, Paolo Salvatore and Clear Run LLC, Samer and Elizabeth Ibrahim, Lonnie Arbuthnot, Gregory Hamon, Miao Zhang, Ronald Meyer, Ed Chalupa, Sophia Polk, The San Antonio Rose Palace, Inc. and Strait Promotions, Inc., Margaret Couch, Sunil Dwivedi, Brandon McCray, Steven Herrera, Gregory Altemose, Mark Dooley, Jesse Delee, Raul and Katie Garcia, Adam Schrage, Adam Sanchez, Lori Espinzoa, Vic Vaughan, Primarily Primates, Inc., Clifford Stratton, Scott Lively, Beatriz Odom, Bernd Vogt and Inge Lechner-Vogt, Gail Ribalta, Kenneth Mark and Tawana Timberlake, Thomas Parker, Douglas Comeau for the Comeau Family Trust, Steve and Cathy Cichowski, Olytola Adetona, Vincent Billingham, Alfred and Janna Shacklett, Ruben and Kristin Mesa, Don Durflinger, Robert Ralph, Paul Rockwood, Anaqua Springs Homeowners Association (Anaqua Springs HOA), Laura Biemer, Joan Arbuckle and John Huber, Lawrence Barocas, Roy Barrera III, Brittany Sykes, Aline D Knoy, Roy R. Barrera, Jr., Cynthia Rocha, Charlene Jean Alvarado Living Trust, Robert Barrera, Brian Woods for Northside ISD, Eric White & Laurie White, Sanjay Kumar, Martin Salinas, Jr., Lynn Ginader, Lauren Pankratz, Michael Berry, Guillermo Cantu, Jr., and Amanda Barrella.
41. On September 28, 2020, the Commission ALJ issued Order No. 9 granting the motions to intervene filed by Save Huntress Lane Area Association, Stephen Rockwood, Mark Barrera, Henry and Rosan Hervol, Jennifer Royal, Michael Wilburn, Burdick-Anaqua Homes, Ltd, Armando Valdez James Lee, Francisco and Barbara Arroyo, Anne Warner, Doug Boazman, Paul Craig, Adrian and Catherine Chavez, Richard Olivarez, Eloy Olivarez, Dora Broadwater, Guajalote Ranch, Inc., Yvette Reyna, Lawrence Kroeger, Mike Swientek, Carmen Ramirez, Roy Barrera Sr., Robert and Leslie Bensen, Russell and Brook Harris, Raul Martinez, Chip and Pamela Putnam, John Taylor, Brian Lee, Linda Hansen, Charles Rockwood, Melissa and Michael Rosales, Philip and Yajaira Paparone, Alejandro Medina, Robert C Freeman, Duaine and Joann Smith, Kristy Woods, John Jared Phipps, Charlie Zimmer, and Andrew and Yvonne Krzywonski.
42. On December 1, 2020, the SOAH ALJs issued SOAH Order No. 3 granting the motions to intervene filed by Chris and Michelle Booth, Geoffrey Grant, Kristina and Christopher Stroud, Kim Ury, Monica and Chris Casady, James Brigham, Mike Leonard, David Burke, Elizabeth and John Kupferschmid, Rodolfo Santoscoy, Joy and Michael Escriva, Mark and Marciela Siegel, James Galusha, Marlin Sweigart, Suzan Corral, James Gillingham, Scott Streifert, Donna Balli, Judith Catalon, Carrie Clayton, David Walts, Michael and Maria Roxana Hope-Jones, Gregory Godwin, Roberto Sanchez, Chandler Mross, Jim Flores, Joel and Cortney Comp, Daniel Lonergan, James Middleton, Alan Hibberd, Richard Hauptfleisch, Ronald Schappaugh, The Deitchle Family Trust, Joshua and Kristi-Marie Standing Cloud, Raul Figueroa, Betsy Omeis, Anupama Atluri, Barbara and Ernie Centeno, Jordan and Donna Reed, Peter Eick, and Pinson Interests Ltd LLP, Crighton Development Co.

43. On March 26, 2021, the SOAH ALJs issued SOAH Order No. 10 dismissing the following intervenors for failing to file direct testimony or a statement of position: Olytola Adetona, Francisco J. and Barbara M. Arroyo, Anupama Atluri, Denise Baker, Donna M. Balli, Amanda Barrella, Mark J. Barrera, Vincent Billingham, Doug Boazman, Dora Broadwater, Burdick-Anaqua Homes, LTD, Guillermo M. Cantu, Carrie Clayton, Joel and Cortney Comp, Douglas Comeau, Joy and Michael Escriva, Monica Esparza, Lori Espinoza, Raul and Katie Garcia, Linda Hansen, Henry and Rosan Hervol, Islam Hindash, Lawrence Kroeger, Andrew and Yvonne Krzywonski, Inge Lechner-Vogt, Brian Lee, Mike Leonard, Kenneth Mark, Brandon McCray, Eloy and Raquel Olivarez, Thomas Parker, Robert Ralph, Bruce Reid, Evangelina Reyes, Gail Ribalta, Cynthia Rocha, Ryan and Jennifer Royal, Adam C. Sanchez, Roberto Sanchez, Alfred and Janna Shacklett, Duaine and Joann Smith, Joshua and Kristi-Marie Standing Cloud, Marlin Sweigart, Mike Swientek, John and Renee Taylor, The Deitchle Family Trust, Tawana Timberlake, Armando Valdez, Vic Vaughan, Bernd Vogt, Anne Warner, Michael Wilburn, Kristy Woods, Miao Zhang, and Charlie Zimmer.
44. On May, 4 2021, the SOAH ALJs issued SOAH Order No. 14 dismissing the following intervenors for failing to file direct testimony or a statement of position: Hamzeh Alrafati, Michael and Kenya Berry, Chris and Michelle Booth, Monica and Chris Casady, Barbara and Ernie Centeno, Dooley Properties, LLC - Mark Dooley, Mary Bensberger, James Galusha, Geoffrey Grant, Richard Hauptfleisch, Michael and Maria Roxana Hope-Jones, Elis Latorre-Gonzalez, James Lee, Scott Lively, Daniel Lonergan, Ronald Meyer, Chandler Mross, Richard Olivarez, Philip and Yajaira Paparone, John Jared Phipps, Jordan and Donna Reed, Laura Rendon, Rodolfo Santoscoy, Adam Schrage, Scott Streifert, Kim Ury, and David Walts; granting the late-filed motion to intervene filed by Maria Concepcion Uriarte-Azcue; and denying the late-filed motion to intervene of Scott Luedke.
45. Except to the extent that parties with similar interests chose to be represented jointly by the same legal counsel when making an appearance, no parties were formally aligned by the ALJs for purposes of the hearing.

Route Adequacy

46. Patrick Cleveland (Cleveland) and Anaqua Springs HOA and Brad Jauer/BVJ Properties, LLC (Jauer), filed pleadings challenging whether the Application provided an adequate number of reasonably differentiated routes to conduct a proper evaluation or seeking to have modifications made to the routes in the Application, and requesting a hearing on route adequacy. Clearwater Ranch POA filed a response in opposition to the challenges to route adequacy and also requested a route adequacy hearing.
47. Toutant Ranch LTD, Pinson Interests LTD, LLP, and Crighton Development Co. (Developers) filed a statement on route adequacy and request for approval of proposed agreed amendments to CPS Energy's Application.

48. In SOAH Order No. 4 filed on December 4, 2020, the SOAH ALJs granted Developers request and ordered CPS Energy to amend the Application in accordance with the request and ordered a hearing on route adequacy, which was held on December 10, 2020.
49. On December 11, 2020, the SOAH ALJs issued Order No. 5 denying the Cleveland and Anaqua Springs HOA and Jauer challenges to route adequacy, finding that the CPS Energy had proven that the Application proposed an adequate number of reasonably differentiated routes in order for the ALJs and the Commission to conduct a proper evaluation.
50. The Amended Application provides an adequate number of reasonably differentiated routes to conduct a proper evaluation.

Statements of Position and Testimony

51. On November 6, 2020, CPS Energy filed the direct testimonies of Mr. Adam Marin, Mr. George Tamez, Ms. Lisa Meaux, and Mr. Scott Lyssy in support of the Application. The testimony of Ms. Meaux was admitted at the route adequacy hearing and the remaining testimony was admitted at the hearing on the merits.
52. On December 22, 2020, CPS Energy filed the supplemental direct testimony of Lisa Meaux as Attachment 6 to the Application Amendment. This testimony was subsequently admitted at the hearing.
53. The direct testimony of the following witnesses was filed by intervening parties: Steve and Cathy Cichowski, on behalf of themselves; Steve Cichowski, Sunil Dwivedi, and Lauren Pankratz, on behalf of Anaqua Springs HOA; Mark Anderson on behalf of Anaqua Springs HOA and Jauer; Roy R. Barrera, Sr., Carmen Barrera Ramirez, Roy R. Barrera III, Robert J. Barrera, and Roy R. Barrera, Jr., on behalf of themselves; Mark Turnbough, Michael Bitter, Sarah Bitter, Stephen Bitter, and Vincent Terracina, on behalf of Bexar Ranch L.P.; Brad Jauer and Carl Huber, on behalf of Jauer; Brian Andrews, on behalf of Lisa Chandler, Clinton R. Chandler, and Chip and Pamela Putnam; Rosemarie Alvarado, on behalf of the Charlene Jean Alvarado Living Trust; Joe R. Acuna/Villa Strangianto, LLC, L.W. Abuthnot, Jeffrey Audley and Darrell Cooper, Byron and Gina Eckhart, Carlos Garcia and Christina Garcia, Max and Peggy Garoutte, Gume Garza, Robert Gume Garza/Loredo Sol Investments, Carlos and Rosa Guzman/CRG Properties LLC, Gregory Hamon, Russell Harris and Brook Harris, Samer Ibrahim and Elizabeth Ibrahim, Casey and Molly Keck, Alejandro Medina, Peter and Melanie Morawiec, Kurt Ohrmundt and Brenda Ohrmundt, Kurt Rohlmeier and Adrianna Rohlmeier, Paolo Salvatore/Clear Run LLC, Michael and Rosalinda Sivilli, Mariana and Francis Vanwisse, Michael and Shawn Stevens, Michael Stevens, on behalf of Clearwater Ranch POA and Michael Stevens on behalf of Sven and Sofia Kusterman and Clearwater Ranch POA; Paul Craig, on behalf of himself; Jay A. Gutierrez, on behalf of himself; Patrick Cleveland, on behalf of himself; Jacob Villareal, on behalf of Northside ISD; Brooke Chavez, on behalf of Primary Primates; Jason Buntz, on behalf of San Antonio Rose Palace and Strait Promotions; Cynthia Grimes, David Clark and Jerry Rumpf, and Harold L. Hughes Jr, on behalf of the Save Huntress Lane Area Association; Joan Arbuckle,

Robert Bernsen, Laura Biemer, Steven Gomez Herrera, Betsy Omeis, and Yvette Reyna, on behalf of Serene Hills Pro Se Intervenors; Brittany Sykes, on behalf of herself; Tom Driess, on behalf of Developers; Robert C. Freeman and Rachel M. Freeman, on behalf of themselves; and Lucia Zeevaert on behalf of herself. The testimony of Mr. Anderson was admitted at the route adequacy hearing. With the exception of the Freeman testimony, the remaining testimony was admitted at the hearing on the merits. The Freeman's did not appear at the hearing on the merits and their testimony was not offered.

54. On March 22, 2021, Commission Staff filed the direct testimony of its witness, Mr. John Poole. Commission Staff filed errata to Mr. Poole's testimony on April 26, 2021, and April 27, 2021. This testimony was subsequently admitted at the hearing.
55. Cross-rebuttal testimony of the following witnesses was filed by intervening parties and subsequently admitted at the hearing: Mark Turnbough, Michael Bitter, and Sarah Bitter on behalf of Bexar Ranch L.P.; and Cynthia Grimes, David Clark, Jerry Rumpf, and Harold L. Hughes Jr, on behalf of the Save Huntress Lane Area Association. This testimony was subsequently admitted at the hearing.
56. On April 7, 2020, CPS Energy filed rebuttal testimony from Mr. Adam Marin, Mr. George Tamez, Ms. Lisa Meaux, and Mr. Scott Lyssy. CPS Energy filed errata to Mr. Lyssy's rebuttal testimony on April 26, 2021. This testimony was subsequently admitted at the hearing.

Referral to SOAH for Hearing

57. On August 5, 2020, Clearwater Ranch POA filed a request for hearing at the State Office of Administrative Hearings (SOAH). Subsequently, Anaqua Springs HOA and Bexar Ranch L.P. also requested a hearing.
58. On September 14, 2020, Commission Staff requested that the docket be referred to SOAH for a hearing.
59. On September 29, 2020, the Commission referred this case to SOAH and identified a number of issues to be addressed.²⁸
60. In SOAH Order No. 1 filed on October 2, 2020, the SOAH ALJs provided notice of a prehearing conference, described jurisdiction, and provided other information.
61. On October 22, 2020, the SOAH ALJs convened a virtual prehearing conference.
62. In SOAH Order No. 2 filed on November 23, 2020, the SOAH ALJs memorialized the prehearing conference held on October 22, 2020, and provided notice of the virtual hearing on the merits set to begin on March 29, 2020.

²⁸ Order of Referral and Preliminary Order (September 29, 2020) (Preliminary Order).

63. In SOAH Order No. 6 filed on January 6, 2021, the SOAH ALJs adopted amendments to the procedural schedule and noted that the virtual hearing on the merits would begin on May 3, 2021, and that a virtual prehearing conference would be held beginning at 9:00 a.m. on April 30, 2021.
64. The hearing on the merits convened before SOAH ALJs Holly Vandrovec and Pratibha Shenoy on May 3, 2021, and concluded on May 7, 2021. The following parties made appearances, either personally or through their representatives, and participated in the hearing on the merits: CPS Energy; Lisa and Clinton R. Chandler; Chip and Pamela Putnam; the Charlene Jean Alvarado Living Trust; Maria Conception Uriarte-Azcue; Roy Barrera, III; Roy Barrera, Jr.; Roy R. Barrera, Sr.; Robert Barrera; the Save Huntress Lane Area Association; Jay and Amy Gutierrez; the Gutierrez Management Trust; Primarily Primates, Inc.; Bexar Ranch, LP; Guajalote Ranch, Inc.; the Clearwater Ranch POA;²⁹ Patrick Cleveland; Northside ISD; the San Antonio Rose Palace, Inc. and Strait Promotions, Inc.; Anaqua Springs HOA; Jauer; Steven and Cathy Cichowski; Robert and Leslie Bernsen; Laura Biemer; James Brigham; Paul Craig; Peter Eick; Raul Figueroa; Steven Herrera; John Huber and Joan Arbuckle; Betsy Omeis; Yvette Reyna; Paul Rockwood; Stephen Rockwood; Mark Siegel; Brittany Sykes; Developers; Melissa Rosales; Ronald Schappaugh; Kristina Stroud; and Commission Staff.
65. The evidentiary record closed on May 7, 2021, and the hearing record closed on May 28, 2021, after the filing of closing written arguments and proposed findings of fact and conclusions of law.
66. The ALJs issued a proposal for decision on _____, 2021, recommending approval of the application, utilizing Route ____, connecting to proposed Scenic Loop Substation Site ____.

Adequacy of Existing Service and Need for the Project

67. CPS Energy retained Burns & McDonnell Engineering Company, Inc. to prepare an independent need analysis for the Project, which was included as part of the Application.
68. The Project is needed to meet the existing and forecasted retail electric service demand of customers in northwest Bexar County and to address reliability risks and improve reliability in the area.
69. Load growth at a compound annual growth rate of approximately 4 to 7 percent in northwest Bexar County is currently served by the existing La Sierra and Fair Oaks

²⁹ This group consists of the following individual intervenors: Casey and Molly Keck; Francis and Mariana VanWisse; Michael and Shawn Stevens; Kurt and Adrianna Rohlmeier; Samer and Elizabeth Ibrahim; Max and Meg Garoutte; Byron and Gina Eckhart; Kurt and Brenda Ohrmundt; Gume Garza; Russell and Brook Harris; Alejandro Medina; Paolo Salvatore on behalf of Clear Run, LLC; Joe Acuna on behalf of Villa Strangiato, LLC; Robert and Sofia Garza for Laredo Sol Investments, LLC; Carlos and Christina Garcia; Michael and Rosalinda Sivilli; Sven and Sofia Kuestermann; L.W Arbuthnot; Greg Hamon; Jeff Audley; and Darrell Cooper.

Ranch substations. The forecasted load growth for the La Sierra and Fair Oaks Ranch substations is expected to exceed the planning capacity for the area by 2025.³⁰

70. The existing distribution circuits within the La Sierra Substation and some of the circuits originating at the Fair Oaks Ranch Substation are up to eight times longer than the average distribution circuit within CPS Energy's system and serve thousands of customers.³¹
71. The average length of the eight distribution circuits primarily serving the Scenic Loop area from the La Sierra and Fair Oaks Ranch substations is approximately 36.13 miles.³² Following the construction of the proposed Scenic Loop Substation, the length of the circuits connected to La Sierra, Fair Oaks Ranch, and Scenic Loop will decrease to an average of about 24 miles.³³
72. The length and loading on these La Sierra and Fair Oaks Ranch circuits have equated to lower reliability to the customers served by those circuits.³⁴
73. CPS Energy's analysis shows that even with system reconfiguration improvements on the existing distribution facilities immediately prior to the filing of this Application, without a new substation in northwest Bexar County, the CPS Energy customers served from the La Sierra and Fair Oaks Ranch substations will continue to experience lower reliability than CPS Energy's system averages.³⁵
74. The Project's proposed Scenic Loop Substation provides CPS Energy with a load serving substation geographically intermediate to the Fair Oaks Ranch and La Sierra substations in a manner that will cut the average length and loading of distribution circuits serving end-use customers by 50 percent or more.
75. In sum, the Project is needed to address local reliability needs of existing and future end-use consumers based on actual and forecasted electric load and identified system limitations in meeting this electric load.
76. The Project is a Tier 4 Neutral project pursuant to the classifications established by the Electric Reliability Council of Texas (ERCOT).³⁶ Therefore, the Project is not required to

³⁰ CPS Energy Ex. 1 at 11.

³¹ CPS Energy Ex. 1 at 16.

³² CPS Energy Ex. 1 at 14.

³³ CPS Energy Ex. 1 at 14.

³⁴ CPS Energy Ex. 1 at 14.

³⁵ CPS Energy Ex. 1 at 14.

³⁶ CPS Energy Ex. 10 at 8.

be, and was not, submitted to the ERCOT Regional Planning Group for review and comment.³⁷

77. The Project will not result in any violation of North American Electric Reliability Corporation (NERC) or ERCOT performance requirements.³⁸
78. No party substantively challenged the need for the Project.
79. All of the 39 routes under consideration in this docket, including the 31 presented in the Amended Application and the eight additional routes identified by the parties, will satisfy the need for the Project.
80. Electric customers within the Project area will benefit from the improved transmission system reliability and capacity provided by the Project.
81. CPS Energy considered a distribution-only alternative.³⁹
82. Distribution alternatives are not adequate to resolve the need for the Project in a cost effective manner.⁴⁰
83. A distribution-only alternative would only delay the need for the Project by a few years at most or would cost significantly more than the Project and would not address the reliability concerns of the lengthy circuits currently existing in the area because of the lack of a substation in the vicinity.⁴¹
84. No party has argued that a distribution alternative would resolve the need for the Project.

Routing of the Transmission Facilities

85. The POWER project team included professionals with expertise in different environmental and land use disciplines (geology and soils, hydrology and water quality, terrestrial ecology, wetland ecology, land use and aesthetics, and cultural resources) who were involved in data acquisition, routing analysis, and environmental assessment for the transmission facilities.
86. To identify preliminary alternative route segments for the transmission facilities, POWER delineated a study area, sought public official and agency input, gathered data regarding the study area, performed constraints mapping, identified preliminary alternative route segments and alternative substation sites, and reviewed and adjusted the

³⁷ CPS Energy Ex. 10 at 8.

³⁸ CPS Energy Ex. 10 at 8-9.

³⁹ CPS Energy Ex. 1 at 19-20.

⁴⁰ CPS Energy Ex. 1 at 22-24.

⁴¹ CPS Energy Ex. 1 at 19-22.

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

87. POWER examined potential routes taking into consideration the factors in PURA § 37.056(c)(4)(A) through (D), 16 Texas Administrative Code (TAC) § 25.101, and the Commission's CCN application form.
88. From the preliminary alternative route segments, POWER and CPS Energy identified 29 reasonable, feasible alternative routes. In identifying these, POWER considered a variety of information, including input from the public and public officials, geographic diversity within the study area, and an inventory and tabulation of a number of environmental and land use criteria. The Amended Application identifies 31 reasonable, feasible alternative routes.
89. CPS Energy reviewed the alternative routes with regard to cost, construction, engineering, and right-of-way maintenance issues and constraints, and conducted field reviews.
90. At the time it filed its application, CPS Energy identified Route Z as the route that best addressed the Commission's routing criteria. Route Z was functionally replaced by Route Z1 with the filing of the Amended Application.
91. CPS Energy's Application, Amended Application, and testimony confirm that all proposed routes are viable and constructible.
92. Commission Staff submitted evidence supporting the choice of Route P as the route that best meets the statutory and regulatory criteria and best addresses the concerns raised by the Texas Parks and Wildlife Department and the parties.
93. Based on the evidence presented, Route P best meets the regulatory and statutory criteria, because of the following:
 - a. Route P is the 14th least costly of the 39 alternative routes with a cost of approximately \$43.4 million.
 - b. Route P has 17 habitable structures with 300 feet of the centerline, which is tied for the 4th fewest of the 39 alternative routes
 - c. Route P is the 9th shortest route of the 39 alternative routes at 4.89 miles.
 - d. Route P is 12th best proposed alternative route utilizing existing compatible right-of-way and property lines at 71% of its total length.
94. Route P is comprised of segments 50, 15, 22, 25, 37, 38, and 43 and connects to Substation Site 6.
95. Route P consists entirely of noticed segments that were not changed or modified from the segments proposed in the Amended Application

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

96. Electric utilities serving the proximate area of the Project include PEC and BEC. LCRA TSC interconnects with the CPS Energy transmission line that serves as the tap point for the Project.⁴²
97. The Project taps into an existing CPS Energy transmission line and is proposed to provide service wholly within CPS Energy's existing service territory.
98. CPS Energy has coordinated with LCRA TSC on the Project, and LCRA TSC has not raised any concerns with the Project other than identifying protective relay setting changes at the Menger Creek Substation.⁴³
99. PEC and BEC did not intervene or otherwise express any concern or opposition to the Project.⁴⁴
100. The Commission does not expect the proposed transmission facilities to adversely affect service by other utilities in the area.
101. With the new transmission facilities, CPS Energy will be able to continue to provide reliable service.

Estimated Costs

102. CPS Energy prepared cost estimates for all 31 alternative routes presented in the Amended Application, as well as two additional routes presented for consideration in this proceeding.
103. Route Z2 is estimated to be the lowest cost route, with an estimated cost of \$37.6 million, which includes the cost of the new Scenic Loop Substation.⁴⁵
104. Route O is estimated to be the most expensive route, with an estimated cost of \$56.1 million, which includes the cost of the new Scenic Loop substation.⁴⁶
105. Route P is estimated to cost \$43.4 million, which includes the cost of the new Scenic Loop Substation.⁴⁷

⁴² CPS Energy Ex. 1 at 9.

⁴³ CPS Energy Ex. 10 at 12-13; CPS Energy Ex. 1 at 9.

⁴⁴ CPS Energy Ex. 1 at 9; CPS Energy Ex. 9 at 8.

⁴⁵ CPS Energy Ex. 11 at 9-11; CPS Energy Ex. 17; CPS Energy Ex. 1, Attachment 3; CPS Energy Ex. 6, Attachment 3 Amended; Bexar Ranch Exs. 12 and 14.

⁴⁶ CPS Energy Ex. 17.

Prudent Avoidance

- 106. 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.”
- 107. Whenever possible, CPS Energy and POWER avoided identifying alternative route segments near habitable structures.
- 108. Alternative Route A has the greatest number of habitable structures located within 300 feet of its centerline at 72.⁴⁸
- 109. Alternative Routes U1 and Q1 have the least number of habitable structures located within 300 feet of their centerline at 12 each.⁴⁹
- 110. Route P has 17 habitable structures within 300 feet of its centerline.⁵⁰
- 111. All the alternative routes presented in the Amended Application, as well as the additional routes presented in the course of this proceeding, conform to the Commission’s policy of prudent avoidance.

Community Values

- 112. To ascertain community values for the transmission facilities, CPS Energy held a public open house meeting on October 3, 2019.⁵¹
- 113. The more common concerns or issues presented by the landowners at the open house meeting and afterward were proximity of the routes and substation locations to homes; the proposed substation site locations, health impacts, property values, aesthetics, and impact to the history of the area.⁵²
- 114. POWER’s routing analysis and CPS Energy’s eventual selection of the routes filed in the application incorporated information received from the public meeting and from local, state, and federal agencies.

⁴⁷ CPS Energy Ex. 17.

⁴⁸ CPS Energy Ex. 17.

⁴⁹ CPS Energy Ex. 17.

⁵⁰ CPS Energy Ex. 17.

⁵¹ CPS Energy Ex. 1, EA at 6-1.

⁵² CPS Energy Ex. 1, EA at 6-4.

115. POWER, in consultation with CPS Energy, used information received from the public meeting to add, modify, and remove several preliminary route segments.⁵³
116. The Project adequately addresses the expressed community values.

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

117. In developing alternative routes, CPS Energy and POWER took into account the use or paralleling of existing rights of way (e.g., public roads and highways, railroads, and telephone utilities), apparent property boundaries, and natural or cultural features.
118. The highest percentage of paralleling of compatible rights of way or property boundaries is on Route A, at 83 percent.⁵⁴
119. The lowest percentage of paralleling of compatible rights of way or property boundaries is on Route S, at 49 percent.⁵⁵
120. Route P parallels compatible rights of way or property boundaries for 71 percent of its length.⁵⁶

Engineering Constraints

121. There are no significant engineering constraints along any of the alternative routes that cannot be adequately addressed by utilizing design and construction practices and techniques usual and customary in the electric utility industry.⁵⁷
122. All alternative routes are viable, feasible, and reasonable from an engineering perspective.⁵⁸

Other Comparisons of Land Uses and Land Types

a. Radio Towers and Other Electronic Installations

123. No known AM radio transmitters were identified within the study area or within 10,000 feet of the primary alternative routes.⁵⁹

⁵³ CPS Energy Ex. 2 at 12; CPS Energy Ex. 1, EA at 6-5 through 6-46; CPS Energy Ex. 6.

⁵⁴ CPS Energy Ex. 17.

⁵⁵ CPS Energy Ex. 17.

⁵⁶ CPS Energy Ex. 17.

⁵⁷ CPS Energy Ex. 11 at 8 (Direct Testimony of Scott Lyssy); Staff Ex. 1 at 33.

⁵⁸ CPS Energy Ex. 14 at 3:24 – 4:1; Staff Ex. 1 at 10 and 40-42; Tr. Vol. 4 at 796:3-11 and 802:22-24.

⁵⁹ CPS Energy Ex. 17.

124. The number of FM radio transmitters, microwave towers, and other electronic communication towers located within 2,000 feet of any of the primary alternative routes ranges from zero for numerous routes to one for multiple other routes.⁶⁰
125. The number of electronic installations within 2,000 feet of a primary alternative route centerline are shown in Table 4-3 of the EA and Appendix C, Tables 4-6 Amended through 4-36 Amended, along with general descriptions of the installations and their distances from the nearest primary alternative route segment.⁶¹
126. No routes or segments in this case are expected to create any concerns related to communications towers, including access to such, and no communications facilities present any concerns related to any routes or segments.⁶²

b. Airstrips and Airports

127. There is one FAA registered public or military airport with a runway longer than 3,200 feet within 20,000 feet of the routes (the Boerne Stage Field Airport) located north of the study area.⁶³
128. No private airstrips were identified within 10,000 feet of the centerline of any of the alternative routes.⁶⁴
129. There are no FAA registered heliports located within 5,000 feet of the centerline of any of the alternative routes, and no FAA registered public or military airports with runways shorter than 3,200 feet within 10,000 feet of the routes.⁶⁵
130. CPS Energy has identified the approximate distance from the centerline of each of the primary alternative routes to the Boerne Stage Field Airport in the following portions of the EA, as amended: Appendix C, Tables 4-6 Amended through 4-36 Amended, and Amended Figure 2-4 (Appendix D) and Amended Figure 4-1R.⁶⁶

c. Irrigation Systems

131. None of the alternative routes presented in the Application or proposed by other parties cross land irrigated by traveling irrigation systems.⁶⁷

⁶⁰ CPS Energy Ex. 17.

⁶¹ Bexar Ranch Ex. 13 at 9-55.

⁶² CPS Energy Ex. 12 at 8.

⁶³ CPS Energy Ex. 1, EA at 3-38; CPS Energy Ex. 17.

⁶⁴ CPS Energy Ex. 1, EA at 3-38; CPS Energy Ex. 17.

⁶⁵ CPS Energy Ex. 1, EA at 3-38; CPS Energy Ex. 17.

⁶⁶ See CPS Energy Ex. 6; Bexar Ranch Ex. 13 at 9-55; and CPS Energy Ex. 15 at Exhibit LBM-2R.

⁶⁷ CPS Energy Ex. 17.

132. It is unlikely that the presence of transmission facilities along any route will adversely affect any agricultural lands with known traveling irrigation systems.

Recreational and Park Areas

133. CPS Energy and POWER properly identified and described parks and recreational areas.⁶⁸
134. None of the alternative routes or segments directly cross, or are located within the visual foreground of, any park or recreational areas as defined by the Commission's Standard Application for a CCN.⁶⁹
135. It is unlikely that the presence of transmission facilities along any route will adversely affect the use or enjoyment of parks or recreational areas.

Historical and Archaeological Areas

136. CPS Energy has identified and summarized the number of known or recorded historic or prehistoric sites within 1,000 feet of the right of way of each proposed route.⁷⁰
137. The minimum number of known archaeological sites crossed by any route is zero, while the maximum is five.⁷¹
138. The minimum number of additional known archaeological sites within 1,000 feet of the centerline of any route is zero, while the maximum is twelve.⁷²
139. It is unlikely that the presence of transmission facilities along any route will adversely affect archaeological or historical resources.

Aesthetic Values

140. One measure of aesthetic values is the length of right of way that is within the foreground visual zone of U.S. and state highways, FM roads, and parks and recreational areas.
141. CPS Energy and POWER determined and presented the lengths of each primary alternative route segment and primary alternative route within the foreground visual zone of U.S. and State highways, FM roads, and parks or recreational areas.⁷³

⁶⁸ CPS Energy Ex. 17; *See* CPS Energy Ex. 15.

⁶⁹ CPS Energy Ex. 17; *See* CPS Energy Ex. 15.

⁷⁰ CPS Energy Ex. 1, EA at 3-53 to 3-55, Tables 3-12 and 3-13; CPS Energy Exs. 6 and 8; CPS Energy Ex. 17.

⁷¹ CPS Energy Ex. 1, EA at 5-38 to 5-40, Table 5-1, and Table 5-46; CPS Energy Ex. 15.

⁷² CPS Energy Ex. 1, EA at 4-25 to 4-29, as amended by CPS Energy Exs. 6 and 8; CPS Energy Ex. 17.

⁷³ CPS Energy Ex. 15, attached Ex. LBM-1R; CPS Energy Ex. 17.

142. None of the routes or segments were found to have any portion within the foreground visual zone of U.S. and State highways, FM roads, or parks or recreational areas.⁷⁴

Environmental Integrity

143. CPS Energy and POWER evaluated the impacts on environmental integrity from the Project, and set out such impacts in detail in the EA and summarized them in Section 3.0 of the EA.
144. Correspondence with Texas Natural Diversity Database (TXNDD), TPWD, and United States Fish and Wildlife Service (USFWS) indicates 40 animal species as federally- and/or state listed or have candidate status, for Bexar County.⁷⁵
145. None of the primary alternative routes has any length of right of way across designated habitat of federally-listed endangered or threatened species.⁷⁶
146. The Project is not anticipated to significantly adversely impact populations of any federally-listed endangered or threatened species.⁷⁷
147. The Commission does not expect any significant effects on wetland resources, ecological resources, endangered and threatened species, or land use as a result of constructing the proposed transmission facilities.
148. CPS Energy will mitigate any effect on federally listed plant or animal species according to standard practices and measures taken in accordance with the Endangered Species Act.
149. It is appropriate that CPS Energy protect raptors and migratory birds by following the procedures outlined in the following publications: *Reducing Avian Collisions with Power Lines: The State of the Art in 2012*, Edison Electric Institute and Avian Power Line Interaction Committee, Washington, D.C. 2012; *Suggested Practices for Avian Protection on Power Lines: The State of the Art in 2006*, Edison Electric Institute, Avian Power Line Interaction Committee, and the California Energy Commission, Washington, D.C. and Sacramento, CA 2006; and *Avian Protection Plan Guidelines*, Avian Power Line Interaction Committee and United States Fish and Wildlife Service, April 2005.
150. It is appropriate that CPS Energy minimize the amount of flora and fauna disturbed during construction of the proposed transmission line.
151. It is appropriate that CPS Energy revegetate cleared and disturbed areas using native species and consider landowner preferences and wildlife needs in doing so.

⁷⁴ CPS Energy Ex. 15, attached Ex. LBM-1R; CPS Energy Ex. 17.

⁷⁵ CPS Energy Ex. 2 at 18; See Table 3-6 in Section 3.1.11 of the EA.

⁷⁶ CPS Energy Ex. 2 at 18.

⁷⁷ CPS Energy Ex. 2 at 18.

152. It is appropriate that CPS Energy avoid causing, to the maximum extent possible, adverse environmental burdens on sensitive plant and animal species and their habitats as identified by TPWD and the USFWS.
153. It is appropriate that CPS Energy implement erosion control measures and return each affected landowner's property to its original contours unless otherwise agreed to by the landowners. It is appropriate that CPS Energy not be required to restore original contours and grades where different contours or grades are necessary to ensure the safety or stability of the proposed transmission line's structures or the safe operation and maintenance of the transmission line.
154. It is appropriate that CPS Energy 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.
155. It is appropriate that CPS Energy use best management practices to minimize the potential burdens on migratory birds and threatened or endangered species.
156. It is unlikely that the presence of transmission facilities along any route will adversely affect the environmental integrity of the surrounding landscape.

TPWD's Comments and Recommendations

157. TPWD provided information and recommendations regarding the preliminary study area for the Project to POWER on August 1, 2019.⁷⁸
158. On September 10, 2020, after the Application had been filed, TPWD filed a letter containing its comments and recommendations regarding the Project. The letter primarily addressed the mitigation of potential burdens on wildlife and natural resources.
159. On March 1, 2021, after the Amended Application had been filed by CPS Energy, TPWD filed a second letter containing its comments and recommendations regarding the Project.
160. In its subsequent comments, TPWD recommended Route DD for the Project.
161. POWER and CPS Energy have taken into consideration the recommendations offered by TPWD.
162. It is appropriate that, before beginning construction, CPS Energy undertakes appropriate measures to identify whether a potential habitat for endangered or threatened species exists and to respond as required.

⁷⁸ CPS Energy Ex. 1, EA, Appendix A at 186.

163. The standard mitigation requirements included in the ordering paragraphs in this Order, coupled with CPS Energy's current practices, are reasonable measures for a utility to undertake when constructing a transmission line and are sufficient to address TPWD's comments and recommendations.
164. This Order addresses only those TPWD recommendations and comments for which there is record evidence.
165. No modification to the proposed transmission facilities is required as a result of the recommendations and comments made by TPWD.

Permits

166. Before beginning construction of the proposed transmission facilities, CPS Energy will obtain any necessary permits from TxDOT if the facilities cross state-owned or maintained properties, roads, or highways.
167. Before beginning construction of the proposed transmission facilities, it is appropriate for CPS Energy to conduct a field assessment to identify water resources, cultural resources, potential migratory bird issues, and threatened and endangered species' habitats impacted as a result of the Project. As a result of these assessments, CPS Energy will identify any additional permits that are necessary, will consult any required agencies, will obtain all necessary permits, and will comply with the relevant permit conditions during construction and operation of the Project.
168. Before beginning construction of the proposed transmission facilities, CPS Energy will obtain any necessary permits or clearances from federal, state, or local authorities.
169. Before commencing construction, CPS Energy will obtain a general permit to discharge under the Texas pollutant discharge elimination system for stormwater discharges associated with construction activities as required by the Texas Commission on Environmental Quality. In addition, because more than five acres will be disturbed during construction of the transmission facilities, CPS Energy will prepare the necessary stormwater-pollution-prevention plan, to submit a notice of intent to the Texas Commission on Environmental Quality, and to comply with all other applicable requirements of the general permit.
170. Before construction, CPS Energy will obtain all permit or regulatory approvals that are required from the United States Army Corps of Engineers, the USFWS, the Texas Commission on Environmental Quality, the Texas Historical Commission, the state historic preservation offices, and any county in which the Project is built.
171. After designing and engineering the alignments, structure locations, and structure heights, CPS Energy will make a final determination of the need for FAA notification based on the final structure locations and designs. If necessary, CPS Energy will use lower-than-

typical structure heights, line marking, or line lighting on certain structures to avoid or accommodate FAA requirements.

Coastal Management Program

172. Under 16 TAC § 25.102(a), the Commission may grant a certificate for the construction of transmission facilities within the coastal management program boundary only when it finds that the proposed facilities comply with the goals and applicable policies of the Coastal Management Program or that the proposed facilities will not have any direct and significant effect on any of the applicable coastal natural resource areas specified in 31 TAC § 501.3(b).⁷⁹
173. No part of the proposed transmission facilities is located within the coastal management program boundary as defined in 31 TAC § 503.1(b).⁸⁰

Effect on the State's Renewable Energy Goal

174. The Texas Legislature established a goal in PURA § 39.904(a) for 10,000 megawatts of renewable capacity to be installed in Texas by January 1, 2025. This goal has already been met.
175. The proposed Project cannot adversely affect the goal for renewable energy development established in PURA § 39.904(a).

Limitation of Authority

176. 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.
177. Seven years is a reasonable and appropriate limit to place on the authority granted in this Order for CPS Energy to construct the transmission facilities.

II. Conclusions of Law

1. CPS Energy is a public utility as defined in PURA § 11.004 and an electric utility as defined in PURA § 31.002(6).
2. The Commission has jurisdiction over this matter pursuant to PURA §§ 14.001, 32.001, 37.051, 37.053, 37.054, and 37.056.

⁷⁹ 16 TAC § 25.102(a).

⁸⁰ CPS Energy Ex. 2 at 15.

3. CPS Energy must obtain the approval of the Commission to construct the proposed transmission facilities and provide service to the public using those facilities.
4. SOAH exercised jurisdiction over this proceeding under PURA § 14.053 and Texas Government Code §§ 2003.021 and 2003.049.
5. The Application is sufficient under 16 TAC § 22.75(d).
6. Notice of the Application and the hearing were provided in compliance with PURA § 37.054 and 16 TAC § 22.52(a).
7. Additional notice of the approved route is not required under 16 TAC § 22.52(a)(2) because it is wholly composed of properly noticed segments contained in the original CCN application or modifications agreed to by all affected landowners.
8. CPS Energy provided notice of the public open house meeting in compliance with 16 TAC § 22.52(a)(4).
9. The hearing on the merits was set and notice of the hearing was provided in compliance with PURA § 37.054 under Texas Government Code §§ 2001.051 and 2001.052.
10. The Commission processed this docket in accordance with the requirements of PURA, the Administrative Procedure Act,⁸¹ and Commission rules.
11. The transmission facilities using Route P are necessary for the service, accommodation, convenience or safety of the public within the meaning of PURA § 37.056(a).
12. The Texas Coastal Management Program does not apply to any of the transmission facilities proposed in the Application and the requirements of 16 TAC § 25.102 do not apply to the Application.

III. Ordering Paragraphs

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

1. The Commission adopts the proposal for decision, including findings of fact and conclusions of law, except as discussed in this order.
2. The Commission amends CPS Energy's CCN No. 30031 to include the construction and operation of the Scenic Loop Substation, a new load-serving electric substation in northwestern Bexar County to the existing Ranchtown to Menger Creek 138 kV transmission line to the west. The new Scenic Loop Substation will be located at

⁸¹ Tex. Gov't Code §§ 2001.001-902.

proposed substation site 6 and the new transmission line shall be built using segments 50, 15, 22, 25, 37, 38, and 43

3. CPS Energy must consult with pipeline owners or operators in the vicinity of the approved route regarding the pipeline owners' or operators' assessment of the need to install measures to mitigate the effects of alternating current interference on existing natural gas pipelines paralleled by the proposed electric transmission facilities.
4. CPS Energy must conduct surveys, if not already completed, to identify metallic pipelines that could be affected by the transmission line and coordinate with pipeline owners in modeling and analyzing potential hazards because of alternating current interference affecting metallic pipelines being paralleled.
5. CPS Energy must obtain all permits, licenses, plans, and permission required by state and federal law that are necessary to construct the proposed transmission facilities, and if CPS Energy fail to obtain any such permit, license, plan, or permission, they must notify the Commission immediately.
6. CPS Energy must identify any additional permits that are necessary, consult any required agencies (such as the United States Army Corps of Engineers and United States Fish and Wildlife Service), obtain all necessary environmental permits, and comply with the relevant conditions during construction and operation of the transmission facilities approved by this order.
7. Before commencing construction, CPS Energy must obtain a general permit to discharge under the Texas pollutant discharge elimination system for stormwater discharges associated with construction activities as required by the Texas Commission on Environmental Quality. In addition, because more than five acres will be disturbed during construction of the transmission facilities, CPS Energy must, before commencing construction, prepare the necessary stormwater-pollution-prevention plan, submit a notice of intent to the Texas Commission on Environmental Quality, and comply with all other applicable requirements of the general permit.
8. In the event CPS Energy encounters any archeological artifacts or other cultural resources during construction, work must cease immediately in the vicinity of the artifact or resource. CPS Energy must report the discovery to, and take action as directed by, the Texas Historical Commission.
9. Before beginning construction, CPS Energy must undertake appropriate measures to identify whether a potential habitat for endangered or threatened species exists and must respond as required.
10. CPS Energy must use best management practices to minimize the potential impact to migratory birds and threatened or endangered species.
11. CPS Energy must follow the procedures to protect raptors and migratory birds as outlined in the publications: *Reducing Avian Collisions with Power Lines: State of the Art in 2012*, APLIC, 2012, Edison Electric Institute and Avian Power Line Interaction Committee

(APLIC), Washington, D.C. 2012; *Suggested Practices for Avian Protection on Power Lines, The State of the Art in 2006*, Edison Electric Institute, APLIC, and the California Energy Commission, Washington, D.C. and Sacramento, CA 2006; and *Avian Protection Plan Guidelines*, APLIC and USFWS, 2005. CPS Energy must take precautions to avoid disturbing occupied nests and take steps to minimize the impact of construction on migratory birds during the nesting season of the migratory bird species identified in the area of construction.

12. CPS Energy must exercise extreme care to avoid affecting non-targeted vegetation or animal life when using chemical herbicides to control vegetation within the right-of-way, and must ensure that such herbicide use complies with rules and guidelines established in the Federal Insecticide, Fungicide and Rodenticide Act and with Texas Department of Agriculture regulations.
13. CPS Energy must minimize the amount of flora and fauna disturbed during construction of the transmission line project, except to the extent necessary to establish appropriate right-of-way clearance for the transmission line. In addition, CPS Energy must re-vegetate using native species and must consider landowner preferences and wildlife needs in doing so. Furthermore, to the maximum extent practical, CPS Energy must avoid adverse environmental impact to sensitive plant and animal species and their habitats, as identified by TPWD and the USFWS.
14. CPS Energy 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 impact of vehicular traffic over the areas. CPS Energy must return each affected landowner's property to its original contours and grades unless otherwise agreed to by the landowner or the landowner's representative. CPS Energy will 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.
15. CPS Energy must cooperate with directly affected landowners to implement minor deviations from the approved route to minimize the disruptive effect of the proposed transmission line project. Any minor deviations in the approved route must only directly affect the landowners who were sent notice of the transmission line in accordance with 16 TAC § 22.52(a)(3) and landowners who have agreed to the minor deviation.
16. The Commission does not permit CPS Energy to deviate from the approved route in any instance in which the deviation would be more than a minor deviation without further amending its CCN.
17. If possible, and subject to the other provisions of this Order, CPS Energy must prudently implement appropriate final design for this transmission line so as to avoid being subject to the FAA's notification requirements. If required by federal law, CPS Energy must notify and work with the FAA to ensure compliance with applicable federal laws and regulations. CPS Energy is 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 CPS Energy must file an application to amend its CCN as necessary.

18. CPS Energy must include the transmission facilities approved by this Order on its monthly construction progress reports before the start of construction to reflect the final estimated cost and schedule in accordance with 16 TAC § 25.83(b). In addition, CPS Energy must provide final construction costs, with any necessary explanation for cost variance, after completion of construction when all costs have been identified.
19. The Commission limits the authority granted by this Order to a period of seven years from the date this Order is signed unless the transmission facilities are commercially energized before that time.
20. All other motions, requests for entry of specific findings of fact or conclusions of law, and any other requests for general or specific relief, if not expressly granted, are denied.

Dated: May 28, 2021

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

Rachelle Nicolette Robles
Division Director

/s/ Rustin Tawater
Rustin Tawater
State Bar No. 24110430
1701 N. Congress Avenue
P.O. Box 13326
Austin, Texas 78711-3326
(512) 936-7230
(512) 936-7268 (facsimile)
rustin.tawater@puc.texas.gov

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

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 28, 2021, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/ Rustin Tawater
Rustin Tawater