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SOAH DOCKET NO. 473-22-5831
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JOINT APPLICATION OF AEP TEXAS, INC. AND SHARYLAND UTILITIES, L.L.C. TO AMEND THEIR CERTIFICATES OF CONVENIENCE AND NECESSITY FOR THE LA PALMA TO KINGFISHER DOUBLE CIRCUIT 345-KV TRANSMISSION LINE IN CAMERON COUNTY	§ § § § § § § §	**BEFORE THE STATE OFFICE** **OF** **ADMINISTRATIVE HEARINGS**

JOINT APPLICANTS' PROPOSED FINDINGS OF FACTS, CONCLUSIONS OF LAW, AND ORDERING PARAGRAPHS

AEP Texas Inc. (AEP Texas) and Sharyland Utilities, L.L.C. (Sharyland) (collectively, Joint Applicants) offer the following Findings of Fact, Conclusions of Law, and Ordering Paragraphs for consideration. These proposed findings, conclusions, and ordering paragraphs are not exhaustive, but each one presented below should be included in the Proposal for Decision.

I. Proposed Findings of Fact

The Commission adopts the following findings of fact.

Joint Applicants

1. AEP Texas is a Delaware corporation registered with the Texas secretary of state under filing number 802611352.

2. AEP Texas owns and operates for compensation in Texas, facilities and equipment to transmit and distribute electricity in the Electric Reliability Council of Texas (ERCOT) region.

3. AEP Texas is authorized under Certificate of Convenience and Necessity (CCN) number 30028[1] to provide service to the public and to provide retail electric utility service within its certificated service area.

[1] Certificate Number 30028 was assigned to AEP Texas Central Company, which with AEP Texas North Company, merged with their immediate parent company AEP Utilities, Inc. effective December 31, 2016. The merger was approved by the Public Utility Commission of Texas on December 1, 2016 in P.U.C. Docket No. 46050; SOAH

4. Sharyland is a Delaware limited liability company registered with the Texas secretary of state under filing number 803319844.

5. Sharyland owns and operates for compensation in Texas, facilities and equipment to transmit electricity in the ERCOT region.

6. Sharyland is authorized under CCN number 30192 to provide service to the public.

Application

7. On June 29, 2022, Joint Applicants filed an application requesting an amendment to their CCNs to construct the new La Palma to Kingfisher 345-kilovolt (kV) Transmission Line Project (Project) in Cameron County, Texas. The Project is planned as a double-circuit capable 345-kV transmission line with one circuit installed initially.

8. Joint Applicants retained POWER Engineers, Inc. (POWER) to prepare an environmental assessment and route analysis for the Project.

9. The Commission's Order in Project No. 52682 mandated the construction of the Project pursuant to PURA[2] §§ 35.055(b) and 39.203(e).[3]

Description of the Proposed Transmission Facilities

10. Joint Applicants will construct the new La Palma to Kingfisher 345-kV transmission line in Cameron County, Texas.

11. The Project will consist of a double-circuit capable 345-kV transmission line with one circuit installed initially.

12. The Project will begin at the existing AEP Texas La Palma 345-kV Station, which is located in the City of San Benito approximately 0.80 mile south of United States Highway Business 77 and approximately 0.30 mile southeast of Farm-to-Market Road (FM) 1846. The new transmission line will extend southeast until it reaches the new Sharyland Kingfisher 345-kV Station, to be located on the west side of County Road 315 (Casey

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Docket No. 473-16-4822 – *Application of AEP Texas Central Company, AEP Texas North Company, and AEP Utilities, Inc. for Approval of Merger.* As of January 2017, the merged company is doing business as AEP Texas.

[2] Public Utility Regulatory Act, Tex. Util. Code §§ 11.001-66.016 (PURA).

[3] *Project for Commission Ordered Transmission Facilities,* Project No. 52682, Order at 1 (Oct. 14, 2021).

Road) approximately 0.80 mile south of FM 510 and approximately 0.73 mile southeast of FM 510.

13. Each Applicant will own approximately one-half of the Project. AEP Texas will construct and own the western portion of the new transmission line terminating into the AEP Texas La Palma Station, and Sharyland will construct and own the eastern portion of the new transmission line terminating into the Sharyland Kingfisher Station. Each Applicant will own 100 percent of its respective portion of the Project and will have no ownership interest in the other Joint Applicant's portion of the Project. The Joint Applicants will not own any part of the Project as tenants in common, partners, or any other form of joint ownership.

14. AEP Texas owns the existing La Palma Station, and Sharyland will own the new Kingfisher Station.

15. Joint Applicants plan to construct the transmission line using steel monopole structures, which will range in height between 130 to 200 feet above grade and will be located in a 150-foot right-of-way. Steel monopoles cost less to install and reduce impacts to landowners as compared to concrete monopoles.

16. Joint Applicants expect that the facilities will be energized by April of 2026.

Description of the Proposed Routes

17. POWER used a project team with expertise in different environmental disciplines (wildlife biology, plant ecology, land use/planning, and archeology) to analyze the primary alternative routes based upon environmental conditions present along each potential route, augmented by aerial photograph interpretation and field surveys, where possible.

18. POWER examined the study area and the primary alternative routes taking into consideration the requirements of PURA § 37.056(c)(4)(A)-(D), 16 TAC § 25.101(b)(3)(B), and the Commission's CCN application.

19. Joint Applicants' application included 19 alternative routes that met the requirements of PURA and the Commission's Substantive Rules regarding certification criteria, which range from approximately 4.35 miles in length for route 1 to approximately 10.91 miles for route 18.

20. In the application, Joint Applicants identified route 4 as the route that best addresses the certification criteria of PURA and the Commission's Substantive Rules.

21. All alternative routes are viable and constructible.

Schedule

22. In the application, Joint Applicants estimated they would acquire all right-of-way and land by May 2024, finalize engineering and design by September 2024, procure material and equipment by June 2025, complete construction by April 2026, and energize the proposed facilities by April 2026.

Public Input

23. Joint Applicants held three public open house meetings within the study area to solicit comments from residents, landowners, and other interested parties regarding the Project. The first two meetings were held on March 8 and 9, 2022, at the San Benito Cultural Heritage Museum, and the third meeting was held on April 12, 2022, at the San Benito High School in the City of San Benito.

24. A public open house meeting notice was mailed to landowners who own property located within 500 feet of the preliminary alternative link centerlines. There were 350 notices mailed to landowners and entities for the March 8 and 9, 2022 open house meetings and 146 notices mailed to landowners and entities for the April 12, 2022 open house meeting, totaling 496 notices. Each landowner also received a map of the study area depicting the preliminary alternative links with their invitation letter, a questionnaire, and a regulatory frequently asked questions (FAQs) sheet. The invitation letter, questionnaire, and FAQs sheet were also provided in Spanish.

25. Each of the 496 individuals and entities who received an invitation letter also received a Public Meeting Postcard in both English and Spanish inviting them again to the public open house meetings.

26. Joint Applicants provided notice of the public meetings to the Department of Defense Siting Clearinghouse.

27. A total of 65 individuals attended the March 8, 2022 public open house meeting according to the sign-in sheet, with 11 submitting questionnaire responses at the meeting.

28. A total of 18 individuals attended the March 9, 2022 public open house meeting according to the sign-in sheet, with ten submitting questionnaire responses at the meeting.

29. Following the March open house meetings, Joint Applicants modified several preliminary alternative links and added preliminary alternative links L, AO, AP, and AQ.

30. Joint Applicants hosted a third open house meeting for landowners located near the newly added alternative links. A total of 26 individuals attended the April 12, 2022 public open house meeting according to the sign-in sheet with five submitting questionnaire responses at the meeting.

31. A total of 50 questionnaires commenting on the proposed Project were received by Joint Applicants after the April 12, 2022 public open house meeting by mail.

32. Information received from the public open house meetings and from local, state, and federal agencies was considered and incorporated into POWER's environmental assessment.

33. Following the public open house meetings, POWER and Joint Applicants added several links, and modified several links to avoid irrigation risers, provide additional Resaca crossings, and improve paralleling existing compatible right-of-way and minimize land-use impacts.

Notice of the Application

34. On June 29, 2022, Joint Applicants provided notice of the application to (a) all landowners, as stated on the current county tax rolls in Cameron County, Texas, who are directly affected by the alternative routing options; (b) utilities providing similar service within five miles of the alternative routing options, which included the Brownsville Public Utilities Board, Magic Valley Electric Cooperative, Inc., and South Texas Electric Cooperative, Inc.; (c) the County Judge and County Commissioners in Cameron County; and (d) the Mayors of the cities of San Benito, Harlingen, and Brownsville (the only municipalities within five miles of the alternative routing options).

35. On June 29, 2022, Joint Applicants provided the application and Environmental Assessment in this project to the Texas Parks and Wildlife Department (TPWD).

36. On June 29, 2022, Joint Applicants provided notice of the application to the Department of Defense Siting Clearinghouse.

37. On June 29, 2022, Joint Applicants provided notice of the application to the Office of Public Utility Counsel.

38. On July 6, 2022, Joint Applicants caused notice to be published in the *Brownsville Herald,* the newspaper of general circulation in Cameron County.

39. On July 19, 2022, Joint Applicants filed the affidavit of Mel L. Eckhoff, a Regulatory Consultant for American Electric Power Service Corporation, attesting to proof of notice by first-class priority mail, email, and publication. Attached to Mr. Eckhoff's affidavit was a publisher's affidavit from the newspaper and a copy of the notice as published.

Intervenors and Alignment of Intervenors

40. In SOAH Order No. 3 filed on August 2, 2021, the SOAH Administrative Law Judges (ALJ) granted the motions to intervene filed by Palo Verde/Las Retamos Neighbors Association; Rolando Gonzalez, Raul A. Gonzalez, and GOBAR Brothers, LLC; Randall P. Crane; Jose A. Quintanilla; Frank X. Hernandez; Ramiro Gonzalez; David Floodman as agent for U R Home Texas; D/T Carson Trust (via Dale Larson); Wilson B. Fry; Ignacio and Minerva Delgado; Michael Fitzpatrick; Bernardo Elder; Gustavo Cantu, Jr.; Ricardo Morado; Terry and Stephanie Rhyner; STX Premier Properties, LLC; Blanca and Luis Chapa; Francisco Grajales; John Grajales; and Cerafin Grajales.

41. In SOAH Order No. 4 filed on August 11, 2022, the SOAH ALJs granted the motion to intervene filed by Ernesto Estrada; Phillip Ogdee; Fred Ogdee; Ronald Ogdee; Marjorie Kay Johnson; Wanda Walker; Mari de la Fuente-Peña, et al.; Martha Reyna; Raul Piña; Zobeyda Morales; Yolanda Guillen; Sonia Flores; Teresa Piña; Marjory Colvin Batsell; Norton A. Colvin, Jr.; Hejar, Ltd.; Gustavo J. Gonzalez; and Michele de los Santos.

42. In SOAH Order No. 5 filed on August 24, 2022, the SOAH ALJs dismissed the following intervenors for failing to file direct testimony or a statement of position: Randall P. Crane;

Frank X. Hernandez; Ramiro Gonzalez; D/T Carson Family Trust; Ignacio and Minerva Delgado; Bernardo Elder; Gustavo Cantu, Jr.; Ricardo Morado; Terry and Stephanie Rhyner; STX Premier Properties, LLC; Francisco Grajales; John Grajales; Cerafin Grajales; Marjorie Kay Johnson; Wanda Walker; Mari de la Fuente-Peña, et al.; Marjory Colvin Batsell; Norton A. Colvin, Jr.; Hejar, Ltd.; Gustavo J. Gonzalez; and Michele de los Santos.

43. One intervenor, Michele de los Santos, was readmitted at the hearing without objection.

Route Adequacy

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

45. The application's 19 routes are an adequate number of reasonably differentiated routes to conduct a proper evaluation.

Statements of Position and Testimony

46. On June 29, 2022, Joint Applicants filed the direct testimony of the following witnesses: Eric W. Scott, a Project Manager in the Transmission Services Department of American Electric Power Service Company (AEPSC); Annie C. Wantland, a Planning & Engineering Supervisor, Transmission Line Engineering ERCOT at AEPSC; Mark D. Meyer, Vice President of Operations at Hunt Utility Services, L.L.C.; and Gary L. McClanahan, Jr., a Project Manager in the Environmental Division of POWER. These direct testimonies were admitted at the hearing.

47. On or before August 18, 2022, the following direct testimonies were filed.

    a. direct testimony of intervenor Michael Fitzpatrick on behalf of himself;

    b. direct testimony of intervenor Zobeyda Morales on behalf of herself;

    c. direct testimony of intervenor Martha Reyna on behalf of herself;

    d. direct testimony of intervenor Maria Teresa Guerra on behalf of herself;

    e. direct testimony of intervenor Blanca Chapa on behalf of herself;

f. direct testimony of intervenor Sonia Flores on behalf of herself;

g. direct testimony of intervenors Ronald G. Ogdee, Fred T. Ogdee, and Phillip A. Ogdee on behalf of themselves;

h. direct testimony of intervenor Daniel Villafranco on behalf of himself;

i. direct testimony of Victor M. Gutierrez, Jr., P.E. on behalf of intervenors Ronald Gonzalez, Raul A. Gonzalez, and GOBAR Brothers, LLC;

j. direct testimony of Brian C. Andrews on behalf of intervenor GOBAR Brothers, LLC;

k. direct testimony of intervenor Ernesto Estrada on behalf of himself;

l. direct testimony of intervenors Manuel and Evelia Duran Jr. on behalf of themselves;

m. direct testimony of David Floodman on behalf intervenor U R Home Texas, LLC; and

n. direct testimony of intervenor Wilson Benjamin Fry on behalf of himself.

48. The following direct testimonies were admitted at the hearing: Blanca and Luis Chapa, Michael Fitzpatrick, Zobeyda Morales, Maria Teresa Guerra, Sonia Flores, Victor M. Guiterrez, Jr., P.E., Brian C. Andrews, Ernesto Estrada, Manuel and Evelia Duran Jr., and David Floodman.

49. On August 18, 2022, Palo Verde/Los Retamos Neighbors Association filed a statement of position.

50. On August 26, 2022, Commission Staff filed the direct testimony of its witness Sherryhan Ghanem. This direct testimony was admitted at the hearing.

51. On September 1, 2022, Joint Applicants filed the rebuttal testimony of Mr. McClanahan. This rebuttal testimony was admitted at the hearing.

52. On September 9, 2022, TPWD filed comments in this proceeding. TPWD did not seek to intervene in this proceeding.

Referral to SOAH for Hearing

53. On June 29, 2022, Joint Applicants requested referral of this case to SOAH.

54. On July 11, 2022, the Commission ALJ referred this docket to SOAH and filed a preliminary order specifying the issues to be addressed in this proceeding.

55. On July 29, 2022, the SOAH ALJs convened a prehearing conference in this docket by videoconference, at which time a procedural schedule was discussed.

56. In SOAH Order No. 3, filed on August 2, 2022, the SOAH ALJs memorialized the prehearing conference held on July 29, 2022, and scheduled the hearing on the merits to begin on September 6, 2022.

57. On September 6, 2022, the hearing on the merits convened before SOAH ALJs Daniel Wiseman and Sarah Starnes by videoconference. The following parties made appearances pro se or through their legal counsel and participated in the hearing on the merits: AEP Texas; Sharyland; Commission Staff; Rolando Gonzalez, Raul A. Gonzalez, and GOBAR Brothers, LLC; Palo Verde/Las Retamos Neighbors Association; Michele de los Santos; David Floodman; Michael Fitzpatrick; Blanca and Luis Chapa; Sonia Flores; and Evelia Duran.

Need for the Proposed Project

58. In September 2021, the Commission determined that additional transmission facilities were needed to be constructed pursuant to PURA §§ 35.005(b) and 39.203(e), to ensure safe and reliable electric service in the Lower Rio Grande Valley. On October 14, 2021, the Commission issued an order in Project No. 52682 that required Joint Applicants to develop a CCN application for approval to construct transmission facilities to "close the loop from Palmito to North Edinburg."

59. The Project will close the loop from Palmito to North Edinburg in accordance with the Commission's order in Project No. 52682.

60. PURA § 39.203(e) exempts electric utilities that are ordered under that subsection to construct or enlarge transmission or transmission-related facilities from proving that the construction ordered in necessary for the service, accommodation, convenience, or safety

of the public in any proceeding brought under chapter 37. It also exempts electric utilities from addressing the factors listed in PURA § 37.056(c)(1)-(3) and (4)(E) in any proceeding brought under chapter 37.

Routing of the Transmission Facilities

61. The POWER project team included professionals with expertise in different environmental and land use disciplines who were involved in data acquisition, routing analysis, and environmental assessment for the transmission facilities.

62. 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 alternative route segments, and reviewed and adjusted the alternative route segments following field reconnaissance and the public meetings.

63. Using the alternative route segments, POWER and Joint Applicants identified 19 reasonable and 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.

64. The consensus opinion of POWER's evaluators was to recommend alternative route 4 as the route that best addresses the requirements of PURA and the Commission's substantive rules from an environmental and land-use perspective, followed by routes 2, 5, 19, and 6.

65. Joint Applicants considered POWER's recommendations as well as engineering and construction constraints, estimated costs, and agency and landowner concerns.

66. Joint Applicants identified route 4 as the route that best addresses the Commission's routing criteria.

67. Commission Staff identified route 4 as the route that best addresses the Commission's routing criteria.

68. Route 4 is 4.92 miles in length.

69. Route 4 includes the following routing segments: A, C, E1, E2, O, and Q.

70. Route 4 presents an appropriate balance of the routing factors.

Land Use

71. The majority of the study area is in a suburban setting with a mix of residential subdivisions and commercial structures. The study area is predominantly residential with cropland throughout the study area.

72. The study area is located within the Coastal Prairies sub-province of the Gulf Coastal Plains Physiographic Province. Elevations within the study area range between approximately 20 and 25 feet above mean sea level.

73. All alternative routes can be safely and reliably constructed and operated without significant adverse effects on property uses.

Community Values

74. To ensure that the decision-making process adequately identified and considered community values, Joint Applicants solicited input from residents, landowners, and other interested persons about the preliminary alternative links through three public meetings held on March 8 and 9, 2022 and April 12, 2022, as well as through mailed questionnaires. These public meetings were designed to promote a better understanding of the proposed Project, including the purpose and need for the Project, the benefits and potential impacts of the new transmission line, and the Commission's regulatory approval process; inform and educate the public about the routing procedure, schedule, and selection process; and identify the values and concerns of the landowners and other interested parties in the study area.

75. Route 4 adequately addresses the expressed community values.

Prudent Avoidance

76. Prudent avoidance is the limiting of exposures to electric and magnetic fields that can be avoided with reasonable investments of money and effort.

77. All of the alternative routes conform to the Commission's policy of prudent avoidance in that they reflect reasonable investments of money and effort to limit exposure to electric and magnetic fields.

78. The number of habitable structures within 500 feet of the centerline of the proposed alternative routes ranges from 30 to 121.

79. There are 47 habitable structures within 500 feet of the centerline of route 4.

80. The construction of the transmission facilities along route 4 complies with the Commission's policy of prudent avoidance.

Recreational and Park Areas

81. POWER reviewed federal, state, and local websites and maps and conducted field reconnaissance surveys to identify parks and recreation facilities located within the study area.

82. The number of parks or recreational areas located within 1,000 feet of the centerline of any of the alternative routes ranges from zero to one.

83. Route 4 does not cross any park or recreational areas, nor are there any parks or recreational areas located within 1,000 feet of the centerline of this route.

84. The presence of transmission facilities along any of the alternative routes, including route 4, is unlikely to adversely affect the use or enjoyment of any park or recreational area.

Texas Parks and Wildlife Department's Written Comments and Recommendations

85. TPWD's wildlife habitat assessment program provided information and recommendations regarding the preliminary study area for the transmission line to POWER on February 3, 2022.

86. On September 9, 2022, a letter from TPWD was filed in this proceeding making various comments and recommendations regarding the proposed transmission facilities.

87. TPWD included comments and recommendations regarding the transmission facilities and potential impacts on sensitive fish and wildlife resources, habitats or other sensitive natural resources. The letter includes concerns, comments, and recommendations that are often provided by TPWD regarding proposed transmission-line projects. POWER and Joint Applicants have already taken into consideration several of the recommendations offered by TPWD as Joint Applicants follow many of the recommendations in the TPWD letter

relating to use of existing right-of-way, proper use and placement of sediment-control fencing, avoiding impacts to water resources, avoiding potential impacts to endangered species, and re-vegetation of disturbed areas.

88. TPWD's comment letter identified route 19 as the route that best minimizes adverse effects on natural resources.

89. Joint Applicants will implement mitigation measures and best management practices set forth in the environmental assessment, those included in the recommendations of the Commission's engineering staff, and those typically included in the Commission's final orders in transmission-line CCN cases. The mitigation measures and best management practices recommended by Commission Staff, combined with the mitigation practices set out in the application, will minimize the impact of line construction on wildlife, including following certain procedures for protecting raptors, using extreme care in the application of chemical herbicides, minimizing disruption of flora and fauna, and revegetating with native species following completion of construction.

90. Before beginning construction, it is appropriate for Joint Applicants to undertake appropriate measures to identify whether a habitat for potential endangered or threatened species exists and to respond as required.

91. Joint Applicants will use avoidance and mitigation procedures to comply with laws protecting federally-listed species.

92. Joint Applicants will re-vegetate the new right-of-way as necessary and according to Joint Applicants' vegetation management practices, the storm water pollution prevention plan developed for construction of the transmission facilities, and (in many instances) landowner preferences or requests.

93. Joint Applicants' standard vegetation-removal, construction, and maintenance practices adequately mitigate concerns expressed by the TPWD.

94. Joint Applicants will use appropriate avian protection procedures.

95. Joint Applicants will comply with all environmental laws and regulations, including those governing threatened and endangered species.

96. Joint Applicants will comply with all applicable regulatory requirements in constructing the transmission facilities approved by this Order, including any applicable requirements under section 404 of the Clean Water Act.

97. Joint Applicants will cooperate with the United States Fish and Wildlife Services and the TPWD if threatened or endangered species' habitats are identified during field surveys.

98. If construction affects federally-listed species or their habitat or affects water under the jurisdiction of the United States Army Corps of Engineers or the Texas Commission on Environmental Quality, Joint Applicants will cooperate with the United States Fish and Wildlife Service, the United States Army Corps of Engineers, and the Texas Commission on Environmental Quality, as appropriate, to coordinate permitting and perform any required mitigation.

99. The standard mitigation requirements included in the ordering paragraphs in this Order, coupled with Joint Applicants' current practices, are reasonable measures for a utility to undertake when constructing a transmission line and are sufficient to address the TPWD's comments and recommendations.

Environmental Integrity

100. The environmental assessment and routing analysis analyzed the possible effects of the transmission facilities on numerous environmental factors.

101. Review of information from the Texas Natural Diversity Database, TPWD, and United States Fish and Wildlife Service indicate records of two plant species that are federally listed, three plant species state listed as endangered, 12 animal species that are federally listed, and 50 animal species that are state listed for the study area county. None of the alternative routes cross any known habitat or designated critical habitat for federally-listed threatened or endangered species.

102. It is unlikely that the transmission line approved by this Order will have any significant adverse effects on the physiographic or geologic features and resources of the area.

103. It is unlikely that geologic hazards will be created by the transmission facilities.

104. It is unlikely that the construction, operation, and maintenance of the transmission line will adversely affect groundwater resources within the study area.

105. It is unlikely that construction activities will impede the flow of water within watersheds or floodplains.

106. No future surface water projects were identified as occurring within the study area, and no impacts are anticipated.

107. It is unlikely that construction activities will significantly impede the flow of receding floodwaters within special hazard areas.

108. It is unlikely that the conversion of prime farmland soils will occur because of the transmission facilities.

109. The transmission line is anticipated to have short-term minimal impacts to soil, water, and ecological resources. Most of the impacts will be during initial construction and will consist of erosion and soil compaction.

110. The impacts on vegetation would be the result of clearing and maintaining the right-of-way, and the length of upland woodland or brushland along the right-of-way of the alternative routes ranges from 1.20 miles for route 13 to 2.92 miles for route 18.

111. It is appropriate for Joint Applicants to employ erosion control during initial construction. Joint Applicants indicated they would develop a stormwater pollution prevention plan prior to construction to minimize potential impacts to soils, primarily erosion, compaction, and off-right-of-way sedimentation. The stormwater pollution prevention plan will also identify avoidance measures of potential contamination of water resources and include best management practices to prevent off-right-of-way sedimentation and degradation of potential coastal natural resource areas including potential wetland areas and to minimize potential impacts to aquatic habitats.

112. Review of the Texas Natural Diversity Database (2020) identified one occurrence record for a Texas Ebony-snake-eyes Shrubland vegetation community mapped within the north central portion of the study area. None of the alternative routes cross this occurrence record.

113. After Commission approval of a route, field surveys may be performed, if necessary, to identify potential suitable habitat for federally- and state-listed animal species and determine the need for any additional species-specific surveys. If potential suitable habitat is identified or federally- or state-listed animal species are observed during a field survey of the Commission-approved route, Joint Applicants may further work with the TPWD and United States Fish and Wildlife Service to determine avoidance or mitigation strategies.

114. It is unlikely that the transmission facilities will have significant adverse impacts on populations of any federally-listed endangered or threatened species.

115. Joint Applicants can construct the transmission facilities in an ecologically sensitive manner on any proposed route.

116. Joint Applicants 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.

117. It is appropriate for Joint Applicants to 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 USFWS, April 2005. It is appropriate for Joint Applicants to 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.

118. It is appropriate for Joint Applicants to minimize the amount of flora and fauna disturbed during construction of the transmission facilities.

119. It is appropriate for Joint Applicants to re-vegetate cleared and disturbed areas using native species and consider landowner preferences and wildlife needs in doing so.

120. It is appropriate for Joint Applicants to avoid, to the maximum extent possible, causing adverse environmental effects on sensitive plant and animal species and their habitats as identified by the TPWD and the United States Fish and Wildlife Service.

121. It is appropriate for Joint Applicants to implement erosion-control measures and return each affected landowner's property to its original contours and grades unless the landowners agree otherwise. However, it is not appropriate for Joint Applicants to restore original contours and grades where different contours or grades are necessary to ensure the safety or stability of any transmission line.

122. It is appropriate for Joint Applicants to 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 is required to comply with the rules and guidelines established in the Federal Insecticide, Fungicide, and Rodenticide Act and with the Texas Department of Agriculture regulations.

123. It is appropriate for Joint Applicants to use best management practices to minimize potential harm that the approved route presents to any migratory birds and threatened or endangered species.

124. It is unlikely that the presence of transmission facilities along any proposed alternative route will adversely affect the environmental integrity of the surrounding landscape.

125. All of the alternative routes, including route 4, are environmentally acceptable.

Coastal Management Program

126. The transmission facilities are not located, either in whole or in part, within the Coastal Management boundary as defined in 31 TAC § 503.1.

Historical and Cultural Values

127. None of the alternative routes cross or are within 1,000 feet of recorded cultural resource sites.

128. None of the alternative routes are located within 1,000 feet of any property listed on the National Register of Historic Places.

129. The number of cemeteries located within 1,000 feet of a proposed routes ranges from zero to one. Route 4 has one cemetery located within 1,000 feet of its centerline.

130. The length of right-of-way across areas of high archeological site potential ranges from 4.35 miles to 9.17 miles.

131. It is unlikely that the presence of the transmission facilities along any proposed alternative route will adversely affect historical or archeological resources.

Aesthetic Values

132. Construction of the proposed transmission project could have both temporary and permanent aesthetic impacts. Temporary impacts would include views of the actual assembly and erection of the tower structures. Where wooded areas are cleared, the brush and wood debris could have an additional negative temporary impact on the local visual environment. Permanent impacts from the transmission facilities would involve the views of the cleared right-of-way, tower structures, and lines.

133. No known high-quality aesthetic resources, designated views, or designated scenic roads or highways were identified within the study area.

134. Since no designated landscapes protected from most forms of development or by legislation exist within the study area, potential aesthetic impacts were evaluated by estimating the length of each alternative route that would fall within the foreground visual zone (one-half mile with unobstructed views) of major highways, FM roads, and parks or recreational areas. There are no interstate highways located within the study area.

135. All of the alternative routes have some portion of right-of-way located within the foreground visual zone of United States Highways and state highways. Alternative route 17 has the longest length of right-of-way within the foreground visual zone of United States highways and state highways, with approximately 4.75 miles, followed by alternative route 18 with approximately 4.61 miles. Alternative route 5 is the least, with approximately 1.82 miles, followed by alternative route 4 with approximately 1.83 miles.

136. All of the alternative routes have some portion of right-of-way located within the foreground visual zone of FM roads. Alternative route 13 has the longest length of right-

of-way within the foreground visual zone of FM roads, with approximately 5.77 miles, followed by alternative routes 7 and 19 with approximately 5.32 miles each. Alternative route 1 has the least, with approximately 2.15 miles, followed by alternative route 2 with approximately 3.32 miles. Route 4 has the third least amount of its length within the foreground visual zone of FM roads at 3.33 miles.

137. None of the alternative routes is located within the visual foreground of any park or recreational area.

138. Overall, the character of the rural landscape within the study area includes relatively flat croplands scattered throughout. The residential, commercial developments, and industrial facilities within the study area have already impacted the aesthetic quality within the region from public viewpoints. It is unlikely that the construction of any of the alternative routes will significantly impact the aesthetic quality of the landscape.

139. The relatively shorter length of Route 4 within the foreground of United States highways and state highways (1.83 miles) and FM roads (3.33 miles) as compared to most other routes helps to mitigate those impacts compared to other routes.

Engineering Constraints

140. Joint Applicants evaluated engineering and construction constraints when developing routes.

141. There are no significant engineering constraints along any of the alternative routes that cannot be adequately addressed by using design and construction practices and techniques usual and customary in the electric utility industry.

142. All alternative routes are viable, feasible, and reasonable from an engineering perspective.

Estimated Costs

143. The estimated construction cost of the 19 alternative routes presented in the application range from $30,122,000 to $56,238,000, not including the estimated substation costs of approximately $43,709,000 for construction of the new Sharyland Kingfisher Station and approximately $13,638,000 for construction of the new termination facilities for the existing AEP Texas La Palma substation.

144. Route 4 is estimated to cost $30,144,000, not including the estimated substation costs, which is the second least expensive route.

145. The estimated cost of route 4 is reasonable considering the range of cost estimates for the routes.

Using or Paralleling Compatible ROW and Paralleling Property Boundaries

146. The alternative routes parallel existing transmission line right-of-way, other existing compatible right-of-way, or apparent property boundaries for approximately 65 percent to 89 percent of the length of the route depending on the route selected.

147. Route 4 parallels or uses existing transmission line right-of-way or other existing compatible right-of-way or parallels apparent property boundaries for approximately 84 percent of the route.

148. Route 4 uses or parallels existing compatible right-of-way or apparent property boundaries to a reasonable extent.

Permits

149. Before beginning construction of the transmission facilities approved by the Commission, Joint Applicants will obtain any necessary permits from the Texas Department of Transportation or any other applicable state agency if the facilities cross state-owned or maintained properties, roads, or highways.

150. Before beginning construction of the transmission facilities approved by this Order, Joint Applicants will obtain a miscellaneous easement from the General Land Office if the transmission line crosses any state-owned riverbed or navigable stream.

151. Before beginning construction of the transmission facilities approved by this Order, Joint Applicants will obtain any necessary permits or clearances from federal, state, or local authorities.

152. It is appropriate for Joint Applicants, before commencing construction, to 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.

153. It is appropriate for Joint Applicants to conduct a field assessment of the approved route before beginning construction of the transmission facilities approved by the Commission to identify water resources, cultural resources, potential migratory bird issues, and threatened and endangered species' habitats disrupted by the transmission line. As a result of these assessments, Joint Applicants will identify all necessary permits from county, state, and federal agencies. Joint Applicants will comply with the relevant permit conditions during construction and operation of the transmission facilities along the approved route.

154. After designing and engineering the alignments, structure locations, and structure heights, Joint Applicants will determine the need to notify the Federal Aviation Administration based on the final structure locations and designs. If necessary, Joint Applicants will use lower than-typical structure heights, line marking, or line lighting on certain structures to avoid or accommodate requirements of the Federal Aviation Administration.

Seven-Year Time Limit

155. 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.

156. Seven years is a reasonable and appropriate limit to place on the authority granted in this Order for Joint Applicants to construct the transmission facilities.

Renewable Energy Goal

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

158. The transmission facilities along route 4 cannot adversely affect the goal for renewable energy development established in PURA § 39.904(a).

II. Proposed Conclusions of Law

The Commission adopts the following conclusions of law.

1. Joint Applicants are public utilities as that term is defined in PURA § 11.004(1) and electric utilities as that term is defined in PURA § 31.002(6).

2. The Commission has jurisdiction over this matter in accordance with §§ 14.001, 32.001, 37.051, 37.053, 37.054, 37.056, and 39.203(e).

3. Joint Applicants are required to obtain the Commission's approval to construct the proposed transmission facilities and provide service to the public using those facilities.

4. SOAH exercised jurisdiction over the 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. Because the Project was ordered by the Commission, the 180-day case-processing timeline set forth in PURA § 39.203(e) applies to this proceeding.

7. The Commission processed this docket in accordance with the requirements of PURA, the Administrative Procedure Act,[4] and Commission rules.

8. Joint Applicants provided notice of the application in accordance with PURA § 37.054 and 16 TAC § 22.52(a).

9. Joint Applicants held public meetings and provided proper notice of these meeting in compliance with 16 TAC § 22.52(a)(4).

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

11. The transmission facilities using route 4 are necessary for the service, accommodation, convenience, or safety of the public within the meaning of PURA § 37.056 and 16 TAC § 25.101.

12. The Texas Coast Management Program does not apply to any of the transmission facilities approved by this Order, and the requirements of 16 TAC § 25.102 do not apply to the application.

[4] Tex. Gov't Code §§ 2001.001-.903.

III. Proposed Ordering Paragraphs

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

1. The Commission approves the application, as outlined in this Order.

2. The Commission amends Joint Applicants' CCN numbers 30028 and 30192 to include the construction and operation of the transmission facilities, including a 345-kV single-circuit transmission line on double-circuit-capable structures along route 4 (links A-C-E1-E2-O-Q), the new Sharyland Kingfisher Station, and station work at the existing AEP Texas La Palma Station as described in this Order. The Commission is not certificating a second circuit through this Order.

3. Joint Applicants 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 pipelines that are paralleled by the proposed electric transmission facilities.

4. Joint Applicants must conduct surveys, if not already completed, to identify metallic pipelines that could be affected by the transmission line approved by this Order and cooperate with pipeline owners in modeling and analyzing potential hazards because of alternating-current interference affecting metallic pipelines being paralleled.

5. Joint Applicants must obtain all permits, licenses, plans, and permission required by state and federal law that are necessary to construct the transmission facilities approved by this Order, and if Joint Applicants fail to obtain any such permit, license, plan, or permission, they must notify the Commission immediately.

6. Joint Applicants 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. If Joint Applicants encounter any archaeological artifacts or other cultural resources during construction, work must cease immediately in the vicinity of the artifact or resource, and Joint Applicants must report the discovery to, and act as directed by, the Texas Historical Commission.

8. Before beginning construction, Joint Applicants must undertake appropriate measures to identify whether a potential habitat for endangered or threatened species exist and must respond as required.

9. Joint Applicants must use best management practices to minimize the potential harm to migratory birds and threatened or endangered species that is presented by the approved route.

10. Joint Applicants must follow the procedures to protect raptors and migratory birds as outlined in the following publications: *Reducing Avian Collisions with Power Lines: 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 the *Avian Protection Plan Guidelines,* Avian Power Line Interaction Committee and United States Fish and Wildlife Service, April 2005. Joint Applicants 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.

11. Joint Applicants 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. Herbicide use must comply with rules and guidelines established in the Federal Insecticide, Fungicide, and Rodenticide Act and with Texas Department of Agriculture's regulations.

12. Joint Applicants must minimize the amount of flora and fauna disturbed during construction of the transmission facilities, except to the extent necessary to establish appropriate right-of-way clearance for the transmission facilities. In addition, Joint Applicants must re-vegetate using native species and must consider landowner preferences

and wildlife needs in doing so. Furthermore, to the maximum extent practicable, Joint Applicants must avoid adverse environmental effects on sensitive plant and animal species and their habitats, as identified by the TPWD and the United States Fish and Wildlife Service.

13. Joint Applicants must implement erosion-control measures as appropriate. Erosion-control measures may include inspection of the rights-of-way before and during construction to identify erosion areas and implement special precautions as determined reasonable to minimize the effect of vehicular traffic over the areas. Also, Joint Applicants 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. However, the Commission does not require Joint Applicants to restore original contours and grades where a different contour or grade is necessary to ensure the safety or stability of the transmission facilities' structures or the safe operation and maintenance of the transmission facilities.

14. Joint Applicants must cooperate with directly affected landowners to implement minor deviations in the approved route to minimize the disruptive effect of the transmission facilities. Any minor deviations in the approved route must only directly affect the landowners who were sent notice of the transmission facilities in accordance with 16 TAC § 22.52(a)(3) and have agreed to the minor deviation.

15. The Commission does not permit Joint Applicants to deviate from the approved route in any instance in which the deviation would be more than a minor deviation without first further amending their CCNs.

16. If possible, and subject to the other provisions of this Order, Joint Applicants must prudently implement appropriate final design for the transmission facilities to avoid being subject to the Federal Aviation Administration's notification requirements. If required by federal law, Joint Applicants must notify and work with the Federal Aviation Administration to ensure compliance with applicable federal laws and regulations. The Commission does not authorize Joint Applicants to deviate materially from this Order to meet the Federal Aviation Administration's recommendations or requirements. If a material change would be necessary to meet the Federal Aviation Administration's

recommendations or requirements, then Joint Applicants must file an application to amend its CCN as necessary.

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

18. The Commission limits the authority granted by this Order to a period of seven years from the date of this Order unless the transmission facilities are commercially energized before that time.

19. The Commission denies all other motions and any other requests for general or specific relief that have not been expressly granted.

Respectfully submitted,

/s/ Jeffrey B. Stuart
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served on all parties of record in this proceeding on this the 21st day of September 2022.

/s/ Sarah K. Merrick
Sarah K. Merrick