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Filing Date - 2024-12-20 02:13:56 PM

Control Number - 57115

Item Number - 253

**SOAH DOCKET NO. 473-25-02531
PUC DOCKET NO. 57115**

JOINT APPLICATION OF THE CITY OF SAN ANTONIO, ACTING BY AND THROUGH THE CITY PUBLIC SERVICE BOARD (CPS ENERGY), AND SOUTH TEXAS ELECTRIC COOPERATIVE, INC. (STEC) TO AMEND THEIR CERTIFICATES OF CONVENIENCE AND NECESSITY FOR THE PROPOSED HOWARD ROAD-TO-SAN MIGUEL 345-KV TRANSMISSION LINE IN BEXAR AND ATASCOSA COUNTIES	§ § § § § § § § § § §	BEFORE THE STATE OFFICE OF ADMINISTRATIVE HEARINGS
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COMMISSION STAFF'S INITIAL BRIEF

Dated: December 20, 2024

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

Marisa Lopez Wagley
Division Director

Phillip Lehmann
Managing Attorney

/s/ Daniel Alvarado
Daniel A. Alvarado
State Bar No. 24132482
Phillip Lehmann
State Bar No. 24100140
1701 N. Congress Avenue
P.O. Box 13326
Austin, Texas 78711
(512) 936-7407
(512) 936-7268 (facsimile)
daniel.alvarado@puc.texas.gov

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I. INTRODUCTION AND SUMMARY

The applicants, the City of San Antonio, acting by and through the City Public Service Board (CPS Energy), and South Texas Cooperative, Inc. (STEC) (collectively, Joint Applicants), seek to amend their certificates of convenience and necessity for the proposed Howard-Road-to-San-Miguel 345-kV transmission line (Proposed Project) in Bexar and Atascosa Counties.

The Staff (Staff) of the Public Utility Commission of Texas (Commission) supports the routing of the Proposed Project along what is designated as Route M in the application.¹ As discussed below, Route M meets the criteria set forth in PURA² § 37.056 and 16 Texas Administrative Code (TAC) § 25.101. Staff believes that it is an acceptable route and a reasonable compromise when compared to all the proposed routes.³

Staff's witness, John Poole, initially evaluated the application and recommended Route M as the route that best meets PURA and the Commission's criteria.⁴ Joint Applicants identified Route U as the route that best meets the same criteria.⁵ Staff further notes that Texas Parks and

¹ Direct Testimony of John Poole, P.E., Infrastructure Division, Public Utility Commission of Texas, November 21, 2024, Staff Ex. 1 at 45:16-46:22 (Nov. 21, 2024) (Staff Ex. 1).

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

³ Staff Ex. 1 at 46:1-22.

⁴ *Id.*

⁵ *Id.* at 21:19-22:1.

Wildlife (TPWD), which filed their testimony after Staff submitted theirs, recommended Route Y because it appears to best minimize adverse impacts to natural resources.⁶ On November 18, 2024, Intervenor Frank Allen Ranch, LLC filed its Second Request for Information from Joint Applicants, requesting information on an alternative route, named Route N-AB consisting of a combination of Segments 3-6-15-21-30-34-39-40-41-45A-45B-52-54-55-58-59-65-68B-71-75-77-87-94-99-107-108-110.⁷ On November 26, 2024, in Joint Applicants' response, they indicated that additional information would be provided in rebuttal testimony.⁸ On November 27, 2024, Joint Applicants provided additional information on Route N-AB via the Rebuttal Testimony and Exhibits of Denise M. Williams and the Rebuttal Testimony and Exhibits of Scott D. Lyssy.⁹

Joint Applicants originally proposed a total of 34 alternative routes to serve the proposed Howard Road to San Miguel 345 kV Transmission Line Project that is needed to provide service to address North American Electric Reliability Corporation (NERC) Category P1 thermal overloads of the 345 kV J.K. Spruce to Pawnee transmission line.¹⁰ Staff does not contest the viability of any of the 34 routes.¹¹ Staff notes that although Staff initially supported Route M in the testimony of Staff Witness John Poole, that Mr. Poole also noted that none of the proposed alternative routes were better than all the other routes in all aspects.¹² Further, Staff notes that no intervening party opposes Route N-AB. Staff does not oppose Route N-AB. In short, there are tradeoffs with every route configuration.

PURA and the Commission's substantive rules list the requirements for approving an application for a CCN amendment to construct and operate a transmission line. In part those rules

⁶ TPWD's Comments regarding the Joint Application of the City of San Antonio, acting by & through CPS Energy, and STEC to amend their CCN for the proposed Howard Road to San Miguel 345-kilovolt Transmission Line, Bexar and Atascosa Counties, Texas at 3 (Dec. 2, 2024) (TPWD's Comments).

⁷ Frank Allen Ranch, LLC's Second Request for Information from Joint Applicants CPS Energy and South Texas Electric Cooperative, Inc. at 6 (Nov. 18, 2024).

⁸ CPS Energy and South Texas Electric Cooperative, Inc.'s Response to Frank Allen Ranch's Second Request for Information at 3 (Nov. 26, 2024).

⁹ Rebuttal Testimony and Exhibits of Denise Williams (Nov. 27, 2024); Rebuttal Testimony and Exhibit of Scott Lyssy (Nov. 27, 2024).

¹⁰ Joint Application of CPS Energy and South Texas Electric Cooperative, Inc. (STEC) to Amend their Certificates of Convenience and Necessity for the Proposed Howard Road-to-San Miguel 345 kV Transmission Line in Bexar and Atascosa Counties, CPS Energy-STEC Ex. 1 at 13, 20 (Oct. 4, 2024) (Application).

¹¹ Staff Ex. 1 at 22:3-23:7.

¹² Staff Ex. 1 at 45:15-18.

state that “[t]o approve an application to obtain or amend a CCN, the [Commission] must find that the proposed CCN is necessary for the service, accommodation, convenience, or safety of the public.”¹³ The plain language of the Commission’s rule grants the Commission authority to “consider and weigh a variety of factors—engineering constraints, costs, grid reliability, and security, along with the criteria in PURA section 37.056—in addition to use of existing rights-of-way in determining the most reasonable route for a transmission line.”¹⁴ On being given authority to consider and weigh the various routing factors, “the [Commission] may in some cases be required to adjust or accommodate the competing policies and interests involved”¹⁵ and “no one factor controls or is dispositive.”¹⁶

A. Route M exhibits positive quantitative features

Staff supports Route M because it exhibits positive quantitative features. While these quantitative features are discussed in greater detail in Section V.E (Preliminary Order Issue No. 8: Routing) below, the quantitative criteria that most favor Route M are the following:

- Route M is 46.99 miles long, only 1.67 miles (3.68%) longer than the shortest proposed route in Joint Applicants’ Application;¹⁷
- Route M has an estimated cost of \$276,258,000.00, making it the 3rd least expensive route and a \$1,657,000.00 or 0.60% difference from the least expensive;¹⁸
- Route M parallels ROW for approximately 56.59 percent of its length, which is the second highest of any proposed alternative route.¹⁹
- Route M does not utilize Segments 46, 64, 12, or 20, which were the segments that were identified as being least preferred by respondents.²⁰

¹³ *Dunn v. Pub. Util. Comm’n of Tex.*, 246 S.W.3d 788, 791 (Tex. App.—Austin 2008, no pct.).

¹⁴ *Id.* at 795.

¹⁵ *Pub. Util. Comm’n of Tex. v. Texland Elec. Co.*, 701 S.W.2d 261, 266 (Tex. App.—Austin 1985, writ ref’d n.r.e.).

¹⁶ *Dunn*, 246 S.W.3d at 795.

¹⁷ Staff Ex. 1 at 46:3-22.

¹⁸ *Id.*

¹⁹ *Id.* at 40:12-42:18.

²⁰ *Id.* at 28:3-19.

B. Route M exhibits positive qualitative features

Staff supports Route M because it performs well with regard to “community values”—a broadly construed term that “is properly interpreted as a shared appreciation of an area or other natural or human resource by members of a national, regional, or local community.”²¹ Moreover, “community values may include landowner concerns and opposition.”²² These factors were considered by Staff when selecting Route M.²³

II. JURISDICTION

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

III. IDENTIFICATION OF UNCONTESTED ISSUES AND UNDISPUTED FACTS

No party contested the need for the Project, and there was no identification of uncontested issues nor undisputed facts.

IV. PROCEDURAL HISTORY

On October 4, 2024, CPS Energy and STEC filed an application for its Proposed Project in Bexar and Atascosa Counties.²⁴ On October 7, 2024, the Commission filed an Order of Referral and Preliminary Order to transfer the proceeding to the State Office of Administrative Hearings (SOAH) and identify the issues that must be addressed.²⁵ On November 7, 2024, the SOAH

²¹ *Application of LCRA Transmission Services Corporation to Amend its Certificate of Convenience and Necessity (CCN) for a 138-kV Transmission Line in Kerr County*, Docket No. 33844, Finding of Fact No. 65 (Mar. 4, 2008).

²² *Application of LCRA Transmission Services Corporation to Amend its Certificate of Convenience and Necessity for the Gillespie to Newton 345-kV CREZ Transmission Line in Gillespie, Llano, San Saba, Burnet, and Lampasas Counties, Texas*, Docket No. 37448, Proposal for Decision at 14 (Mar. 18, 2010).

²³ Staff Ex. 1 at 26:11-29:10.

²⁴ Application (Oct. 4, 2024).

²⁵ Order of Referral and Preliminary Order (Oct. 7, 2024).

administrative law judge (ALJ) found the application sufficient for further review on the merits.²⁶ On December 9, 2024 a hearing on the merits was convened and concluded by SOAH.

V. PRELIMINARY ORDER ISSUES

A. Preliminary Order Issue No. 1: Adequacy of Application and Number of Routes

Issue No. 1: Is the applicants' joint application to amend their CCNs adequate? Does the joint application contain an adequate number of reasonably differentiated alternative routes to conduct a proper evaluation? In answering this question, consideration must be given to the number of proposed alternatives, the locations of the proposed transmission line, and any associated proposed transmission facilities that influence the location of the line. Consideration may also be given to the facts and circumstances specific to the geographic area under consideration and to any analysis and reasoned justification presented for a limited number of alternative routes. A limited number of alternative routes is not in itself a sufficient basis for finding an application inadequate when the facts and circumstances or a reasoned justification demonstrates a reasonable basis for presenting a limited number of alternatives. If an adequate number of routes is not presented in the application, the ALJ must allow the applicant to amend the application and to provide proper notice to affected landowners; however, if the applicant chooses not to amend the application, then the ALJ may dismiss the case without prejudice.

As previously discussed, a total of 34 routes were proposed by the Joint Applicants to serve the proposed Howard Road to San Miguel 345 kV Transmission Line Project that is needed to provide service to address North American Electric Reliability Corporation (NERC) Category P1 thermal overloads of the 345 kV J.K. Spruce to Pawnee transmission line.²⁷ Staff does not contest the viability of any of the 34 routes.²⁸

B. Preliminary Order Issue Nos. 2–3: Notice of Application and Notice of Public Meeting

Issue No. 2: Did the applicants provide notice of the application in accordance with 16 TAC § 22.52(a)(1), (2), and (3) and PURA § 37.054(a)(1) and (c)?

Joint Applicants provided proper notice of the application in compliance with PURA § 37.054 and 16 TAC § 22.52(a). In SOAH Order No. 5, the SOAH ALJ found notice to be sufficient.²⁹

²⁶ SOAH Order No. 3 Finding Application and Notice Sufficient; Granting Motions to Intervene (Nov. 7, 2024) (SOAH Order No. 3).

²⁷ Application at 13; Application at 20.

²⁸ Staff Ex. 1 at 22:3-23:7.

²⁹ SOAH Order No. 3 at 1-2.

Issue No. 3: Did the applicants provide notice of the public meeting in accordance with 16 TAC § 22.52(a)(4)?

Joint Applicants held a public meeting on April 2, 2024, at Southside High School in San Antonio, and on April 4, 2024, at Pleasanton High School in Pleasanton.³⁰ Joint Applicants mailed approximately 2,700 invitation letters to landowners.³¹ A total of 192 individuals signed in as attendees to the public meetings and 99 submitted questionnaire responses at or after the public meeting.³² Individuals attending the meetings were provided a questionnaire to complete.³³ The purpose and results of the questionnaire are addressed in greater detail in the following section, Section V.C.

C. Preliminary Order Issue No. 4: Public Input

Issue No. 4: What were the principal concerns expressed in the questionnaire responses received at or after any public meetings held by the applicant regarding the proposed transmission facilities?

The Environmental Assessment (EA) attached to the application, contains a discussion and summary of the questionnaire responses.³⁴ The respondents were asked to list their greatest concerns from a list of features, any factors or features that should be considered in determining location of the proposed transmission line, and if there were specific concerns with a particular preliminary route.³⁵ Impact to residences (43%) was ranked as the most important factor that should be considered, if possible, when routing the proposed transmission line.³⁶ The second most important factor to consider was impact to trees and other vegetation (7%).³⁷ Additionally, respondents noted other factors to consider were visibility of structures, parallels to existing roadway/highways, concerns about historical sites, concerns about health issues, concerns about floodplains, concerns about crossing property, concerns about trees and wildlife, concerns about

³⁰ Application at 21.

³¹ Application, Attachment 1, Environmental Assessment at 6-1.

³² *Id.* at 6-1 to 6-2.

³³ Application, Attachment 1, Appendix B Public Involvement at 305-308.

³⁴ *Id.*

³⁵ Application, Attachment 1, Environmental Assessment at 6-2.

³⁶ *Id.*

³⁷ *Id.*

proximity to habitable structures, concerns about water wells, concerns about water features, and concerns about future development.³⁸ The top four preliminary Settlement Route Segments identified by respondents to the questionnaire as being of the most concern were 46, 64, 12, and 20.³⁹

D. Preliminary Order Issue Nos. 5–7: Need

Issue No. 5: Taking into account the factors set out in Public Utility Regulatory Act (PURA) § 37.056(c), are the proposed facilities necessary for the service, accommodation, convenience, or safety of the public within the meaning of PURA § 37.056(a)? In addition, please address the following issues:

- a) **How do the proposed transmission facilities support the reliability and adequacy of the interconnected transmission system?**
- b) **Do the proposed transmission facilities facilitate robust wholesale competition?**
- c) **What recommendation, if any, has an independent organization, as defined in PURA § 39.151, made regarding the proposed transmission facilities?**
- d) **Are the proposed transmission facilities needed to interconnect a new transmission service customer?**

It is Staff's position that the Proposed Project is necessary for the service, accommodation, convenience, or safety of the public.⁴⁰

Issue No. 6: In considering the need for additional service under PURA § 37.056(c)(2) for a reliability transmission project, please address the historical load, forecasted load growth, and additional load currently seeking interconnection.

The Proposed Project is needed to address NERC's Category P1 thermal overloads of the 345 kV J.K. Spruce to Pawnee transmission line resulting from (1) new generation additions in areas south of San Antonio, (2) 345 kV projects planned for the Lower Rio Grande Valley, and (3) generation retirements in the San Antonio area.⁴¹ Currently, there are only two 345 kV transmission paths from South Texas into the San Antonio area.⁴² One path from the Pawnee Station interconnects with San Antonio in the southeast and is a single-circuit with a total normal capacity of 1,077 megavolt-amperes (MVA).⁴³ The other path from the San Miguel Station

³⁸ *Id.* at 6-2, 6-3.

³⁹ *Id.* at 6-3.

⁴⁰ Staff Ex. 1 at 23:14-25:2.

⁴¹ Application at 13.

⁴² *Id.*

⁴³ *Id.*

interconnects with San Antonio in the northeast and is a double-circuit with a combined total normal capacity of 2,372 MVA.⁴⁴ As of 2027, the loss of the San Miguel to San Antonio double-circuit line is projected to cause the overload of the remaining single-circuit line from Pawnee to southeast San Antonio.⁴⁵ The Proposed Project proposes a third path to be constructed from San Miguel interconnecting with San Antonio from the south.⁴⁶

Issue No. 7: Are the proposed transmission facilities the better option to meet this need when compared to using distribution facilities? If the applicant is not subject to the unbundling requirements of PURA § 39.051, are the proposed transmission facilities the better option to meet the need when compared to a combination of distributed generation and energy efficiency?

It is Staff's position that the Proposed Project is the best option when compared to other alternatives.⁴⁷

E. Preliminary Order Issue Nos. 8–10: Routing

Issue No. 8: Weighing the factors set forth in PURA § 37.056(c) and 16 TAC § 25.101(b)(3)(B), which proposed transmission-line route is the best alternative?

The Commission may grant a CCN only if it finds that it is necessary for the service, accommodation, convenience, or safety of the public.⁴⁸ PURA § 37.056(c) provides routing criteria to be considered in an electric CCN proceeding, including community values, park and recreational areas, historical values, aesthetic values, and environmental integrity.⁴⁹ Furthermore, 16 TAC § 25.101(b)(3)(B) presents additional criteria to be considered in an electric CCN, including engineering constraints, cost, moderation of impact on affected community and landowners, use of compatible rights of way, paralleling existing rights of way, and prudent avoidance.⁵⁰ Staff analyzes routing criteria under PURA § 36.056(c) and 16 TAC § 25.101(b)(3)(B) as demonstrated below:

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ Staff Ex. 1 at 25:11-14.

⁴⁸ PURA § 37.056(a).

⁴⁹ PURA § 37.056(c).

⁵⁰ 16 TAC § 25.101(b)(3)(B).

1. Effect of Granting Certificate on Applicants and Any Electric Utility Serving the Proximate Area

The new transmission line will connect the CPS Energy Howard Road Station located approximately three miles northeast of the intersection of State Highway (SH) 16 and SH 1604 in Bexar County, Texas to the existing STEC San Miguel Station located approximately four miles east of SH 16 and approximately 0.65 miles southwest of Farm-to-Market Road (FM) 3387 in Atascosa County, Texas.⁵¹ A small portion of the area of the Proposed Project is located within the municipal boundaries of the City in south central Texas within Bexar County; however, the majority of the Proposed Project will be constructed and operated outside of the municipal boundaries of the City within both Bexar and Atascosa Counties.⁵²

Currently, there are only two 345 kV transmission paths from South Texas into the San Antonio area.⁵³ One path from the Pawnee Station interconnects with San Antonio in the southeast and is a single-circuit with a total normal capacity of 1,077 megavolt-amperes (MVA).⁵⁴ The other path from the San Miguel Station interconnects with San Antonio in the northeast and is a double-circuit with a combined total normal capacity of 2,372 MVA.⁵⁵ As of 2027, the loss of the San Miguel to San Antonio double-circuit line is projected to cause the overload of the remaining single-circuit line from Pawnee to southeast San Antonio.⁵⁶ The Proposed Project proposes a third path to be constructed from San Miguel interconnecting with San Antonio from the south.⁵⁷

2. Community Values

Staff's analysis of community values supports selection of Route M.⁵⁸ Specifically, in response to the public notice and questionnaires, respondents provided specific preferences and concerns with the proposed routes, as detailed above in Section V.D. It is Staff's position that Route M can mitigate, to some extent, the concerns expressed by the community during the public

⁵¹ Application at 9.

⁵² *Id.*

⁵³ *Id.* at 13.

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ *Id.*

⁵⁷ *Id.*

⁵⁸ Staff Ex. 1 at 28:3-19.

meetings.⁵⁹ Route M ranks well in line with some the most important criteria ranked by the respondents, including reducing impact on residences and impact on trees/vegetation.⁶⁰

Route M is the 2nd shortest route and utilizes the second largest amount of parallel and compatible rights-of-way (ROW) by percentage of its length, which will hopefully reduce the impact on residences and limit its visibility.⁶¹ Route M also has the 3rd shortest length across upland woodlands/brushlands and the 7th shortest length across bottomland/riparian woodlands which will hopefully reduce the impact on trees and other vegetation.⁶² Further, Route M does not utilize Segments 46, 64, 12, or 20 which were the segments that were identified as being least preferred by respondents.⁶³

3. Recreational Park Areas

Six parks and recreational areas are either crossed or within 1,000 feet of the centerline of the proposed alternative routes.⁶⁴ The number of parks or recreational areas either crossed or within 1,000 feet of the centerline of the proposed alternative routes ranges from 0 (Routes B and AH) to 3 (Routes C, H, I, L, M, N, O, P, Q, R, U, V, W, AB, and AF).⁶⁵ Routes range from crossing no parks or recreational areas (Routes A, B, C, D, E, F, G, H, I, J, and AH) to crossing 4.54 miles of parks and recreational areas (Routes AE, AF, AG).⁶⁶ Route M crosses two parks or 2 recreational areas, for a total of 2.64 miles, and has one additional park and 3 recreational area within 1,000 feet of its centerline.⁶⁷

4. Cultural, Aesthetic, and Historical Values

There are 12 cemeteries located within 1,000 feet of the proposed alternative routes, though none are crossed by any proposed alternative routes.⁶⁸ Two of the proposed alternative routes,

⁵⁹ *Id.*

⁶⁰ *Id.*

⁶¹ *Id.*

⁶² *Id.*

⁶³ *Id.*

⁶⁴ *Id.* at 29:12-30:3.

⁶⁵ *Id.*

⁶⁶ *Id.*

⁶⁷ *Id.*

⁶⁸ *Id.* at 30:5-31:17.

Routes J and AH, have zero cemeteries within 1,000 feet of their centerlines and two of the proposed alternative routes, Routes P and Q have seven cemeteries within 1,000 feet of their centerlines.⁶⁹ The closest any proposed alternative route gets to any cemetery is 154 feet on Routes AE, AF, and AG.⁷⁰ Route M has four cemeteries within 1,000 feet of its centerline, with the closest cemetery being the Oak Island Cemetery 214 feet away.⁷¹

A total of 77 archeological sites and two determined-eligible National Register of Historic Places (NRHP) properties are within 1,000 feet of the proposed alternative routes.⁷² Additionally, a total of 26 archeological sites are crossed by proposed alternative routes rights-of-way.⁷³ The proposed alternative routes have from seven historic or archeological site within 1,000 feet of its centerline (for Routes M, N, 4 and R) to 16 (for Routes B, J, AE, and AG).⁷⁴ The proposed alternative routes have right-of-way that crosses from zero archeological sites (for Routes M, O, and R) to 6 five archeological sites (for Routes B and J).⁷⁵

One of the determined-eligible NRHP properties, the Theodore Herrmann Barn and Ruins, is approximately 481 feet from Routes A and B and 894 feet from Routes C, D, E, F, G, H, I and J.⁷⁶ The other determined-eligible NRHP property, the Ruiz-Herrera House Farm and Ranch, is approximately 755 feet from Route AH.⁷⁷ The length of the routes across areas of high archeological/historical site potential ranges from 29.42 miles for Route W to 40.58 miles for Route J.⁷⁸ Route M crosses 31.37 miles of areas of high archeological/historical site potential.⁷⁹

⁶⁹ *Id.*

⁷⁰ *Id.*

⁷¹ *Id.*

⁷² *Id.*

⁷³ *Id.*

⁷⁴ *Id.*

⁷⁵ *Id.*

⁷⁶ *Id.*

⁷⁷ *Id.*

⁷⁸ *Id.*

⁷⁹ *Id.*

Aesthetic values would be negatively impacted by any of the proposed routes.⁸⁰ It is Staff's opinion that all the alternative routes will result in some temporary and permanent negative impacts, some more than others, depending on visibility from homes, public roadways, and parks/recreational areas.⁸¹ Staff concludes that aesthetic values would be impacted throughout the study area.⁸²

Route M crosses two parks or 2 recreational areas, for a total of 2.64 miles, and has one additional park and 3 recreational area within 1,000 feet of its centerline.⁸³ Route M is the 2nd shortest route and utilizes the second largest amount of parallel and compatible rights-of-way (ROW) by percentage of its length, which will hopefully reduce the impact on residences and limit its visibility.⁸⁴ Route M also has the 3rd shortest length across upland woodlands/brushlands and the 7th shortest length across bottomland/riparian woodlands which will hopefully reduce the impact on trees and other vegetation.⁸⁵ In Staff's opinion, Route M compares favorably with most of the other routes from an aesthetic values perspective.

5. Environmental Integrity

The Proposed Project is not expected to cause a significant negative impact to environmental integrity.⁸⁶ Although it is possible erosion and soil compaction will occur during the construction phase of the Proposed Project, Staff notes that Joint Applicants will implement erosion control measures if the application is approved.⁸⁷

Impacts on vegetation would be the result of clearing and maintaining the ROW, and the length of upland woodland or brushland along the ROW of the proposed alternative routes ranges from approximately 17.23 miles for Route T to 22.84 miles for Route E.⁸⁸ The length of bottomland/riparian woodlands along the ROW of the proposed routes ranges from 2.90 miles for

⁸⁰ Staff Ex. 1 at 32:2-15.

⁸¹ *Id.*

⁸² *Id.*

⁸³ *Id.* at 29:12-30:3.

⁸⁴ *Id.* at 28:3-19.

⁸⁵ *Id.*

⁸⁶ Staff Ex. 1 at 32:17-36:8.

⁸⁷ *Id.*

⁸⁸ *Id.*

Route AA to 6.45 miles for route C.⁸⁹ The length of upland woodlands/brushlands along the ROW of Route M is 18.10 miles, the 3rd least amount, and the length of bottomland/riparian woodlands along the ROW of Route M is 3.64 miles, the 7th lowest amount.⁹⁰ The length across NWI mapped wetlands ranges from 0 to 0.02 miles for Routes B, D, E, F, G, J, and AH.⁹¹

Joint Applicants identified 3 plant and 34 animal species that are federal or state listed threatened or endangered species that occur within Bexar and Atascosa Counties.⁹² However, Joint Applicants do not anticipate the Proposed Project to have adverse effects on federally listed threatened or endangered plant species and none of the proposed alternative routes cross known critical habitats of federally listed or endangered species.⁹³

After reviewing the information provided by Joint Applicants and TPWD, it is Staff's position that Route M is acceptable and comparable to the other routes from an environmental perspective.

6. Engineering Constraints

Staff did not identify any specific engineering constraints that are not present in a usual transmission line project and noted that all constraints can be adequately addressed by using design and construction practices and techniques that are usual and customary in the electric utility industry.⁹⁴

7. Costs

Route M is the 3rd least expensive proposed alternative route.⁹⁵ The two less expensive routes have more habitable structures within 500 feet of their centerlines than Route M.⁹⁶ Route M makes better use of compatible right-of-way as a percentage of its total length than Routes N

⁸⁹ *Id.*

⁹⁰ *Id.*

⁹¹ *Id.*

⁹² *Id.*

⁹³ *Id.*

⁹⁴ *Id.* at 36:10-15.

⁹⁵ *Id.* at 37:1-39:4.

⁹⁶ *Id.*

and R.⁹⁷ Route M is shorter than Route N.⁹⁸ Route M has less of its length across upland woodlands/brushlands than Routes N and R.⁹⁹

8. Use of Existing Corridors

The paralleling of existing public roads, highways, and railways for all of Joint Applicants' proposed routes ranges from approximately 17.80 miles to 31.39 miles.¹⁰⁰ Route M parallels ROW for approximately 56.59 percent of its length, which is the second highest of any proposed alternative route.¹⁰¹ Staff believes that Route M is acceptable and comparable to the other routes from the perspective of their use of existing corridors.¹⁰²

9. Prudent Avoidance

The Commission's rules define prudent avoidance as "[t]he limiting of exposures to electric and magnetic fields that can be avoided with reasonable investments of money and effort."¹⁰³ Limiting exposure to electric and magnetic fields can be accomplished by choosing a route that has fewer habitable structures located near the route.¹⁰⁴

The alternative routes impact between 40 and 179 habitable structures.¹⁰⁵ Route M impacts the joint 15th least number of habitable structures.¹⁰⁶

10. Additional Routing Concerns

Staff does not have any additional routing concerns.

11. Summary of Routing Recommendation

Consistent with the above discussion, Staff recommends approval of Route M after weighing the factors under PURA § 37.056(c) and 16 TAC § 25.101(b)(3)(B).

⁹⁷ *Id.*

⁹⁸ *Id.*

⁹⁹ *Id.*

¹⁰⁰ *Id.* at 40:12-42:18.

¹⁰¹ *Id.*

¹⁰² *Id.*

¹⁰³ 16 TAC § 25.101(a)(6); Staff Ex. 1 at 43:1-5.

¹⁰⁴ Staff Ex. 1 at 43:7-11.

¹⁰⁵ *Id.* at 43:13-44:2.

¹⁰⁶ *Id.*

Issue No. 9: Are there alternative routes or configurations of facilities that would have a less negative effect on landowners? What would be the incremental cost of those routes or configurations of facilities?

Route M is shorter, less expensive, and makes better use of compatible right-of-way as a percentage of its length than Routes X, Y, V, W, AA, AD, U, Z, AC, AB, T, Q, S, and O.¹⁰⁷ Route M has less of its length across upland woodlands/brushlands than Routes X, Y, V, W, AA, D, U, Z, AC, AB, Q, S, and O.¹⁰⁸ Route M has less of its length across bottomland/riparian woodlands than Routes W, D, U, Z, AC, AB, T, Q, S, and O.¹⁰⁹ Route M crosses no recorded cultural resource sites while Routes X, Y, V, W, AA, AD, U, Z, AC, AB, T, Q, and O all 5 cross at least 1.¹¹⁰

Issue No. 10: If alternative routes or configurations of facilities are considered because of individual landowners' preferences, please address the following issues:

- a) **Have the affected landowners made adequate contributions to offset any additional costs associated with the accommodations?**
- b) **Have the accommodations to landowners diminished the electric efficiency of the line or reliability?**

To Staff's knowledge, affected landowners have not made explicit contributions to offset any additional costs associated with the accommodations at this time, nor is Staff aware of the impact of proposed modifications to segments regarding the electric efficiency of the line or reliability.

F. Preliminary Order Issue Nos. 11–13: Cost to Consumers

Issue No. 11: Are the proposed transmission facilities necessary to meet state or federal reliability standards?

Staff does not have any further comments to this section. However, Staff reserves the right to address this issue in the reply brief, if necessary.

Issue No. 12: What is the estimated cost of the proposed transmission facilities to consumers?

Staff does not have any further comments to this section. However, Staff reserves the right to address this issue in the reply brief, if necessary.

¹⁰⁷ *Id.* at 44:4-45:5.

¹⁰⁸ *Id.*

¹⁰⁹ *Id.*

¹¹⁰ *Id.*

Issue No. 13: What is the estimated congestion cost savings for consumers that may result from the proposed transmission facilities considering both current and future expected congestion levels and the ability of the proposed transmission facilities to reduce those congestion levels?

Staff does not have any further comments to this section. However, Staff reserves the right to address this issue in the reply brief, if necessary.

G. Preliminary Order Issue Nos. 14–15: Best Management Practices

Issue No. 14: Are the best management practices for construction and operating transmission facilities that are standard in the Commission’s electric CCN orders adequate? If not, what additional practices should be required for the proposed transmission facilities?

Staff does not have any further comments to this section. However, Staff reserves the right to address this issue in the reply brief, if necessary.

Issue No. 15: For additional practice proposed, please address the following:

- a) What is the additional cost to design, construct, and operate the proposed transmission facilities, including the cost to consumers?
- b) What benefit, if any, will the proposed practice provide?
- c) What effect, if any, will the proposed practice have on the reliability of the transmission system?
- d) What effect, if any will the proposed practice have on the design, construction, or operation of the proposed transmission facilities?
- e) What effect, if any, will the proposed practice have on the expected date to energize the proposed transmission facilities?

As described below, Mr. Poole recommended that Joint Applicants must use best management practices to minimize the potential impact to migratory birds and threatened or endangered species.¹¹¹ Beyond this recommendation, Staff did not make any additional recommendations regarding best management practices.

H. Preliminary Order Issue No. 16: Texas Parks and Wildlife Department

Issue No. 16: Did the Texas Parks and Wildlife Department provide any recommendations or informational comments regarding this joint application in accordance with section 12.0011(b) of the Texas Parks and Wildlife Code? If so, how should the Commission respond through its order?

Mr. Poole’s testimony was filed before TPWD filed their comments on December 2, 2024.¹¹² However, Mr. Poole recommended several mitigative measures that Staff believes are

¹¹¹ *Id.* at 21:4-5.

¹¹² TPWD’s Comments.

sufficient to address most of TPWD's concerns.¹¹³ These measures include the following proposed ordering paragraphs:¹¹⁴

1. CPS Energy and STEC shall conduct surveys, if not already completed, to identify pipelines that could be affected by the transmission lines and coordinate with pipeline owners in modeling and analyzing potential hazards because of alternating-current interference affecting pipelines being paralleled.
2. If CPS Energy and STEC encounter any archeological artifacts or other cultural resources during project construction, work must cease immediately in the vicinity of the artifact or resource, and the discovery must be reported to the Texas Historical Commission. In that situation, CPS Energy and STEC must take action as directed by the Texas Historical Commission.
3. CPS Energy and STEC must follow the procedures to protect raptors and migratory birds as outlined in the following publications: *Reducing Avian Collisions with Power Lines: The State of the Art in 2012*, Edison Electric Institute and Avian Power Line Interaction Committee, Washington, D.C. 2012; *Suggested Practices for Avian Protection on Power Lines: The State of the Art in 2006*, Edison Electric Institute, Avian Power Line Interaction Committee, and the California Energy Commission, Washington, D.C. and Sacramento, CA 2006; and *Avian Protection Plan Guidelines*, Avian Power Line Interaction Committee and United States Fish and Wildlife Service, April 2005. CPS Energy and STEC 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.
4. CPS Energy and STEC must exercise extreme care to avoid affecting non-targeted vegetation or animal life when using chemical herbicides to control vegetation within rights-of-way. CPS Energy and STEC must ensure that the use of chemical herbicides to control vegetation within the rights-of-way complies with rules and guidelines established in the Federal Insecticide Fungicide and Rodenticide Act and with Texas Department of

¹¹³ Staff Ex. 1 at 18:11-21:17.

¹¹⁴ *Id.*

Agriculture regulations.

5. CPS Energy and STEC must minimize the amount of flora and fauna disturbed during construction of the transmission line, except to the extent necessary to establish appropriate right-of-way clearance for the transmission line. In addition, CPS Energy and STEC must revegetate, using native species and must consider landowner preferences and wildlife needs in doing so. Furthermore, to the maximum extent practical, CPS Energy and STEC must avoid adverse environmental influence on sensitive plant and animal species and their habitats, as identified by the Texas Parks and Wildlife Department and the United States Fish and Wildlife Service.
6. CPS Energy and STEC 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 necessary. CPS Energy and STEC 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 and STEC are not required to restore the original contours and grades where a different contour or grade is necessary to ensure the safety or stability of the project's structures or the safe operation and maintenance of the lines.
7. CPS Energy and STEC must use best management practices to minimize the potential impacts to migratory birds and threatened or endangered species.
8. CPS Energy and STEC must cooperate with directly affected landowners to implement minor deviations from the approved route to minimize the burden of the transmission line. Any minor deviations from the approved route must only directly affect landowners who were sent notice of the transmission line in accordance with 16 TAC § 22.52(a)(3) and landowners that have agreed to the minor deviation.
9. CPS Energy and STEC must report the transmission line approved by the Commission 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 and STEC must provide final construction costs, with any necessary explanation for cost variance, after completion of construction when all costs have been identified.

J. Preliminary Order Issue No. 17: Permits

Issue No. 17: What permits, licenses, plans, or permission will be required for construction and operation of the proposed transmission facilities? If any alternative route requires permission or an easement from a state or federal agency, please address in detail the following:

- a) What agency is involved, and what prior communications has the applicant had with the agency regarding the proposed transmission facilities?
- b) Has the agency granted the required permission or easement? If not, when is a decision by the agency expected?
- c) What contingencies are in place if the agency does not grant the required permission or easement or if the process to obtain the required permission or easement would materially affect the estimated cost, proposed design plans, or anticipated timeline to construct the proposed transmission facilities?

Staff does not have any further comments to this section. However, Staff reserves the right to address this issue in the reply brief, if necessary.

K. Preliminary Order Issue No. 18: Coastal Management Program

Issue No. 18: Is any part of the proposed transmission facilities located within the coastal management program boundary as defined in 31 TAC § 503.1(a)? If so, please address the following issues:

- a) Do the facilities comply with the goals and applicable policies of the Coastal Management Program in accordance with 16 TAC § 25.102(a)?
- b) Will the facilities have any direct and significant effects on any of the applicable coastal natural resource areas specified in 31 TAC § 501.3(b)?
- c) Do the facilities cross coastal barrier resource system units or other protected areas designated on maps dated October 24, 1990, as those maps may be modified, revised, or corrected, under the Coastal Barrier Resources Act, 16 United States Code Annotated, § 3503, on coastal barriers? If so, do the facilities comply with the applicable policies under 31 TAC § 26.16(a)(4)?

Staff notes that the study area is not located within the Texas Coastal Management Program boundary.¹¹⁵

L. Preliminary Order Issue No. 19: Limitation of Authority

Issue No. 19: Are the circumstances for this line such that the seven-year limit discussed in section III of this Order should be changed?

Joint Applicants have not described any special circumstances that would merit an extension of this limit for this project.¹¹⁶

¹¹⁵ *Id.* at 23:9-12.

¹¹⁶ *Id.* at 36:17-20.

M. Preliminary Order Issue No. 20: Impact on Generators

Issue No. 20: Will anything occur during construction that will preclude or limit a generator from generating or delivering power or that will adversely affect the reliability of the ERCOT system?

Staff does not have any further comments to this section. However, Staff reserves the right to address this issue in the reply brief, if necessary.

N. Preliminary Order Issue No. 21: Route Modifications

Issue No. 21: If complete or partial agreement of the parties is reached on a route that relies on modifications to the Settlement Route Segments as noticed in the application, please address the following issues:

- a) Did the applicant comply with the additional notice requirements of 16 TAC § 22.52(a)(2) and (a)(3)(C)?**
- b) Was written consent obtained from landowners directly affected by the proposed modifications to the Settlement Route Segments?**

Staff does not have any further comments to this section. However, Staff reserves the right to address this issue in the reply brief, if necessary.

VI. CONCLUSION

Based on the foregoing discussion, Staff recommends the adoption of Route M and contends that Route M best meets the governing criteria. However, Staff does not oppose Route N-AB. Settlement Route M is comparable, if not superior, to the other alternative route options, based on the evidence and the evaluation of the qualitative and quantitative criteria. For these reasons and the other reasons stated in this brief and the direct testimony of Mr. Poole, Staff respectfully recommends that the SOAH ALJs select Route M as the best route for this project in the proposal for decision.

**SOAH DOCKET NO. 473-25-02531
PUC DOCKET NO. 57115**

CERTIFICATE OF SERVICE

I certify that, unless otherwise ordered by the presiding officer, notice of the filing of this document will be provided to all parties of record on December 20, 2024, in accordance with the Second Order Suspending Rules, filed in Project No. 50664.

/s/ Daniel Alvarado

Daniel Alvarado