

**PUC DOCKET NO. 53973
SOAH DOCKET NO. 473-23-01416**

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PUBLIC UTILITY COMMISSION
CLERK

APPLICATION OF AEP TEXAS INC. TO AMEND ITS CERTIFICATE OF CONVENIENCE AND NECESSITY FOR THE NAISMITH-TO-RESNIK DOUBLE-CIRCUIT 138-KV TRANSMISSION LINE IN SAN PATRICIO COUNTY	§ § § § § § §	PUBLIC UTILITY COMMISSION OF TEXAS
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ORDER

This Order addresses the application of AEP Texas Inc. to amend its certificate of convenience and necessity (CCN) to construct, own, and operate the Naismith-to-Resnik double-circuit 138-kilovolt (-kV) transmission line in San Patricio County. The Electric Reliability Council of Texas, Inc. (ERCOT) has deemed this transmission line as critical to the reliability of the ERCOT system.

AEP Texas; August Guettler, Jr.; Reding Property Holdings, LLC; April D. Badgett; Joel Hoskinson; and OHM Surface, LLC filed an unopposed agreement that supports construction of the transmission line on route 3. Commission Staff did not sign, but does not oppose, the agreement. The Commission approves construction of the transmission line on route 3 and amends AEP Texas's CCN number 30028 to the extent provided by this Order.

I. Findings of Fact

The Commission makes the following findings of fact.

Applicant

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 ERCOT region.
3. AEP Texas is required under CCN numbers 30028 and 30170 to provide service to the public and retail electric utility service within its certificated service area.

Application

4. On September 16, 2022, AEP Texas filed an application with the Commission to amend its CCN number 30028 for a new 138-kV double-circuit transmission line and associated station termination equipment in San Patricio County.
5. AEP Texas retained POWER Engineers, Inc. to prepare an environmental assessment and routing analysis for the transmission facilities, which was included as part of the application.
6. In the application, AEP Texas stated that route 4 best addressed the requirements of PURA¹ and the Commission's rules.
7. On October 25 and November 3 and 10, 2022, AEP Texas filed errata to the application.
8. No party challenged the sufficiency of the application.

Description of Proposed Transmission Facilities

9. AEP Texas proposes to construct a new 138-kV double-circuit transmission line in San Patricio County that will connect the existing Naismith station to the existing Resnik station. AEP Texas requests approval to install both circuits of the transmission line.
10. In this Order, the term *transmission facilities* includes the transmission line and the new termination equipment additions to the Naismith and Resnik stations.
11. AEP Texas plans to construct the transmission line on steel monopole structures. The structures will be between 90 and 165 feet tall and will be located in a 100-foot wide right-of-way.
12. AEP Texas plans to use 1590 ACSS conductors having a continuous summer static current rating of 3,058 amperes and a continuous summer static line capacity of 731 megavolt amperes.
13. AEP Texas plans to add new termination equipment to the Resnik station including two 138-kV breakers and associated disconnect switches and surge arrestors, capacitive coupled voltage transformers and telecommunication equipment for supervisory control

¹ Public Utility Regulatory Act, Tex. Util. Code §§ 11.001–66.016.

and data acquisition and protection, insulators as required for all equipment and bus work, and protection, control, and other equipment necessary for the operation and maintenance of the new equipment installed at the station.

14. AEP Texas plans to add new termination equipment to the Naismith station including two 138-kV breakers with associated disconnect switches and surge arrestors for connection to the 138-kV low side of the station, capacitive coupled voltage transformers and telecommunication equipment for supervisory control and data acquisition and protection, insulators as required for all equipment and bus work, and protection, control, and other equipment necessary for the operation and maintenance of the new equipment installed at the station.
15. The proposed transmission line begins at AEP Texas's Naismith station located approximately 40 miles north of State Highway 35 and approximately one mile east of Farm-to-Market Road 136 in San Patricio County. The transmission line will extend approximately three miles southwest until it reaches the Resnik station on the south side of State Highway 361 and approximately 1.5 miles southeast of the intersection of State Highway 361 and State Highway 35.
16. AEP Texas will own, operate, and maintain all of the transmission facilities.

Routes

17. The application included ten alternative routes based on 20 routing segments.
18. The ten alternative routes range in length from approximately 2.49 to 3.56 miles.
19. All alternative routes are viable and constructible.

Schedule

20. AEP Texas estimated that it would acquire all right-of-way and land by December 2023, finalize engineering and design by January 2024, procure material and equipment by January 2024, and complete construction and energize the transmission facilities approved by this Order by June 2024.

Public Input

21. AEP Texas did not hold any public meetings to develop information on community values for the transmission facilities.
22. Less than 25 landowners were directly affected by the proposed transmission facilities.
23. AEP Texas representatives had numerous discussions with landowners in the study area to see if a consensus could be reached on routing, but no consensus was reached before filing the application.
24. On September 16, 2022, AEP Texas provided notice to the Department of Defense Siting Clearinghouse of the utility's intent to file its application regarding the proposed transmission facilities.
25. POWER Engineers contacted federal, state, and local regulatory agencies, elected officials, and organizations regarding the proposed transmission line. Copies of correspondence with the various state and federal regulatory agencies and local and county officials and departments are included in appendix A of the environmental assessment.
26. Information from landowners and from local, state, and federal agencies was considered and incorporated into the selection of recommended and alternative routes by AEP Texas.

Notice of the Application

27. On September 16, 2022, AEP Texas sent written notice of its application by priority mail to each landowner, as stated on the current county tax rolls in San Patricio County, Texas, who could be directly affected by the transmission facilities on any of the alternative routes.
28. On September 16, 2022, AEP Texas sent written notice of its application by priority mail to each neighboring utility providing similar service within five miles of the alternative routes.
29. On September 16, 2022, AEP Texas sent written notice of its application by priority mail to county officials in San Patricio County.
30. On September 16, 2022, AEP Texas sent written notice of its application by priority mail to the municipal officials of municipalities located within five miles of the alternative routes.

31. On September 16, 2022, AEP Texas sent written notice of its application by email to the Department of Defense Siting Clearinghouse.
32. On September 16, 2022, AEP Texas sent written notice of its application by priority mail to the Office of Public Utility Counsel.
33. On September 16, 2022, AEP Texas sent written notice of its application and a copy of the environmental assessment by first-class mail to the Texas Parks and Wildlife Department.
34. On September 23, 2022, caused notice of the application to be published in *The Corpus Christi Caller-Times*, which is a newspaper having general circulation in San Patricio County.
35. On October 6, 2022, AEP Texas filed the affidavit of Roy R. Bermea, a regulatory consultant for American Electric Power Service Corporation, attesting to the provision of notice of the application by mail, email, and by publication in *The Corpus Christi Caller-Times*. Attached to Mr. Bermea's affidavit was a publisher's affidavit from *The Corpus Christi Caller-Times*.
36. No party challenged the sufficiency of notice of the application.

Intervenors

37. In State Office of Administrative Hearings (SOAH) Order No. 3 filed on November 7, 2022, the SOAH ALJs granted the motions to intervene filed by Mr. Guettler, Jr.; Reding Property Holdings; Ms. Badgett; Mr. Hoskinson; and OHM Surface.

Alignment of Intervenors

38. No parties provided notice of a voluntary alignment, nor was any alignment requested or ordered.

Route Adequacy

39. No party contested 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.

40. Given the distance between the transmission-line endpoints and the nature of the area in which the alternative routes are located, the application provided an adequate number of reasonably differentiated routes to conduct a proper evaluation.

Statements of Position and Testimony

41. On September 16, 2022, AEP Texas filed the direct testimonies of Thomas W. Reynolds, a staff project manager in the transmission services department of American Electric Power Service Corp.; Mina Y. Turner, an engineer principal in AEP West Transmission Planning for American Electric Power Service Corp.; Stan A. Krause, a transmission-line engineering manager in the transmission-line engineering department of American Electric Power Service Corp. for the ERCOT region; and Lisa B. Meaux, a project manager and department manager in the environmental division of POWER Engineers.
42. On October 31, 2022, Mr. Guettler, Jr., Ms. Badgett, Mr. Hoskinson, Reding Property Holdings, and OHM Surface filed direct testimony.
43. On November 4, 2022, Commission Staff filed the direct testimony of James Euton, an engineering specialist in the Commission's infrastructure division.

Referral to SOAH for Hearing

44. On September 19, 2022, AEP Texas filed a request for expedited referral to SOAH because the transmission line had been designated by ERCOT as critical to the reliability of the ERCOT system.
45. On September 20, 2022, the Commission referred this docket to SOAH and filed a preliminary order identifying the issues to be addressed in this proceeding.
46. On October 5, 2022, the SOAH ALJs convened a prehearing conference in this docket by videoconference, at which time a procedural schedule was discussed.
47. In SOAH Order No. 2 filed on October 7, 2022, the SOAH ALJs memorialized the prehearing conference held on October 5, 2022 and scheduled the hearing on the merits to begin on November 15, 2022.
48. On November 9, 2022, the parties filed a joint motion to abate the procedural schedule, explaining that all parties supported or did not oppose approval of the application for

construction of the proposed transmission line along route 3 and that the joint movants were working on finalizing documentation for an agreed resolution of this proceeding.

49. In SOAH Order No. 4 filed on November 9, 2022, the SOAH ALJs granted the motion to abate the procedural schedule.
50. On November 21, 2022, AEP Texas filed an unopposed agreement agreeing on route 3 signed by itself; Mr. Guettler, Jr.; Ms. Badgett; Mr. Hoskinson; Reding Property Holdings; and OHM Surface. Commission Staff did not sign, but does not oppose, the agreement.
51. On November 21, 2022, AEP Texas filed a joint motion to cancel the hearing and procedural schedule, admit evidence, and remand the proceeding to the Commission for consideration of the agreement.
52. In SOAH Order No. 5 filed on November 22, 2022, the SOAH ALJs granted the motion to cancel the hearing and procedural schedule and remand the proceeding to the Commission.

Return from SOAH

53. On December 16, 2022, AEP Texas filed a response and affidavit addressing the termination equipment and other revisions the utility proposes for the Resnik and Naismith stations.

Evidentiary Record

54. In SOAH Order No. 5 filed on November 22, 2022, the SOAH ALJs admitted the following into evidence:
 - a. AEP Texas's application and all attachments, filed on September 16, 2022;
 - b. AEP Texas's application attachments, filed on October 25, 2022;
 - c. AEP Texas's application appendix A, filed on November 10, 2022;
 - d. the direct testimonies of Mr. Krause, Ms. Turner, Ms. Meaux, and Mr. Reynolds III on behalf of AEP Texas, filed on September 16, 2022;
 - e. AEP Texas's response to Order No. 1, filed on September 30, 2022;
 - f. AEP Texas's proof of notice and publication, filed on October 6, 2022;

- g. the direct testimonies Ms. Badgett, Mr. Hoskinson, and Mr. Guettler, Jr., filed on October 31, 2022;
 - h. the direct testimony of Dylan Davis on behalf of OHM Surface, filed on October 31, 2022;
 - i. the direct testimony of Thomas Reding, Jr. on behalf of Reding Property Holdings, filed on October 31, 2022; and,
 - j. the direct testimony of Mr. Euton on behalf of Commission Staff, filed on November 4, 2022.
55. In Order No. 2 filed on January 5, 2023, the Commission ALJ admitted into evidence the response and affidavit concerning transmission facilities filed on December 16, 2022.

Adequacy of Existing Service and Need for Additional Service

56. AEP Texas is experiencing industrial load growth in the Corpus North Shore area of San Patricio County, near Sinton and Gregory, Texas on the north side of Nueces Bay and Corpus Christi Bay.
57. Within the past decade, AEP Texas has executed agreements to serve approximately 1,500 megawatts (MW) of new industrial load in the Corpus North Shore area. Industrial customers in the area are currently bringing 370 MW of load into service. Another 400 MW of industrial load is expected to enter service in the fourth quarter of 2023, followed by another 528 MW of industrial load in 2024.
58. On behalf of AEP Texas, American Electric Power Service Corp. submitted a proposal to the ERCOT regional planning group for transmission network improvements to address the additional industrial loads in the Corpus North Shore area (the Corpus Christi North Shore project).
59. ERCOT's independent review of the Corpus Christi North Shore project identified that only 325 MW of the 400-MW load projected to enter service in the Corpus North Shore area in 2023 can be served under multiple outage conditions without the potential for load curtailments. The review further identified that under present conditions the 528-MW load projected to enter service in 2024 will cause overloading on approximately 96 miles of

transmission lines. If 250 MW of anticipated industrial margin load growth is considered, an additional 41 miles of 138 kV and 69 kV lines are projected to overload when the 528-MW load enters service.

60. ERCOT's independent review concluded that anticipated industrial load in the Corpus North Shore area can be reliably integrated into the ERCOT system through the Corpus Christi North Shore project.
61. The Corpus Christi North Shore project comprises the construction of the transmission facilities requested in this proceeding, the Angstrom station, the Naismith station, two new 345-kV double-circuit transmission lines, a second 345-to-138-kV transformer at the Whitepoint station, and upgrades to the Pelican-to-Whitepoint 138-kV transmission line.
62. ERCOT's board of directors endorsed the Corpus Christi North Shore Project as a tier 1 transmission project in accordance with ERCOT Nodal Protocols § 3.11.4.
63. ERCOT designated the projects comprising the Corpus Christi North Shore Project as critical to the reliability of the ERCOT system.
64. AEP Texas's application included a copy of the proposal submitted to the ERCOT regional planning group, a copy of the letter to AEP signifying the endorsement of the ERCOT board of directors and the ERCOT independent review, and a detailed description of the analysis performed by ERCOT.
65. Distribution alternatives were determined to be a non-viable solution to address service to the industrial loads addressed by the transmission facilities.
66. On November 4, 2022, Commission Staff filed direct testimony asserting the transmission facilities are needed and are the best option when compared to other alternatives.
67. No party challenged the need for the transmission facilities.

Routing of the Transmission Facilities

68. The POWER Engineers 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.

69. To identify alternative route segments for the transmission facilities, POWER Engineers 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 review of public official and agency input.
70. Using the alternative route segments, POWER Engineers and AEP Texas identified ten reasonable, feasible alternative routes. In identifying these, POWER Engineers 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.
71. AEP Texas identified route 4 as the route that best addresses PURA and the Commission's substantive rules.
72. Route 4 consists of the following segments: E, F, H, L, O, Q, S, and U.
73. Mr. Guettler, Jr., Ms. Badgett, Mr. Hoskinson, Reding Property Holdings, and OHM Surface filed direct testimony indicating they would support, or not oppose, construction of the transmission facilities along route 3.
74. Commission Staff filed direct testimony identifying route 3 as the route that best addresses the Commission's routing criteria.
75. The unopposed agreement requests that the Commission approve route 3.
76. Route 3 is composed of segments B, D, H, L, O, Q, S, and U.
77. Route 3 is approximately 2.64 miles in length.
78. Route 3 presents an appropriate balance of the routing factors, and there were no negative attributes that could not be addressed with mitigation and the application of best-practice engineering design and construction methods.

Effect of Granting Certificate on AEP Texas and Other Utilities and Probable Improvement of Service or Lowering of Cost

79. AEP Texas is the only electric utility involved in the construction of the transmission facilities.

- 80. Route 3 begins at the Naismith station owned by AEP Texas and terminates at the Resnik station owned by AEP Texas.
- 81. The transmission line will not be directly connected to any other electric utility.
- 82. It is unlikely that the construction of the transmission facilities along any proposed alternative route will adversely affect service by other utilities in the area.
- 83. It is likely that the construction of the proposed transmission facilities will enhance the reliability of the ERCOT system.

Estimated Costs

- 84. The estimated construction costs of the ten filed routes range from \$13,762,557 to \$19,880,479, excluding estimated termination equipment costs.
- 85. The estimated cost of substation work for any route, including route 3, is approximately \$1,926,527 for termination equipment at the Resnik station and \$2,547,587 for termination equipment at the Naismith station.
- 86. Route 3 is estimated to cost \$13,762,557, not including the estimated termination equipment costs, and is therefore estimated to be the least costly route.
- 87. The estimated cost of route 3 is reasonable considering the range of cost estimates for the routes.

Prudent Avoidance

- 88. Prudent avoidance, as defined in 16 Texas Administrative Code (TAC) § 25.101(a)(6), is the “limiting of exposures to electric and magnetic fields that can be avoided with reasonable investments of money and effort.”
- 89. The number of habitable structures within 300 feet of the centerlines of the ten filed routes ranges from zero to three.
- 90. Route 3 has zero habitable structures within 300 feet of its centerline.
- 91. The construction of the transmission facilities along route 3 complies with the Commission’s policy of prudent avoidance.

Community Values

92. There are no expressed community values favoring any other route over route 3.

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

93. When developing routes, POWER Engineers evaluated the use of existing compatible rights-of-way and paralleling of existing compatible rights-of-way and apparent property boundaries.
94. The filed routes parallel existing transmission-line right-of-way, other existing compatible right-of-way, or apparent property boundaries for approximately 29% to 82% of their length depending on the route selected.
95. Route 3 uses or parallels existing compatible rights-of-way or parallels apparent property boundaries for 55% of its length.
96. Route 3 uses or parallels existing compatible right-of-way or apparent property boundaries to a reasonable extent.

Engineering Constraints

97. POWER Engineers evaluated engineering and construction constraints when developing routes.
98. POWER Engineers did not identify any engineering constraints that would prevent the construction of transmission facilities along route 3.

Land Uses and Land Types

99. The area traversed by the routes is rural with little or no residential development.
100. The predominant land use in the study area is agricultural and industrial business. Much of the study area has been impacted by agriculture, oil-and-gas activities, and industrial development.
101. Elevations within the study area range between approximately 20 and 25 feet above mean sea level.
102. All the segments proposed by AEP Texas in this proceeding can be safely and reliably constructed and operated without significant adverse effects on uses of property.

Radio Towers and Other Electronic Installations

103. One commercial AM radio transmitter was identified within 10,000 feet of route 3's centerline.
104. No FM radio transmitters, microwave relay stations, or other electronic installations were identified within 2,000 feet of route 3's centerline.
105. Route 3 will not have a significant effect on electronic communication facilities or operations in the study area.

Airstrips and Airports

106. There are no airports registered with the Federal Aviation Administration and equipped with runways shorter than or exactly 3,200 feet within 10,000 feet of route 3's centerline.
107. There is one airport registered with the Federal Aviation Administration and equipped with at least one runway longer than 3,200 feet within 20,000 feet of route 3's centerline.
108. There are no private airstrips within 10,000 feet of route 3's centerline.
109. There are no heliports within 5,000 feet of route 3's centerline.
110. It is unlikely that the transmission facilities will adversely affect any airports, airstrips, or heliports.

Irrigation Systems

111. None of the filed routes cross agricultural lands with known mobile irrigation systems.
112. Route 3 does not cross agricultural lands with known mobile irrigation systems.
113. It is unlikely that the transmission facilities will adversely affect any agricultural lands with known mobile irrigation systems.

Pipelines

114. Route 3 crosses metallic pipelines transmitting hydrocarbons 21 times.
115. Route 3 parallels metallic pipelines transmitting hydrocarbons for approximately 0.49 miles.
116. It is unlikely that the transmission facilities will adversely affect any crossed or paralleled metallic pipelines that transport hydrocarbons.

Recreational and Park Areas

- 117. No parks or recreational areas are located within 1,000 feet of the centerline of any of the filed routes.
- 118. Route 3 does not cross any recreational or park areas.
- 119. No parks or recreational areas are located within 1,000 feet of route 3's centerline.
- 120. It is unlikely that the transmission facilities will adversely affect the use or enjoyment of any park or recreational areas.

Historical and Cultural Values

- 121. Route 3 does not cross any recorded historical or cultural sites.
- 122. Two recorded cultural-resource sites are located within 1,000 feet of route 3's centerline.
- 123. Route 3 is not located within 1,000 feet of any property listed on the National Register of Historic Places.
- 124. Route 3 neither crosses nor is located within 1,000 feet of any cemeteries.
- 125. The rights-of-way of the alternative routes traverse between 0.32 miles and 0.72 miles of land with a high potential for archeological sites.
- 126. Route 3 crosses 0.40 miles of land with a high potential for archeological sites.
- 127. It is unlikely that the transmission facilities will adversely affect historical or archeological resources.

Aesthetic Values

- 128. Route 3 is located within the foreground visual zone of United States or state highways for 2.13 miles.
- 129. No part of route 3 is located within the foreground visual zone of farm-to-market roads.
- 130. No part of route 3 is located within the foreground visual zone of any recreational or park areas.
- 131. Overall, the character of the rural landscape within the study area includes relatively flat croplands scattered throughout. The residential, commercial, and oil-and-gas developments within the study area have already impacted the aesthetic quality within the

region from public viewpoints. The construction of transmission facilities along route 3 is not anticipated to significantly impact the aesthetic quality of the landscape.

Environmental Integrity

132. The environmental assessment and routing analysis analyzed the possible effects of the transmission facilities on numerous environmental factors.
133. POWER Engineers evaluated the effects of the transmission facilities on the environment, including endangered and threatened species.
134. POWER Engineers evaluated potential consequences for soil and water resources, the ecosystem (including endangered and threatened vegetation and fish and wildlife), and land use within the study area.
135. It is unlikely that there will be significant effects on wetland resources, ecological resources, endangered and threatened species, or land use as a result of constructing the transmission facilities approved by this Order.
136. Route 3 does not cross upland woodlands.
137. Route 3 does not cross wetlands mapped by the National Wetland Inventory.
138. Route 3 does not cross the known habitat of a federally listed threatened or endangered species of plant or animal.
139. It is unlikely that there will be any significant adverse consequences for populations of any federally listed endangered or threatened species.
140. AEP Texas 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.
141. It is appropriate for AEP Texas to minimize the amount of flora and fauna disturbed during construction of the transmission facilities.
142. It is appropriate for AEP Texas to re-vegetate cleared and disturbed areas using native species and consider landowner preferences and wildlife needs in doing so.
143. It is appropriate for AEP Texas to avoid, to the maximum extent reasonably possible, causing adverse environmental effects 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.

144. It is appropriate for AEP Texas 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 AEP Texas to restore original contours and grades where different contours and grades are necessary to ensure the safety or stability of any transmission line's structures or the safe operation and maintenance of any transmission line.
145. AEP Texas indicated it would develop a stormwater pollution prevention plan before construction to minimize potential impacts to soils primarily from 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.
146. It is appropriate for AEP Texas 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 Texas Department of Agriculture regulations.
147. It is appropriate for AEP Texas to protect raptors and migratory birds by following the procedures 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 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.

148. It is appropriate for AEP Texas 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.
149. It is appropriate for AEP Texas to use best management practices to minimize any potential harm that route 3 presents to migratory birds and threatened or endangered species.
150. It is unlikely that the transmission facilities along route 3 will adversely affect the environmental integrity of the surrounding landscape.

Texas Parks and Wildlife Department's Written Comments and Recommendations

151. On November 17, 2020, the Texas Parks and Wildlife Department (TPWD) filed a letter making various comments and recommendations regarding the transmission facilities.
152. TPWD's comment letter addressed issues relating to effects on ecology and the environment but did not consider the other factors the Commission and utilities must consider in CCN applications.
153. TPWD identified route 4 as the route that best minimizes adverse effects on natural resources.
154. Before beginning construction, it is appropriate for AEP Texas to undertake appropriate measures to identify whether a potential habitat for endangered or threatened species exists and to respond as required.
155. AEP Texas will comply with all environmental laws and regulations, including those governing threatened and endangered species.
156. AEP Texas will comply with all applicable regulatory requirements in constructing the transmission facilities, including any applicable requirements under section 404 of the Clean Water Act.
157. 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, AEP Texas will cooperate with the United States Fish and Wildlife Service, United States Army Corps of Engineers, and the Texas Commission on

Environmental Quality as appropriate to coordinate permitting and perform any required mitigation.

158. POWER Engineers relied on habitat descriptions from various sources, including the Texas Natural Diversity Database, other sources provided by TPWD, and observations from field reconnaissance to determine whether habitats for some species are present in the area surrounding the transmission facilities.
159. AEP Texas will cooperate with the United States Fish and Wildlife Service and TPWD to the extent that field surveys identify threatened or endangered species' habitats.
160. The standard mitigation requirements included in the ordering paragraphs of this Order, coupled with AEP Texas's current practices, are reasonable measures for a transmission service provider to undertake when constructing a transmission line and sufficiently address TPWD's comments and recommendations.
161. The Commission does not address TPWD's recommendations for which there is not record evidence to provide sufficient justification, adequate rationale, or an analysis of any benefits or costs associated with the recommendation.
162. This Order addresses only those recommendations by TPWD for which there is record evidence.
163. The recommendations and comments made by TPWD do not necessitate any modifications to the proposed transmission facilities.

Permits

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

166. Before beginning construction of the transmission facilities approved by this Order, AEP Texas will obtain any necessary permits or clearances from federal, state, or local authorities.
167. It is appropriate for AEP Texas, before commencing construction, to obtain a general permit to discharge under the Texas pollutant discharge elimination system for stormwater discharges because of construction activities as required by the Texas Commission on Environmental Quality. In addition, because more than five acres will be disturbed during construction of the transmission facilities, it appropriate for AEP Texas, before commencing construction, to prepare the necessary stormwater pollution prevention plan, to submit a notice of intent to the Texas Commission on Environmental Quality, and to comply with all other applicable requirements of the general permit.
168. It is appropriate for AEP Texas to conduct a field assessment of route 3 before beginning construction of the transmission facilities approved by this Order 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, AEP Texas will identify all necessary permits from San Patricio County and federal and state agencies. AEP Texas will comply with the relevant permit conditions during construction and operation of the transmission facilities along the approved route.
169. After designing and engineering the alignments, structure locations, and structure heights, AEP Texas will determine the need to notify the Federal Aviation Administration based on the final structure locations and designs. If necessary, AEP Texas 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.

Texas Coastal Management Program

170. Under 16 TAC § 25.102(a), the Commission may grant a certificate for the construction of transmission facilities within the Texas coastal management program boundary only when it finds that the proposed facilities comply with the goals and applicable policies of the coastal management program or that the proposed facilities will not have any direct and

significant effect on any of the applicable coastal natural resource areas as defined under Texas Natural Resources Code § 33.203 and 31 TAC § 501.3(b).²

171. Coastal natural resource areas, as defined under Texas Natural Resources Code § 33.203(1) and 31 TAC § 501.3(a)(8), include waters of the open Gulf of Mexico, waters under tidal influence, submerged lands, coastal wetlands, submerged aquatic vegetation, tidal sand and mud flats, oyster reefs, hard substrate reefs, coastal barriers, coastal shore areas, gulf beaches, critical dune areas, special hazard areas (floodplains, etc.), critical erosion areas, coastal historic areas, and coastal preserves.
172. Special hazard areas, as defined by Texas Natural Resources Code § 33.203, are areas designated under 42 U.S.C. § 4001 as having special flood, mudslide or mudflow, or flood-related erosion hazards.
173. Coastal barrier resource system units and other areas are identified and generally depicted on the maps on file with the United States secretary of state entitled “Coastal Barrier Resources System,” dated October 24, 1990, as replaced, modified, revised, or corrected under 16 United States Code § 3505.
174. The coastal-facility designation line, as defined by 31 TAC § 19.2(a)(22), delineates the area seaward of which facilities, such as transmission facilities, may be subject to the certification requirements of 31 TAC § 19.12.
175. The entire study area is located seaward of the coastal-facility designation line within the coastal management program boundary, as defined under 31 TAC § 503.1.
176. Route 3 is located entirely seaward of the coastal-facility designation line within the coastal management program boundary, as defined under 31 TAC § 503.1.
177. The filed routes cross from 0.20 to 0.67 miles of special hazard areas located seaward of the coastal-facility designation line.

² After this application was filed, 31 TAC §§ 501.1–506.54 were amended and transferred to 31 TAC §§ 26.1–30.54, effective December 1, 2022. Accordingly, all references and citations to 16 TAC §§ 501.1–506.54 in this Order are made to the version in effect at the time the application was filed.

178. Route 3 crosses 0.20 miles of special hazard areas located seaward of the coastal-facility designation line.
179. None of the alternative routes are expected to have a significant impact on wetlands, due to the fact that none of them cross National Wetland Inventory wetlands.
180. AEP Texas will construct the transmission facilities along route 3 in accordance with the Texas coastal management program's goals under 31 TAC § 501.12 and policies under 31 TAC § 501.16(a).
181. Construction of the transmission facilities approved by this Order along route 3 minimizes adverse effects on coastal natural resource areas by routing adjacent and parallel to existing rights-of-way and in previously disturbed areas when practicable and by routing according to best management practices.
182. AEP Texas aligned route 3 adjacent and parallel to existing rights-of-way and in previously disturbed areas when practicable.
183. Engineering, design methods, and proper structure placement will minimize any flow impedance during a flood or storm surge event. Construction of the transmission facilities will not significantly impede the flow of receding flood waters within the special hazard areas. AEP Texas will use impact minimization measures, such as spanning wetlands and using timber matting during construction, to reduce impacts to coastal natural resource areas.

Effects on the State's Renewable Energy Goal

184. The goal in PURA § 39.904(a) for 10,000 MW of renewable capacity to be installed in Texas by January 1, 2025 has already been met.
185. The transmission facilities will not adversely affect the state's renewable-capacity goal.

Limitation of Authority

186. It is not reasonable and appropriate for a CCN order to be valid indefinitely because it is issued based on the facts known at the time of issuance.
187. Seven years is a reasonable and appropriate limit to place on the authority granted in this Order to construct the transmission facilities.

Informal Disposition

188. More than 15 days have passed since the completion of notice provided in this docket.
189. The only parties to this proceeding are AEP Texas; Commission Staff; Mr. Guettler, Jr.; Reding Property Holdings; Ms. Badgett; Mr. Hoskinson; and OHM Surface.
190. All parties to this proceeding are either signatories to the agreement or do not oppose the agreement.
191. Commission Staff recommends the Commission approve the application.
192. No hearing is necessary.
193. This decision is not adverse to any party.

II. Conclusions of Law

The Commission makes the following conclusions of law.

1. AEP Texas is a public utility as defined in PURA § 11.004(1) and an electric utility as defined in PURA § 31.002(6).
2. The Commission has authority over this matter under PURA §§ 14.001, 32.001, 37.051, 37.053, 37.054, and 37.056.
3. AEP Texas is 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 §§ 2001.058, 2003.021, and 2003.049.
5. The application is sufficient under 16 TAC § 22.75(d).
6. AEP Texas provided notice of the application in accordance with PURA § 37.054 and 16 TAC § 22.52(a).
7. Additional notice of the approved route is not required under 16 TAC § 22.52(a)(2) because it consists entirely of properly noticed segments contained in the original CCN application.

8. AEP Texas was not required to hold a public meeting regarding the transmission facilities under the requirements of 16 TAC § 22.52(a)(4).
9. The hearing on the merits was set, and notice of the hearing was provided, in compliance with PURA § 37.054 and Texas Government Code §§ 2001.05 through 2001.052.
10. The Commission processed this docket in accordance with the requirements of PURA, the Administrative Procedure Act,³ and the Commission's rules.
11. The transmission facilities using route 3 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 transmission facilities using route 3 comply with the Texas coastal management program's requirements under 16 TAC § 25.102, goals under 31 TAC § 501.12, and applicable policies under 31 TAC § 501.16(a).
13. The Commission has reviewed this proposed action for consistency with the Texas coastal management program goals and policies and has determined that the proposed action is consistent with the applicable goals and policies, in accordance with 31 TAC § 505.30(b)(1).
14. The Commission has reviewed this proposed action for consistency with the Texas coastal management program goals and policies and has determined that the proposed action will not have a direct and significant adverse effect on the coastal natural resource areas identified in the applicable policies, in accordance with 31 TAC § 505.30(b)(2).
15. The application in this proceeding for transmission facilities deemed critical to reliability was processed in accordance with 16 TAC § 25.101(b)(3)(D).
16. The proceeding meets the requirements for informal disposition under 16 TAC § 22.35.

³ Tex. Gov't Code §§ 2001.001–.903.

III. Ordering Paragraphs

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

1. The Commission amends AEP Texas's CCN number 30028 to include the construction and operation of the transmission facilities, including a new double-circuit 138-kV transmission line, with both circuits installed initially, along route 3 (segments B, D, H, L, O, Q, S, and U), and termination equipment at the Resnik and Naismith stations as described in this Order.
2. AEP Texas 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 electric transmission facilities approved by this Order.
3. AEP Texas must conduct surveys, if not already completed, to identify metallic pipelines that could be affected by the transmission facilities approved by this Order and cooperate with pipeline owners in modeling and analyzing potential hazards because of alternating-current interference affecting metallic pipelines being crossed.
4. AEP Texas must obtain all permits, licenses, plans, and permissions required by state and federal law that are necessary to construct the transmission facilities approved by this Order, and if AEP Texas fails to obtain any such permit, license, plan, or permission, it must notify the Commission immediately.
5. AEP Texas must identify any additional permits that are necessary, consult any required agencies (such as the United States Army Corps of Engineers and the United States Fish and Wildlife Service), obtain all necessary environmental permits, and comply with the relevant conditions before construction and during construction and operation of the transmission facilities approved by this Order.
6. If AEP Texas encounters any archeological artifacts or other cultural resources during construction, work must cease immediately in the vicinity of the artifact or resource, and AEP Texas must report the discovery to, and act as directed by, the Texas Historical Commission.

7. Before beginning construction, AEP Texas must undertake appropriate measures to identify whether a potential habitat for endangered or threatened species exists and must respond as required.
8. AEP Texas 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.
9. AEP Texas 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 *Avian Protection Plan Guidelines*, Avian Power Line Interaction Committee and United States Fish and Wildlife Service, April 2005.
10. AEP Texas 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. AEP Texas 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 the Texas Department of Agriculture's regulations.
12. AEP Texas 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, AEP Texas must re-vegetate using native species and must consider landowner preferences and wildlife needs in doing so. Furthermore, to the maximum extent practicable, AEP Texas must avoid adverse environmental effects 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.

13. AEP Texas 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, AEP Texas 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 AEP Texas 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. AEP Texas 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 AEP Texas to deviate from the approved route in any instance in which the deviation would be more than a minor deviation without first further amending its CCN.
16. If possible, and subject to the other provisions of this Order, AEP Texas 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, AEP Texas must notify and work with the Federal Aviation Administration to ensure compliance with applicable federal laws and regulations. The Commission does not authorize AEP Texas 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 AEP Texas must file an application to amend its CCN as necessary.

17. AEP Texas must minimize to the greatest practicable extent any potential adverse effects of the construction of the transmission facilities on coastal natural resource areas, including coastal wetlands or submerged aquatic vegetation, by designing and constructing the transmission facilities according to best management practices and AEP Texas's stormwater pollution prevention plan.
18. AEP Texas must, to the greatest extent practicable, span any coastal wetlands or submerged aquatic vegetation as defined by 31 TAC § 501.3(b) and Texas Water Code § 11.502.
19. AEP Texas must include the transmission facilities approved by this Order on its monthly construction progress reports before the start of construction to reflect the final estimated cost and schedule in accordance with 16 TAC § 25.83(b). In addition, AEP Texas must provide final construction costs, with any necessary explanation for cost variance, after completion of construction when AEP Texas identifies all charges.
20. 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.
21. The Commission denies all other motions and any other requests for general or specific relief, if not expressly granted.

Signed at Austin, Texas the 26th day of January 2023.

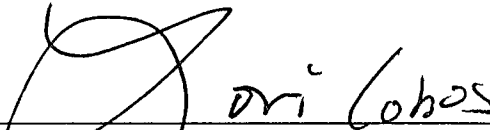
PUBLIC UTILITY COMMISSION OF TEXAS



PETER M. LAKE, CHAIRMAN



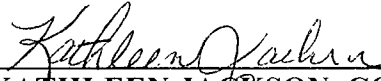
WILL MCADAMS, COMMISSIONER



LORICOBOS, COMMISSIONER



JIMMY GLOTFELTY, COMMISSIONER



KATHLEEN JACKSON, COMMISSIONER