Control Number: 54955

Item Number: 64

RECEIVED
2024 MAY -2 PM 3:01
PUBLIC UTILITY COMMISSION
FILING CLERK

PUC DOCKET NO. 54955
SOAH DOCKET NO. 473-24-06566

APPLICATION OF AEP TEXAS INC. TO AMEND ITS CERTIFICATE OF CONVENIENCE AND NECESSITY FOR THE LAS MILPAS-TO-STEWART ROAD 138-KV CUT-IN TO LION SUBSTATION DOUBLE-CIRCUIT TRANSMISSION LINE IN HILDALGO COUNTY	§ § § § § § § §	**PUBLIC UTILITY COMMISSION OF TEXAS**

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 Las Milpas-to-Stewart Road Cut-in to Lion substation 138-kilovolt (kV) double-circuit transmission line in Hidalgo County. The Electric Reliability Council of Texas, Inc. (ERCOT) has not deemed this transmission line as critical to the reliability of the ERCOT system. AEP Texas filed an unopposed agreement to construct the line along route 20. The Commission approves the agreed route 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 holds CCN numbers 30028 and 30170 to provide service to the public.

Application

4. On December 1, 2023, AEP Texas filed an application to amend its CCN for the proposed construction of a new transmission line and associated station termination equipment.

64

5. AEP Texas retained Halff Associates, Inc. to prepare an environmental assessment and routing analysis, which AEP Texas attached to the application.

6. In State Office of Administrative Hearings (SOAH) Order No. 3 filed on January 9, 2024, the SOAH administrative law judge (ALJ) found the application sufficient.

Description of the Transmission Facilities

7. AEP Texas proposes to construct a new 138-kV double-circuit transmission line in Hidalgo County, with both circuits installed initially.

8. The two circuits of the proposed transmission line will connect the new AEP Texas Lion substation into the existing Las Milpas-to-Stewart Road 138-kV transmission line. This would result in one circuit creating a transmission path from the existing AEP Texas Las Milpas 138-kV substation located to the west and the other circuit creating a transmission path from the AEP Texas Stewart Road 138-kV substation located to the east.

9. Two dead-end turning structures will be added at the point where the new double-circuit line cuts into the existing Las Milpas-to-Stewart Road 138-kV transmission line.

10. The proposed transmission line will connect to one of six potential cut-in points on the existing Las Milpas-to-Stewart Road 138-kV transmission line. All the cut-in points are located between South Veterans Boulevard and South Stewart Road and are located approximately 0.75 miles north of Dicker Road in Hidalgo County.

11. The new AEP Texas Lion substation will be located between South Veterans Boulevard and South Stewart Road, on the north side of West Hall Acres Road.

12. The equipment included in the cost estimate included in the application for the termination equipment at the new Lion substation includes: preparing the footprint of the bay area for construction of the two new 138-kV circuit terminations, which includes the cable trays, foundations, drainage, wiring and cable as necessary for power, relaying, supervisory control and data acquisition (SCADA), and other cables necessary for operations, monitoring, and protection; two motor-operated line disconnect switches, one 138-kV circuit switcher and two motor-operated associated disconnect switches, new bus infrastructure, one bus tie disconnector; two capacitor coupled voltage transformers and

high-voltage station service voltage transformers installed for SCADA and protection; insulators as required for all equipment and bus work; telecommunication equipment for SCADA and protection; panels installed in control building, protection and control equipment installed, communication and SCADA interface, and other necessary equipment for operation and maintenance of the new transmission circuits installed in the station; and construction, surveying, engineering costs, and overheads associated with all phases of the equipment being added.

13. The new transmission line will be between approximately 2.54 to 3.97 miles in length, depending on the route selected, and will require a 100-foot-wide right-of-way.

14. In this Order, the term *transmission facilities* includes the new transmission line and the termination equipment at the Lion substation.

15. AEP Texas plans to construct the transmission line on steel monopole structures. The typical structure will be between 85 and 100 feet tall, with an estimated maximum height of 100 feet.

16. AEP Texas plans to use 959.6-kilocircular-mil 54/7 aluminum-conductor-steel-reinforced conductors, with one conductor per phase, having a continuous summer static current rating of 2,239 amperes and a continuous summer static line capacity of 535 megavolt-amperes.

17. AEP Texas will construct a new distribution substation, called the Lion substation, associated with the proposed transmission line. The cost estimates of the proposed transmission facilities were provided in the application and these estimates include all the transmission equipment necessary to cut into the existing Las Milpas-to-Stewart Road 138-kV transmission line and the cost to terminate the new double-circuit transmission line into a new high-side substation bus at the Lion substation. The costs of the new Lion substation will be reported in AEP Texas's monthly transmission construction report.

18. AEP Texas will own 100% of the proposed transmission facilities.

Schedule

19. AEP Texas estimated that it would finalize engineering and design by December 1, 2024, acquire all rights-of-way and land by March 30, 2025, procure material and equipment by

January 5, 2025, complete construction by August 15, 2025, and energize the transmission facilities approved by this Order by September 16, 2025.

Public Input

20. To develop information on community values for the transmission facilities, AEP Texas held a public meeting in McAllen, Texas on September 29, 2022.

21. On September 19, 2022, AEP Texas directly mailed 27 individual written notices of the public meeting to landowners who own property located within 300 feet of the preliminary alternative segments' centerlines. The notice included a map of the study area depicting the preliminary route segments and a document with additional information about the proposed transmission facilities.

22. AEP Texas failed to provide notice of the September 29, 2022 public meeting to the Department of Defense Military Aviation and Installation Assurance Siting Clearinghouse before the public meeting.

23. A total of three notified parties, one with multiple representatives, attended the public meeting.

24. AEP Texas received one questionnaire with responses regarding the proposed transmission facilities.

25. Information from the public meeting and from local, state, and federal agencies was considered and incorporated into the development of the alternative routes.

26. In response to comments and stakeholder input, three links were added, and one link was removed.

27. The modifications of the preliminary alternative segments resulted in 35 alternative segments and 24 alternative routes that were included in the application.

Notice of Application

28. On December 1, 2023, AEP Texas sent written notice of the application by first-class mail to the mayors of the Cities of San Juan, Pharr, Alamo, McAllen, and Donna, Texas.

29. On December 1, 2023, AEP Texas sent written notice of the application by first-class mail to county officials in Hidalgo County.

30. On December 1, 2023, AEP Texas sent written notice of the application by first-class mail to each neighboring utility providing similar utility service within five miles of the proposed routes.

31. On December 1, 2023, AEP Texas sent written notice of the application by first-class mail to each landowner, as stated on current county tax rolls, who could be directly affected by the transmission facilities on any of the proposed routes.

32. On December 1, 2023, AEP Texas sent notice of the application by first-class mail to the Office of Public Utility Counsel.

33. On December 1, 2023, AEP Texas sent written notice of the application by email to the Department of Defense Military Aviation and Installation Assurance Siting Clearinghouse.

34. On December 1, 2023, AEP Texas sent a copy of the environmental assessment and routing analysis by first-class mail to the Texas Parks and Wildlife Department.

35. On December 19, 2023, AEP Texas filed the affidavit of Kensley L. Greuter, a regulatory case manager for AEP Texas, attesting to the provision of notice to municipalities within five miles of the proposed transmission facilities; Hidalgo County officials; neighboring utilities within five miles of the proposed transmission facilities; the Office of Public Utility Counsel; the Department of Defense Military Aviation and Installation Assurance Siting Clearinghouse; the Texas Parks and Wildlife Department; and directly affected landowners.

36. AEP Texas published notice of the application in *The Monitor,* which has general circulation in Hidalgo County, on December 6, 2023.

37. On December 19, 2023, AEP Texas filed a publisher's affidavit attesting to the publication of notice of the application.

38. In SOAH Order No. 3 filed on January 9, 2024, the SOAH ALJ found the notice of the application sufficient.

Intervenors

39. In SOAH Order No. 3 filed on January 9, 2024, the SOAH ALJ granted the motions to intervene filed by San Juan Ventures, Ltd.; Indio Gomez, LLC; and Courtney and Marcus Forthuber.

40. At the hearing on the merits on February 16, 2024, the SOAH ALJ dismissed the following intervenors who did not file either direct testimony or a statement of position by the deadline for such filings: Courtney and Marcus Forthuber.

Alignment of Intervenors

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

Route Adequacy

42. No party contested whether the application provided an adequate number of reasonably differentiated routes to conduct a proper evaluation.

43. Given the distance between the transmission-line endpoints and the nature or 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

44. On December 1, 2024, AEP Texas filed the direct testimonies of Jeremy D. Brazeal, project manager; Brandon K. Cogan, transmission planner; Ricardo M. Garcia, distribution planner; Russell J. Marusak, a project manager in the environmental division of Halff; and Rebecca M. Overduyn, project engineer.

45. On January 3, 2024, the following parties filed direct testimony: San Juan Ventures, Ltd. and Indio Gomez, LLC.

46. On February 5, 2024, Commission Staff filed the direct testimony of John Poole, an engineer in the engineering section of the Commission's infrastructure division.

47. On February 12, 2024, AEP Texas filed the rebuttal testimony of Jeremy D. Brazeal.

Referral to SOAH for Hearing

48. On December 5, 2023, the Commission referred this docket to SOAH and filed a preliminary order specifying issues to be addressed in this proceeding.

49. In SOAH Order No. 2 filed on December 18, 2023, the SOAH ALJ provided notice of a hearing on the merits set for 9:00 a.m. on February 16, 2024 via videoconference.

50. The hearing on the merits convened and concluded on February 16, 2024.

51. At the hearing on the merits, the parties introduced their pre-filed testimony and other material into evidence.

52. On February 22, 2024, AEP Texas and intervenors filed an agreement supporting construction of the transmission facilities on route 20. Commission Staff is unopposed to route 20.

53. In SOAH Order No. 6 filed on February 23, 2024, the SOAH ALJ admitted the following into the evidentiary record: (a) the agreement, filed February 22, 2024; and (b) the memorandum of John Poole for Commission Staff in support of the agreement and unopposed to route 20, filed February 23, 2024.

54. In SOAH Order No. 6 filed on February 23, 2024, the SOAH ALJ canceled the remaining procedural schedule and dismissed the proceeding from SOAH's docket and remanded it to the Commission.

Return from SOAH

55. In Order No. 3 filed on March 19, 2024, the Commission ALJ admitted the following into the evidentiary record: the updated intervenor map, filed on March 8, 2024; and attachment A to AEP Texas's motion to admit additional evidence regarding station equipment, filed on March 8, 2024.

56. In Order No. 4 filed on April 17, 2024, the Commission ALJ admitted into the evidentiary record the joint supplemental direct testimony of Armando Gomez on behalf of Indio Gomez, LLC, and John Phillips on behalf of San Juan Ventures, Ltd., filed on April 16, 2024.

Adequacy of Existing Service and Need for Additional Service

57. The electrical loads in the cities of Pharr, San Juan, Alamo, and South Alamo have grown to the point that there is the need for a new distribution substation in this area.

58. The existing AEP Texas El Gato substation in Alamo would have exceeded its substation and feeder capacity in 2022 had AEP Texas not moved five megawatts (MW) of load from that substation to a feeder served from the AEP Texas North Alamo substation, which is located approximately 4.5 miles to the north of the El Gato substation.

59. The load in the Alamo and South Alamo area is forecasted to grow two MW by 2026. In recent years, the actual load growth in the area has consistently been higher than forecasted.

60. Similar load growth issues have occurred at the existing AEP Texas Hall Acres substation located in Pharr to the west, where some load has been transferred through the last several years to feeders served out of the Polk Avenue Station, which is located approximately 2.6 miles to the north. This has created exposure to the loss of substantial load if a feeder has an outage due to the lack of transfer capability between these substations.

61. The location of the future Lion substation is about 3.8 miles west of the existing El Gato substation and 2.8 miles east of the Hall Acres substation. The location of this new substation will provide necessary capacity to provide electric service to the continuing load growth forecasted between these substations and to help off-load some of the heavily loaded distribution circuits that exist currently at all of these substations. While the Lion substation is under construction, several new distribution feeders will be built to move approximately 25 megavolt-amperes (MVA) of load off the El Gato and Hall Acres substations.

62. The proposed transmission facilities are considered a tier 4 neutral project by ERCOT and therefore do not require a formal ERCOT regional planning group submission and approval.

63. From a distribution-alternatives perspective, the closest distribution substations to the area of need are the El Gato and Hall Acres substations.

64. With regard to the existing El Gato substation, it is fed by a 5.6-mile radial transmission line from the Goolie Road substation to the north and, during contingency situations, could not support additional load, such as if a 25-MVA power bank transformer were added to the El Gato substation. The closest alternative transmission line feed to the El Gato substation would be 3.14 miles to the south (the Las Milpas-to-Stewart Road transmission line), and accordingly would provide little to no cost benefit as compared to the proposed transmission line. Further, to serve load that is growing in the San Juan and Pharr areas from the El Gato substation would require distribution feeders from the El Gato substation that would be undesirably long. This degree of feeder exposure would not be an optimal approach to improve service reliability to the growing load in this area.

65. With regard to the Hall Acres substation, there is no more room for expansion and there is limited capacity to serve future customers due to the size of the transformer banks at the station.

66. The addition of Lion substation would be a reliable solution to support the existing customers and bring additional capacity to future load.

67. From a transmission-alternatives perspective, there is no transmission source closer to the future Lion substation than the 138-kV Las Milpas-to-Stewart Road transmission line. Any alternative 138-kV transmission source would require a longer and more expensive route. There is a 345-kV transmission source south of the Las Milpas-to-Stewart Road transmission line but using that source would require both a longer route and additional costs for transformation facilities due to the higher voltage.

68. There are no other practical distribution-only alternatives or a better transmission solution to address the identified need.

69. AEP Texas is not a bundled utility and cannot own or control distributed generation aside from certain emergency mobile power generation equipment.

70. No party challenged the need for the transmission line, and Commission Staff recommended approval of the line.

Routing of the Transmission Facilities

71. The application included 24 alternative routes based on 35 routing segments.

72. The alternative routes identified in the application range in length from approximately 2.54 to 3.94 miles.

73. The alternative routes presented in the application are viable and constructible.

74. Route 20, the agreed route, consists of the following segments: A0, A2, C2, F, G, K, V1, V3, and W3.

75. The agreed route consists entirely of noticed segments that were not changed or modified from the segments proposed in the application.

76. The agreed route is approximately 2.61 miles in length, making it one of the shortest routes.

77. Halff included route 20 among its top 11 alternative routes that best balance land use, ecology, cultural resources, and Commission routing criteria.

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

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

79. The proposed transmission line will not be directly connected with the facilities owned by another electric utility.

80. It is likely that construction of the transmission facilities will result in a more reliable transmission system.

81. It is unlikely that the construction of the transmission facilities will adversely affect service by other utilities in the area.

Estimated Costs

82. The estimated construction costs of the 24 filed routes range from $13,825,308 to $18,987,804, excluding station costs.

83. The estimated cost to construct the agreed route is $16,069,132, excluding substation costs.

84. The estimated cost of substation termination work and equipment for any route is $1,357,000. The estimated cost of the termination into the Lion substation includes the cost of engineering, procurement of materials and supplies, site preparation, construction labor and transportation, and administration.

85. The cost of the agreed route is reasonable considering the range of the cost estimates for the routes.

86. The transmission facilities will be financed through a combination of debt and equity.

Prudent Avoidance

87. 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."

88. The number of habitable structures within 300 feet of the application routes' centerlines ranges from zero to six.

89. The agreed route has four habitable structures within 300 feet of its centerline.

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

Community Values

91. The questionnaire distributed at the public meeting requested a ranking of 13 factors that respondents see as the most important considerations for a transmission line route development. The lone respondent did not rank any of the provided factors; the respondent did not provide any other information on the questionnaire regarding factors to consider, constraints, or routing preferences.

92. The questionnaire provided a space for respondents to include any additional remarks and comments. The respondent stated that links F, G, J (near an irrigation pipeline), K, N, O, P, Q, and V would be disruptive to current agricultural practices.

93. Halff and AEP Texas evaluated information such as public-meeting input and agency coordination and input in developing and evaluating the routes.

94. The agreed route adequately addresses the expressed community values.

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

95. When developing routes, AEP Texas evaluated the use of existing compatible rights-of-way and paralleling of existing compatible rights-of-way and apparent property boundaries.

96. The routes in the application use or parallel existing compatible rights-of-way or parallel apparent property boundaries for approximately 7% to 53% of the length of the route depending on the route selected.

97. The agreed route uses or parallels existing compatible rights-of-way or parallels apparent property boundaries for approximately 23% of its length.

98. The agreed route uses or parallels existing compatible rights-of-way and apparent property boundaries to a reasonable extent.

Engineering Constraints

99. AEP Texas evaluated engineering and construction constraints when developing routes.

100. AEP Texas did not identify any engineering constraints that would prevent the construction of transmission facilities along the agreed route.

Land Uses and Land Types

101. The area traversed by the routes (study area) for the proposed transmission facilities is predominantly cultivated and irrigated farmland. Few habitable structures are located within the area and most of the habitable structures are associated with small business and municipal and county properties.

102. The study area lies in the Interior Coastal Plains near the transition to the Coastal Prairies, both of which are sub-regions of the Gulf Coastal Plains physiographic region. The terrain is relatively flat with little natural topographic variability and elevations ranging between 90 and 100 feet above mean sea level.

103. All the proposed 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

104. No commercial AM radio transmitters were identified within 10,000 feet of the agreed route's centerline.

105. No FM radio transmitters, microwave relay stations, or other electronic installations were identified within 2,000 feet of the agreed route's centerline.

106. The agreed route will not have a significant effect on electronic communication facilities or operations in the study area.

Airstrips and Airports

107. There is one airport registered with the Federal Aviation Administration and equipped with runways shorter than or exactly 3,200 feet that is within 10,000 feet of the centerline of all proposed routes.

108. There are no airports registered with the Federal Aviation Administration and equipped with at least one runway longer than 3,200 feet within 20,000 feet of the centerline of all proposed routes.

109. There are no private airstrips within 10,000 feet of the centerline of all proposed routes.

110. There are no heliports within 5,000 feet of the centerline of all proposed routes.

111. It is unlikely that the transmission facilities will adversely affect any airports, airstrips, or heliports.

Irrigation Systems

112. The agreed route, like all proposed routes, 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. The number of times a proposed route crosses a pipeline transmitting hydrocarbons ranges from four to seven times. The agreed route crosses pipelines transmitting hydrocarbons five times and does not parallel any pipelines within 500 feet of the centerline.

115. It is unlikely that the transmission facilities will adversely affect any crossed or paralleled metallic pipelines that transport hydrocarbons.

Recreational and Park Areas

116. None of the proposed routes, including the agreed route, cross any recreational or park areas.

117. There is one recreational or park area within 1,000 feet of the agreed route's centerline.

118. There are between one and three additional recreational or park areas within 1,000 feet of the respective centerlines of the proposed routes, depending on the route selected.

119. It is unlikely that the transmission facilities will adversely affect the use and enjoyment of any recreational or park areas.

Historical and Archaeological Values

120. All of the proposed routes cross areas with a high potential for historical or archaeological sites for their entire lengths.

121. There is one property listed on or determined eligible for listing on the National Register of Historic Places crossed by each of the proposed routes' rights-of-way, but no additional properties listed on or determined eligible for listing on the National Register of Historic Places within 1,000 feet of each of the proposed routes' centerlines.

122. There are no recorded historical or archaeological sites within 1,000 feet of the agreed route's centerline.

123. There are no recorded cemeteries within 1,000 feet of the agreed route's centerline.

124. It is unlikely that the transmission facilities will adversely affect historical or archaeological resources.

Aesthetic Values

125. No part of the proposed routes, including the agreed route, is located within the foreground visual zone of United States or state highways.

126. The agreed route is located within the foreground visual zone of farm-to-market or county roads for 2.09 miles.

127. The agreed route is within the foreground visual zone of a park or recreational area for 1.02 miles.

128. The study area exhibits a degree of aesthetic quality typical for the region. Overall, the primary aesthetic of the study area is the rural landscape, which includes relatively flat cropland and pastureland. The existing transmission lines, residential development, and canals within the study area have already impacted the aesthetic quality within the region from public viewpoints. It is unlikely that the proposed transmission facilities would affect the aesthetics of the agriculture, parks, or detract from the user experience at the parks.

129. Aesthetic values would be impacted to a minor extent throughout the study area, and these temporary or permanent negative aesthetic effects may occur on any proposed alternative route.

Environmental Integrity

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

131. Halff evaluated the effects of the transmission facilities on the environment, including endangered and threatened species.

132. Halff evaluated potential consequences for soil and water resources, the ecosystem (including endangered and threatened vegetation, fish, and wildlife), and land use within the study area.

133. 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 line approved by this Order.

134. The agreed route crosses upland woodlands for 1,532 feet.

135. The agreed route crosses bottomland or riparian woodlands for 348 feet.

136. The agreed route does not cross wetlands mapped by the National Wetland Inventory.

137. The agreed route does not cross the known habitat of a federally listed endangered or threatened species of plant or animal.

138. It is unlikely that there will be any significant adverse consequences for populations of any federally listed endangered or threatened species.

139. 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.

140. It is appropriate for AEP Texas to minimize the amount of flora and fauna disturbed during construction of the transmission facilities.

141. 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.

142. 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.

143. 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 structures or the safe operation and maintenance of any transmission line.

144. 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.

145. 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 Linc 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. 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.

146. It is appropriate for AEP Texas to use best management practices to minimize any potential harm that the agreed route presents to migratory birds and threatened or endangered species.

147. It is unlikely that the transmission facilities will adversely affect the environmental integrity of the surrounding landscape.

Texas Parks and Wildlife Department's Written Comments and Recommendations

148. On January 22, 2024, the Texas Parks and Wildlife Department filed a letter making various comments and recommendations regarding the transmission facilities.

149. The Texas Parks and Wildlife Department's 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.

150. The Texas Parks and Wildlife Department identified route 10 as the route that best minimizes adverse effects on natural resources.

151. 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.

152. AEP Texas will comply with all applicable environmental laws and regulations, including those governing threatened and endangered species.

153. 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.

154. If construction affects federally listed species or their habitat or affects water under the jurisdiction of the United States Anny 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.

155. Halff relied on habitat descriptions from various sources, including the Texas Natural Diversity Database, other sources provided by the Texas Parks and Wildlife Department, and observations from field reconnaissance to determine whether habitats for some species are present in the area surrounding the transmission facilities.

156. AEP Texas will cooperate with the United States Fish and Wildlife Service and the Texas Parks and Wildlife Department to the extent that field surveys identify threatened or endangered species' habitats.

157. The standard mitigation requirements included in the ordering paragraphs of this Order, coupled with the current practices of AEP Texas are reasonable measures for a transmission service provider to undertake when constructing a transmission line and sufficiently address the Texas Parks and Wildlife Department's comments and recommendations.

158. The Commission does not address the Texas Parks and Wildlife Department'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.

159. This Order addresses only those recommendations by the Texas Parks and Wildlife Department for which there is record evidence.

160. The recommendations and comments made by the Texas Parks and Wildlife Department do not necessitate any modifications to the transmission facilities.

Permits

161. 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.

162. 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.

163. 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.

164. 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 associated with construction activities as required by the Texas Commission on Environmental Quality. In addition, because more than five acres will be disturbed during construction of the transmission facilities, it is 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.

165. It is appropriate for AEP Texas to conduct a field assessment of the agreed route 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 Hidalgo 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 agreed route.

166. 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.

Coastal Management Program

167. No part of the transmission facilities approved by this Order is located within the coastal management program boundary as defined in 31 TAC § 27.1.

Limitation of Authority

168. 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.

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

Good Cause Exception

170. In its application, AEP Texas requested a good-cause exception to 16 TAC § 22.52(a)(4) because it failed to provide notice of the September 29, 2022 public meeting to the Department of Defense Military Aviation and Installation Assurance Siting Clearinghouse before the public meeting.

171. AEP Texas contacted the Department of Defense Military Aviation and Installation Assurance Siting Clearinghouse on June 17, 2022, to solicit input about the proposed transmission facilities.

172. On November 4, 2022, AEP Texas sent by email to the Department of Defense Military Aviation and Installation Assurance Siting Clearinghouse all information that was shared at the September 29, 2022, public meeting.

173. AEP Texas sent notice of the application to the Department of Defense Military Aviation and Installation Assurance Siting Clearinghouse promptly after the application was filed.

174. There is no evidence that the Department of Defense Military Aviation and Installation Assurance Siting Clearinghouse had concerns regarding the transmission facilities.

175. The sending of information shared at the public meetings, the prompt sending of notice of the application to the Department of Defense Military Aviation and Installation Assurance Siting Clearinghouse, and the lack of evidence that the Department of Defense Military Aviation and Installation Assurance Siting Clearinghouse had concerns regarding the transmission facilities constitute good cause for granting an

exception to the requirement in 16 TAC § 22.52(a)(4) that the utility provide written notice of the public meeting to the Department of Defense Military Aviation and Installation Assurance Siting Clearinghouse.

176. In SOAH Order No. 3 filed January 9, 2024, the SOAH ALJ granted the request for a good-cause exception to 16 TAC § 22.52(a)(4).

Informal Disposition

177. More than 15 days have passed since the completion of notice provided in this docket.

178. All the parties to this proceeding support, or are unopposed to, the agreed route.

179. No hearing was necessary.

180. Commission Staff recommended approval of the application.

181. 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[1] § 11.004 and an electric utility as defined in PURA § 31.002(6).

2. AEP Texas is required to obtain the Commission's approval to construct the proposed transmission facilities and to provide service to the public using those facilities.

3. The Commission has authority over this matter under PURA §§ 14.001, 32.001, 37.051, 37.053, 37.054, and 37.056.

4. SOAH exercised jurisdiction over the proceeding under PURA § 14.053 and Texas Government Code §§ 2003.021 and 2003.049.

5. The application is sufficient under 16 TAC § 22.75(d).

6. AEP Texas provided notice of the application in accordance with PURA § 37.054 and 16 TAC § 22.52(a).

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

7. Additional notice of the approved route is not required under 16 TAC § 22.52(a)(2) or (a)(3) because it consists entirely of properly noticed segments contained in the original CCN application.

8. AEP Texas held a public meeting and provided notice of the public meetings in compliance with 16 TAC § 22.52(a)(4), except for the omission of notice to the Department of Defense Military Aviation and Installation Assurance Siting Clearinghouse.

9. Good cause exists under 16 TAC § 22.5 to grant an exception to the requirement in 16 TAC § 22.52(a)(4) that notice of the public meeting held by AEP Texas on September 29, 2022 be provided to the Department of Defense Military Aviation and Installation Assurance Siting Clearinghouse.

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

11. The Commission processed this docket in accordance with the requirements of PURA, the Administrative Procedure Act,[2] and Commission rules.

12. The transmission facilities using the agreed route are necessary for the service, accommodation, convenience, or safety of the public within the meaning of PURA § 37.056(a).

13. The Texas coastal management program does not apply to any of the transmission facilities approved in this Order, and the requirements of 16 TAC § 25.102 do not apply to the application.

14. The Commission must approve or deny the application not later than the 180th day after it was filed under PURA § 37.057.

15. The proceeding meets the requirements for informal disposition under 16 TAC § 22.35.

III. Ordering Paragraphs

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

---

[2] Administrative Procedure Act, Tex. Gov't Code §§ 2001.001–.902.

1. The Commission approves the agreed route and amends AEP Texas's CCN number 30028 to the extent provided in this Order.

2. The Commission amends AEP Texas's CCN number 30028 to include the termination equipment at the future AEP Texas Lion substation and construction and operation of a new double-circuit 138-kV transmission line along the agreed route, route 20 (segments A0, A2, C2, F, G, K, V1, V3, and W3), with both circuits installed initially.

3. 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.

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

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

6. AEP Texas must identify any additional permits that are necessary, consult any required agencies (such as the United States Army Corps of Engineers and United States Fish and Wildlife Service), obtain all necessary environmental permits, and comply with the relevant conditions during construction and operation of the transmission facilities approved by this Order.

7. If AEP Texas encounters any archaeological 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.

8. 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.

9. 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 agreed route.

10. 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 Linc 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. AEP Texas must take precautions to avoid disturbing occupied nests and take steps to minimize the burden of the construction of the transmission facilities 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 rights-of-way. Herbicide use must comply with rules and guidelines established in the Federal Insecticide, Fungicide, and Rodenticide Act and with Texas Department of Agriculture 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 line. 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 structures or the safe operation and maintenance of the line.

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 line approved by this Order. 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 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 the relevant CCN.

16. If possible, and subject to the other provisions of this Order, AEP Texas must prudently implement an appropriate final design for the transmission line 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, as applicable, must file an application to amend its CCN as necessary.

17. 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 the completion of construction when AEP Texas identifies all charges.

18. Entry of this Order does not indicate the Commission's endorsement or approval of any principle or methodology that may underlie the agreement and must not be regarded as precedential as to the appropriateness of any principle or methodology underlying the agreement.

19. The Commission limits the authority granted by this Order to a period of seven years from the date this Order is signed unless the transmission line is commercially energized before that time.

20. The Commission denies all other motions and any other requests for general or specific relief that the Commission has not expressly granted.

Signed at Austin, Texas the 2nd day of May 2024.

PUBLIC UTILITY COMMISSION OF TEXAS

THOMAS J. GLEESON, CHAIRMAN

LORI COBOS, COMMISSIONER

JIMMY GLOTFELTY, COMMISSIONER

KATHLEEN JACKSON, COMMISSIONER

q:\cadm\orders\final\54000\54955 fo.docx