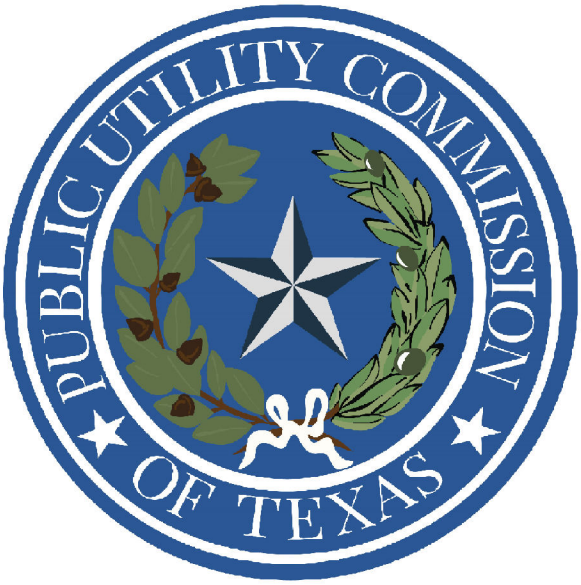

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PUBLIC UTILITY COMMISSION

APPLICATION OF AEP TEXAS INC. TO AMEND ITS CERTIFICATE OF CONVENIENCE AND NECESSITY FOR THE PROPOSED ELDORADO-TO-FT. MCKAVITT 69-KV TRANSMISSION LINE PROJECT IN SCHLEICHER 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 Eldorado-to-Ft. Mckavitt transmission line in Schleicher County. On January 25, 2023, AEP Texas, Commission Staff, and the intervenor landowners filed a unanimous agreement to route the line along route A. The Commission approves the agreed route and amends AEP Texas's CCN number 30170 to the extent provided by this Order.

I. Findings of Fact

The Commission makes the following findings of fact.

Applicant

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

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

3. AEP Texas is required under certificate of convenience and necessity (CCN) numbers 30028 and 30170 to provide service to the public and retail electric utility service within its certificated service area.

Application

4. On August 5, 2022, AEP Texas filed an application to amend its CCN number 30170 for the proposed construction of a new transmission line.

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 J best addressed the requirements of PURA[1] and the Commission's rules.

7. On December 6, 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 replace a section of the existing single-circuit, 69-kilovolt (kV) Eldorado-to-Ft. Mckavitt transmission line in Schleicher County, Texas. AEP Texas proposes to build a new replacement, single-circuit transmission line while the existing line continues to be in service. Once the new line is constructed, the existing substation loads will be transferred to the new line, and the old line will be removed.

10. AEP Texas proposes to build the proposed transmission line to allow for future operation at 138 kV but proposes to operate the line initially at 69 kV, which is the voltage of the existing Eldorado-to-Ft. Mckavitt transmission line.

11. The proposed line begins at a tap point on the existing line, located approximately 2.12 miles south of United States Highway 190 and approximately 2.07 miles southeast of the City of Eldorado. The proposed replacement transmission line will extend from that tap point to AEP Texas's Eldorado Cities Service Co. substation, located approximately 0.62 miles south of County Road 220. The line will then continue southeast to the Middle Valley Rural Electric Association substation, which is owned by Southwest Texas Electric Cooperative, Inc. and located on the northwest side of County Road 245. Finally, the line will continue southeast and will end at AEP Texas's Ft. Mckavitt substation, located approximately 2.33 miles south of County Road 245.

12. AEP Texas does not propose any substation improvements in conjunction with the proposed transmission line; however, once the new, replacement transmission line is

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

constructed, it will serve three existing substations: the El Dorado Cities Service Co. substation, the Middle Valley REA substation, and the Ft. Mckavitt substation.

13. AEP Texas proposes to build a cut-in line from the new transmission line to a dead-end structure located just outside the fence of each of the three substations. Each cut-in line will terminate at a dead-end structure located outside of each substation.

14. AEP Texas proposes that the improvements within the substation fence at each substation and the re-termination conductor from the dead-end structure into the substation be performed as independent projects reported in the monthly transmission construction progress report rather than included in this proceeding.

15. The cut-in line to the dead-end structure outside the Eldorado Cities Service Co. substation from routes B, C, and E is a 0.7-mile double-circuit transmission line. For all of the other routes, the cut-in line to the dead-end structure outside the Eldorado Cities Service Co. substation is one span. The cut-in lines for the other two substations for all the routes are each a single span.

16. This Order refers to the proposed new replacement transmission line, the cut-in lines to the existing substations, and the dead-end structure outside of each existing substation as the transmission facilities.

17. AEP Texas plans to construct the transmission facilities on steel monopole structures. The structures will generally be between 70 and 90 feet tall and will be located in a 100-foot-wide right-of-way.

18. AEP Texas plans to use 795-kilocircular-mil aluminum-conductor, steel-reinforced, Drake conductors having a continuous summer static current rating of 2,000 amperes and a continuous summer static line capacity at both operating and design voltage of 239 megavolt-amperes.

19. AEP Texas will own, operate, and maintain all the transmission facilities.

Routes

20. The application included 13 alternative routes based on 47 routing segments.

21. The 13 routes range in length from approximately 19.8 to 25.5 miles.

22. All alternative routes are viable and constructible.

Schedule

23. AEP Texas estimated that it would finalize engineering and design by April 2024, acquire all rights-of-way and land by April 2024, procure material and equipment by May 2024, complete construction by October 2024, and energize the transmission facilities approved by this Order by November 2024.

Public Input

24. AEP Texas developed a website where landowners could find their property and the proposed routing segments on an interactive map and provide comments. Information was also included on the website about the Commission's regulatory-approval process, the need for the transmission line, the routing analysis process, and the type of transmission-line structures that AEP Texas was proposing for the transmission facilities.

25. The COVID-19 pandemic and the social-distancing recommendations made by the Centers for Disease Control and Prevention and the State of Texas constitute good cause for AEP Texas to have held an online public meeting by webinar rather than hold an in-person public meeting for these transmission facilities.

26. AEP Texas hosted a live virtual public meeting by webinar on October 26, 2021 from 6:00 to 7:30 p.m. to provide information about the transmission line and to answer participants' questions.

27. AEP Texas directly mailed 56 individual written notices of the public meeting to all owners of property within 300 feet of the centerline of each alternative routing link and emailed notice to the United States Department of Defense Siting Clearinghouse.

28. In the notice of the virtual public meetings, AEP Texas provided landowners with a questionnaire similar to the one typically provided at in-person public meetings. AEP Texas also provided a pre-paid return envelope for landowners to submit their comments. The notice included a map of the study area depicting the preliminary route segments and a document with frequently asked questions. The notice also identified multiple ways that landowners could contact AEP Texas, including a toll-free phone number, email, and the transmission-line website.

29. Four individuals attended the virtual public meeting, and AEP Texas received a total of seven comments.

30. Information from the virtual public meeting and from local, state, and federal agencies was considered and incorporated into the selection of recommended and alternative routes by AEP Texas.

31. After the virtual public meeting, POWER Engineers and AEP Texas reviewed comments from landowners and interested stakeholders to evaluate areas of concern and consider modifications to the preliminary alternative links. In response to stakeholder input, two links were modified to minimize impacts to existing constraints. POWER Engineers and AEP Texas made additional modifications based on engineering and constructability considerations, resulting in 47 alternative links.

Notice of the Application

32. On August 5, 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.

33. On August 5, 2022, AEP Texas sent written notice of its application by priority mail to county officials in Schleicher County.

34. On August 5, 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.

35. On August 5, 2022, AEP Texas sent written notice of its application by priority mail to each landowner, as stated on the current county tax rolls, who could be directly affected by the transmission facilities on any of the proposed routes.

36. On August 5, 2022, AEP Texas sent written notice of its application by priority mail to the Office of Public Utility Counsel.

37. On August 5, 2022, AEP Texas sent written notice of its application by email to the Department of Defense Siting Clearinghouse.

38. On August 5, 2022, AEP Texas sent written notice of its application and a copy of the environmental assessment by priority mail to the Texas Parks and Wildlife Department.

39. On August 11, 2022, notice of the application was published in *The Eldorado Success*, which is a newspaper having general circulation in Schleicher County.

40. On August 25, 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 and email and by publication in *The Eldorado Success*. Attached to Mr. Bermea's affidavit was a publisher's affidavit from *The Eldorado Success*.

41. No party challenged the sufficiency of notice of the application.

Intervenors and Alignment of Intervenors

42. In Order No. 3 filed on August 22, 2022, the Commission administrative law judge (ALJ) granted the motion to intervene filed by Susan Prugel.

43. In State Office of Administrative Hearings (SOAH) Order No. 1 filed on September 22, 2022, the SOAH ALJs granted the motions to intervene filed by Martha Jean Elder and by Thomson T Circle Ranch, Charles Allen, and Anne Frischkorn.

44. At the prehearing conference conducted on October 5, 2022, the SOAH ALJs granted the motions to intervene of BJ Ranch and Cattle Company LLC; DD Buchholz Ranch Partnership, LTD; James and Phebe Blaylock; Mark Kirk; and Charlie Nicholas.

Route Adequacy

45. On October 11, 2022, Anne Frischkorn doing business as Thomson T Circle Ranch filed a motion challenging whether the application provided an adequate number of reasonably differentiated routes to conduct a proper evaluation and requesting a hearing on route adequacy.

46. On October 18, 2022, AEP Texas and Commission Staff each filed a response to the motion challenging route adequacy.

47. In SOAH Order No. 4 filed on October 20, 2022, the SOAH ALJs found that AEP Texas's application contains an adequate number of reasonably differentiated alternative routes and denied the request for a route adequacy hearing.

48. No party filed an appeal of SOAH Order No. 4.

49. 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

50. On October 18, 2022, AEP Texas filed the direct testimonies of Dewey G. Peters, a staff project manager in the transmission services department of American Electric Power Service Company, and of Anastacia Santos, a project manager in the environmental division of POWER Engineers.

51. On January 25, 2023, James Jay Blaylock filed direct testimony on behalf of himself and Phebe Blaylock.

Referral to SOAH for Hearing

52. On August 24, 2022, the Commission referred this docket to SOAH and filed a preliminary order identifying the issues to be addressed in this proceeding.

53. In SOAH Order No. 2 filed on October 6, 2022, the SOAH ALJs provided notice of a hearing on the merits by videoconference set to begin at 9:00 a.m. on March 8, 2023.

54. In SOAH Order No. 6 filed on January 10, 2023, the SOAH ALJs granted a joint, unopposed motion to extend the deadline for intervenor direct testimony until January 25, 2023.

55. On January 25, 2023, AEP Texas filed a unanimous agreement between AEP Texas, Commission Staff, and the following intervenors in support of route A: Susan Prugel; Martha Jean Elder; Thomson T Circle Ranch, Charles Allen, and Anne Frischkorn; BJ Ranch and Cattle Company LLC; DD Buchholz Ranch Partnership, LTD; James and Phebe Blaylock; Mark Kirk; and the Estate of Charlie Nicholas.

56. In SOAH Order No. 7 filed on January 27, 2023, the SOAH ALJs dismissed the proceeding from SOAH's docket and remanded it to the Commission.

Return from SOAH

57. On March 20, 2023, AEP Texas filed additional evidence regarding construction of the proposed transmission facilities, including the cut-in lines.

Evidentiary Record

58. In SOAH Order No. 7 filed on January 27, 2023, the SOAH ALJs admitted the following into evidence:

    a. AEP Texas's application and all attachments to the application, filed on August 5, 2022; two native files regarding the application, filed on August 30, 2022; and errata to the application, filed on December 6, 2022;

    b. AEP Texas's response to issues to be addressed in Order No. 2, filed on August 19, 2022;

    c. Proof of notice and publication, filed on August 25, 2022;

    d. AEP Texas's response to Commission Staff's first request for information, filed on September 19, 2022;

    e. The Texas Parks and Wildlife Department's comments regarding the application, filed on October 6, 2022;

    f The direct testimony of Dewey G. Peters, filed on October 18, 2022;

    g. The direct testimony of Anastacia Santos, filed on October 18, 2022; and

    h. AEP Texas's response to Mr. Blaylock's first request for information and highly-sensitive-protected-material attachments, filed on December 5, 2022.

59. In Order No. 4 filed on March 21, 2023, the Commission ALJ admitted into the evidentiary record the additional evidence filed by AEP Texas on March 20, 2023.

60. In Order No. 5 filed on March 31, 2023, the Commission ALJ admitted into the evidentiary record the unanimous agreement filed on January 25, 2023 and the direct testimony of Mr. Blaylock filed on January 25, 2023.

Adequacy of Existing Service and Need for Additional Service

61. The existing Eldorado-to-Ft. Mckavitt transmission line was originally placed in service in 1951, and its electric service performance has declined to the point that it is necessary to replace the transmission line.

62. A major complication in replacing the existing transmission line is that it is a radial line providing electric service to three distribution-service substations. Therefore, the existing line cannot be taken out of service to be rebuilt without the loss of electric service to customers that take their electric service from the El Dorado Cities Service Co. substation, the Middle Valley REA substation, or the Ft. McKavitt substation.

63. By constructing the new transmission line while the existing line remains and then, once the new line is in service, connecting the three distribution-service substations that take service from the existing line to the new line, AEP Texas will ensure continuity of service to existing customers throughout construction. Once the three substations are taking service from the new transmission line, the existing line will be removed.

64. There are no practical distribution alternatives to the proposed transmission facilities.

65. No alternatives involving upgrades to existing transmission facilities would meet the need of replacing the existing line.

66. Failing to replace the transmission line segment that is being removed from service would create unacceptable reliability problems to the distribution customers served from it.

67. No party challenged the need for the transmission facilities.

Routing of the Transmission Facilities

68. Agreed route A largely parallels the existing transmission line and consists of segments 1, 3, 8, 12, 13, 14, 20, 25, 28a, 28b, 33, 36, 37, 38, 39, 42, and 43.

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

70. The agreed route is 19.8 miles in length and is the shortest of the alternative routes.

Effect of Granting Certificate on Utilities Serving the Proximate Area and Probable Improvement of Service or Lowering of Cost

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

72. The transmission facilities will enable AEP Texas to maintain the ability of the transmission network to provide reliable electric service to the distribution substations in the project area.

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

74. The transmission facilities will improve service compared to the existing transmission line, which has experienced, and will continue to experience, a decline in electric service performance.

75. AEP Texas can address any crossings and paralleling of existing transmission lines by the new transmission facilities along the agreed route through coordination between AEP Texas and the applicable utilities and the application of well-established engineering measures.

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

Estimated Costs

77. The estimated construction costs of the 13 alternative routes presented in the application include the costs of the cut-in lines and dead-end structures outside of each substation but do not include improvements within the substation fence at each substation or the re-termination conductor from the dead-end structure into the substation.

78. The estimated construction costs of the 13 alternative routes range from $26,944,893 to $36,352,050, excluding station costs.

79. Route A is estimated to cost $26,944,893 and is therefore estimated to be the least costly route.

80. The cost of route A is reasonable considering the range of cost estimates for the routes.

Prudent Avoidance

81. 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."

82. There is one habitable structure within 300 feet of the centerlines of routes B, E, H, I, and J, and there are none within 300 feet of the centerlines of the remaining routes, including the agreed route.

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

Community Values

84. There is no evidence that the agreed route adversely affects community values.

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

85. 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.

86. None of the routes in the application use existing transmission right-of-way.

87. The routes in the application parallel existing compatible right-of-way or apparent property boundaries for 63% to 99% of the length of the route depending on the route selected.

88. The agreed route parallels existing compatible rights-of-way or apparent property boundaries for 99% of its length, which is the most of any route.

89. The agreed route parallels existing compatible right-of-way and apparent property boundaries to a reasonable extent.

Engineering Constraints

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

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

Land Use and Land Types

92. The study area for the proposed transmission facilities is rural and predominantly rangeland and pastureland consisting of small hills and valleys sculpted by centuries of erosion.

93. Few habitable structures are located in the area, and most of the habitable structures are associated with large rural ranch properties.

94. The project area is located within the Edwards Plateau Physiographic Province. Elevations within the study area range from approximately 2,400 feet above mean sea level on plateaus in the west and northwest to approximately 2,200 feet above mean sea level along the Middle Valley Prong of the San Saba River.

95. All the alternative routes 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

96. None of the alternative routes, including the agreed route, are within 10,000 feet of an AM radio transmitter or within 2,000 feet of an FM radio transmitter, microwave tower, or other electronic installations.

Airstrips and Airports

97. 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 the centerline of any alternative route, including the agreed route.

98. There is one airport, the Eldorado Texas Airport, 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 the alternative routes, including the agreed route.

99. There is one private airstrip, Rocking R Ranch, within 10,000 feet of the agreed route's centerline.

100. There are no heliports within 5,000 feet of the agreed route's centerline.

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

Irrigation Systems

102. None of the alternative routes, including the agreed route, cross any land irrigated by known mobile irrigation systems.

Pipelines

103. The existing transmission line has paralleled pipelines since the transmission line was built in 1951.

104. The majority of the existing line is parallel, and in close proximity, to existing pipelines.

105. The new transmission line will be constructed farther from the pipelines, which provides an additional benefit of increasing the distance between the transmission line and the pipelines for future maintenance, repair, and replacement activities on either.

106. Agreed route A parallels existing pipeline right-of-way within 500 feet of its centerline for 19.6 miles, the most of any route.

107. Route H parallels known pipelines within 500 feet of its centerline for 1.1 miles, the least of any route.

108. The number of known pipelines crossed by the alternative routes ranges from 4 pipeline crossings each along routes A, B, I, and M to 38 pipeline crossings along route D.

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

Recreational and Park Areas

110. There are no parks or recreational areas located within 1,000 feet of the centerline of any of the alternative routes, including the agreed route.

111. It is unlikely that the transmission facilities will adversely affect the use or enjoyment of a park or recreational area.

Historical and Archaeological Values

112. The agreed route crosses one recorded historical or archaeological site.

113. There are two additional recorded historical or archaeological sites within 1,000 feet of the agreed route's centerline.

114. There are no properties listed on or determined eligible for listing on the National Register of Historic Places crossed by, or within 1,000 feet of, the agreed route's centerline.

115. None of the alternative routes, including the agreed route, cross a cemetery or are located within 1,000 feet of one.

116. The agreed route crosses areas with a high potential for historical or archeological sites for 12.3 miles.

117. It is unlikely that the transmission facilities will adversely affect historical or archeological resources.

Aesthetic Values

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

119. No part of any alternative route, including the agreed route, is located within the foreground visual zone of United States or state highways.

120. Routes D, F, G, and K are located within the foreground visual zone of ranch-to-market roads for 2.5 miles, and all the other alternative routes, including the agreed route, are located within the foreground visual zone of ranch-to-market roads for 0.6 miles.

121. No part of any alternative route, including the agreed route, is located within the foreground visual zone of recreational or park areas.

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

Environmental Integrity

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

124. No federally listed or state-listed threatened or endangered plant species or sensitive vegetation communities were identified within the study area.

125. None of the alternative routes, including the agreed route, cross designated critical habitat of federally listed threatened or endangered species.

126. It is unlikely that the transmission facilities will have any significant adverse effects on the physiographic or geologic features and resources of the area.

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

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

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

130. It is unlikely that the transmission facilities will cause the conversion of prime farmland soils.

131. The transmission facilities are anticipated to have short-term minimal effects on soil, water, and ecological resources. Most of the effects will be during initial construction and will be erosion and soil compaction.

132. The impacts on vegetation will be the result of clearing and maintaining the right-of-way. The most common vegetation types crossed by the alternative routes include upland woodland and shrubland with smaller amounts of bottomland and riparian woodland and shrubland as well as pastureland and rangeland.

133. 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.

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

135. 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.

136. 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.

137. 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.

138. 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.

139. 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. 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.

140. 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.

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

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

Texas Parks and Wildlife Department's Written Comments and Recommendations

143. On October 21, 2021, the Texas Parks and Wildlife Department's wildlife habitat assessment program provided information and recommendations regarding the preliminary study area for the proposed transmission facilities to POWER Engineers.

144. On October 6, 2022, the Texas Parks and Wildlife Department filed a letter making various comments and recommendations regarding the transmission facilities.

145. 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.

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

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

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

149. 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.

150. 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, the United States Army Corps of Engineers, and the Texas Commission on Environmental Quality, as appropriate, to coordinate permitting and perform any required mitigation.

151. POWER Engineers 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.

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

153. The standard mitigation requirements included in the ordering paragraphs in 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 are sufficient to address the Texas Parks and Wildlife Department's comments and recommendations.

154. 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.

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

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

Permits

157. 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.

158. 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.

159. 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.

160. 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 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.

161. It is appropriate for AEP Texas to conduct a field assessment of the approved 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 Schleicher 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.

162. 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

163. 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(b).

Effect on the State's Renewable Energy Goal

164. 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.

165. The transmission facilities will not adversely affect the state's renewable-capacity goal.

Limitation of Authority

166. 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.

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

Good-Cause Exception

168. Considering this Order at the earliest open meeting available constitutes good cause to grant an exception to the requirement in 16 TAC § 22.35(b)(2) that a proposed order be served on parties 20 days before the Commission is scheduled to consider the proposed order in an open meeting.

Informal Disposition

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

170. The only parties to this proceeding are AEP Texas; Commission Staff; Susan Prugel; Martha Jean Elder; Thomson T Circle Ranch, Charles Allen, and Anne Frischkorn; BJ Ranch and Cattle Company LLC; DD Buchholz Ranch Partnership, LTD; James and Phebe Blaylock; Mark Kirk; and Charlie Nicholas.

171. All parties to this proceeding are signatories to the agreement.

172. No hearing is necessary.

173. 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. 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.

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 §§ 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. There is good cause under 16 TAC § 22.5(b) to grant an exception to the requirements of 16 TAC § 22.52(a)(4) for AEP Texas to have held an online public meeting instead of an in-person public meeting.

8. 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.

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

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

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

12. There is good cause under 16 TAC § 22.5(b) to grant an exception to the 20-day notice requirement in 16 TAC § 22.35(b)(2).

13. This 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.

1. The Commission amends AEP Texas's CCN number 30170 to include the construction and operation of the transmission facilities, including a new single-circuit 69-kV transmission line along route A (segments 1, 3, 8, 12, 13, 14, 20, 25, 28a, 28b, 33, 36, 37, 38, 39, 42, and 43), the cut-in lines to the existing substations, and the dead-end structure located outside of each existing substation, 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

[2] Tex. Gov't Code §§ 2001.001–.902.

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 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.

4. 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.

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 the 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 construction on migratory birds during the nesting season of the migratory bird species identified in the area of construction.

10. 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 Texas Department of Agriculture regulations.

11. 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.

12. 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 transmission facilities.

13. 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 approved by this Order. Any minor deviations in the approved route must only directly affect 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.

14. 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.

15. 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.

16. 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.

17. The Commission grants a good-cause exception under 16 TAC § 22.5(b) to the requirement in 16 TAC § 22.35(b)(2) that a proposed order be served on parties 20 days before the Commission is scheduled to consider the proposed order in an open meeting.

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 of this Order unless the transmission facilities are commercially energized before that time.

20. The Commission denies all other motions and any other requests for general or specific relief, if not expressly granted.

Signed at Austin, Texas the 14th day of April 2023.

PUBLIC UTILITY COMMISSION OF TEXAS

PETER M. LAKE, CHAIRMAN

WILL MCADAMS, COMMISSIONER

LORI COBOS, COMMISSIONER

JIMMY GLOTFELTY, COMMISSIONER

KATHLEEN JACKSON, COMMISSIONER