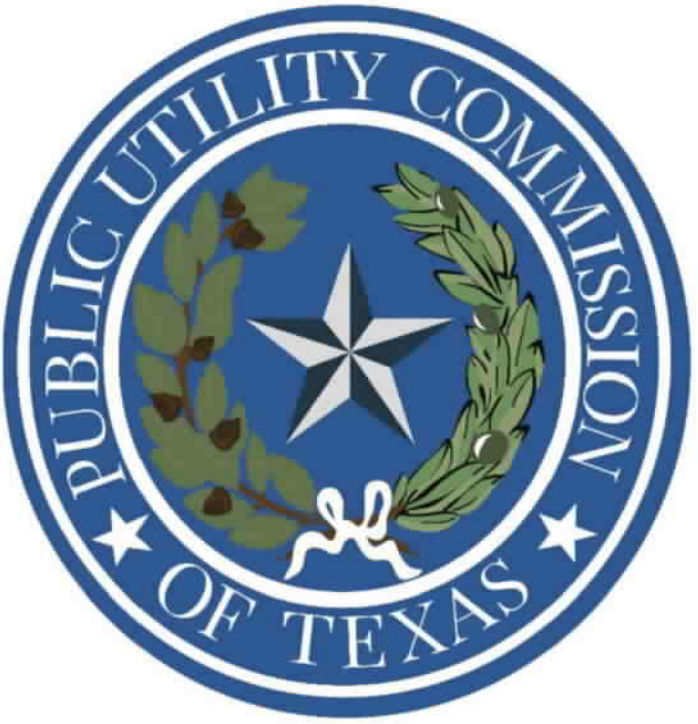

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APPLICATION OF AEP TEXAS INC. TO AMEND ITS CERTIFICATE OF CONVENIENCE AND NECESSITY FOR THE ALAMITO CREEK-TO-FORT DAVIS 138-KV TRANSMISSION LINE IN PRESIDIO AND JEFF DAVIS COUNTIES	§ § § § § § §	**PUBLIC UTILITY COMMISSION OF TEXAS**

ORDER

This Order addresses the application of AEP Texas Inc. to amend its certificate of convenience and necessity (CCN) for the Alamito Creek-to-Fort Davis 138-kilovolt (kV) transmission line and associated equipment for the Valentine Tap distribution service substation phase-over-phase switch in Jeff Davis and Presidio counties. AEP Texas filed a unanimous agreement for the construction of a new 138-kV transmission line along the agreed route, route E, and the distribution service substation phase-over-phase switch equipment. 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 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 holds CCN numbers 30028 and 30170 to provide service to the public.

Application

4. On May 21, 2024, AEP Texas filed an application to amend its CCN for the proposed construction of a new transmission line and associated equipment for a distribution service substation phase-over-phase switch.

5. AEP Texas retained Burns & McDonnell Engineering Company, Inc. to prepare an environmental assessment and routing analysis, which AEP Texas attached to the application.

6. In its application, AEP Texas identified nine alternative routes for the Commission's consideration to address the routing criteria and requirements of PURA[1] and the Commission's rules.

7. In State Office of Administrative Hearings (SOAH) Order No. 3 filed on July 1, 2024, the SOAH administrative law judge (ALJ) found the application sufficient.

Description of the Transmission Facilities

8. AEP Texas proposes to construct a new single-circuited 138-kV-capable transmission line, except for routes that utilize segments 3, 7, and 8, which would need to be double-circuited with the existing Alamito Creek-to-Barrilla Junction 138-kV transmission line.

9. The proposed transmission line will connect AEP Texas's Alamito Creek 69-to-138-kV substation to AEP Texas's 69-kV Fort Davis substation.

10. The proposed transmission line will replace the existing 69-kV transmission line between AEP Texas's Alamito Creek and Fort Davis substations.

11. The proposed transmission line will be constructed to allow for future 138-kV operation but will be operated at 69 kV upon initial energization.

12. The Valentine Tap phase-over-phase equipment includes a three-way phase-over-phase design consisting of three side-break switches with a common jaw-end connection mounted on a common stand for each phase and attached to a common pole with phases arranged vertically.

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

13. The new transmission line will be between 19.91 to 29 miles in length, depending on the alternative 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 Valentine Tap phase-over-phase switch equipment.

15. AEP Texas plans to construct the transmission line on steel monopole structures. The typical structure will be between 70 and 100 feet tall, with an estimated maximum height of 150 feet.

16. AEP Texas plans to use 795-kilocircular-mil 26/7 aluminum-conductor-steel-supported conductors, with one conductor per phase, having a continuous summer static current rating of 1,700 amperes and a continuous summer static line capacity of 406 megavolt-amperes.

17. The cost estimates of the proposed transmission facilities were provided in the application and these estimates include the costs of engineering, acquiring rights-of-way, procurement of materials and supplies, construction labor and transportation, and administration. The estimated line costs do not include the Valentine Tap phase-over-phase switch equipment costs, estimated to be $1.15 million for each alternative route.

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

Schedule

19. AEP Texas estimated that it would acquire all rights-of-way and land by June 2026, finalize engineering and design by July 2026, procure material and equipment by November 2026, energize the transmission facilities approved by this Order by February 2028, and complete construction by April 2028.

Public Input

20. To develop information on community values for the transmission facilities, AEP Texas hosted a virtual town hall meeting, and two in-person public meetings. The virtual town hall meeting was presented via Webex Live to the public on November 9, 2021, while the in-person public meetings were held in Fort Davis, Jeff Davis County, on January 19, 2022, and in Marfa, Presidio County, on January 20, 2022.

21. On October 19, 2021, AEP Texas mailed 111 landowners within 300 feet of the preliminary segment centerlines individual notices of the November 2, 2021 virtual town hall meeting. On October 25, 2021, AEP Texas mailed a second letter, stating that the date of the virtual town-hall meeting had been changed to November 9, 2021. Additionally, on October 19, 2021, AEP Texas provided the Department of Defense Military Aviation and Installation Assurance Siting Clearinghouse notice of the town hall meeting.

22. A total of 20 attendees logged into the virtual town hall meeting.

23. Due to technical difficulties during the November 9, 2021 virtual townhall meeting, some attendees were unable to participate, and AEP Texas scheduled additional public meetings.

24. On December 29, 2021, AEP Texas mailed individual written notice of the in-person public meetings to landowners who own property located within 300 feet of the preliminary 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.

25. A total of 36 citizens and landowners signed in at the in-person public meetings.

26. AEP Texas received 23 questionnaires with responses regarding the proposed transmission facilities.

27. Information from the public meetings and from local, state, and federal agencies was evaluated and incorporated into the development of the routes.

28. In response to comments and stakeholder input, several segments were modified to reduce potential impacts to the Marfa Municipal Airport, habitable structures, and other constraints to the greatest extent practicable.

29. The modifications of the preliminary segments resulted in 41 segments and nine routes that were included in the application.

Notice of Application

30. On May 21, 2024, AEP Texas sent written notice of the application by first-class mail to the following:

    a. the mayor of Marfa;

b. county officials in Jeff Davis and Presidio counties;

c. the sole neighboring utility providing similar utility service within five miles of the proposed routes;

d. each landowner, as stated on current county tax rolls, who could be directly affected by the transmission facilities on any of the proposed routes;

e. the Office of Public Utility Counsel (OPUC); and

f. the Texas Parks and Wildlife Department.

31. On May 21, 2024, AEP Texas sent written notice of the application by email to the Department of Defense Military Aviation and Installation Assurance Siting Clearinghouse.

32. On June 10, 2024, 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; county officials in Jeff Davis and Presidio counties; the neighboring utility within five miles of the proposed transmission facilities; OPUC; the Department of Defense Military Aviation and Installation Assurance Siting Clearinghouse; the Texas Parks and Wildlife Department; and directly affected landowners.

33. AEP Texas published notice of the application in the *Jeff Davis County Mountain Dispatch* and *Big Bend Sentinel*, which have general circulation in Jeff Davis and Presidio counties, on May 30, 2024.

34. On June 10, 2024, AEP Texas filed affidavits attesting to the publication of notice of the application.

35. In SOAH Order No. 3 filed on July 1, 2024, the SOAH ALJ found notice of the application sufficient.

Intervenors

36. In SOAH Order No. 3 filed on July 1, 2024, the SOAH ALJ granted the motions to intervene filed by Kennon Guglielmo; Twin Mountain Landmark Cattle, LLC; Ginger Griffice; Stephen Rabourn; AS Gage Ranches Partnership, Ltd.; and Calamity Creek Ranch, LLC.

37. In SOAH Order No. 3 filed on July 1, 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: Benjamin Hargrove; Susan and Richard Ashcroft; Robert Halpern; Jamie Dean; and Edward Campos.

Alignment of Intervenors

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

Route Adequacy

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

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

Statements of Position and Testimony

41. On May 21, 2024, AEP Texas filed the direct testimonies of Dewey G. Peters, project manager at American Electric Power Service Company; Tong Wang, transmission planning and engineering supervisor at American Electric Power Service Company; Jaylon J. Robinson, project engineer at American Electric Power Service Company; and Thomas J. Ademski, senior project manager at Burns & McDonnell.

42. On June 27, 2024, the following parties filed direct testimony: Kennon Guglielmo; AS Gage Ranches Partnership, Ltd.; and Stephen Rabourn.

43. On June 27, 2024, Calamity Creek Ranch, LLC filed a statement of position.

44. On June 28, 2024, Ginger Griffice filed direct testimony.

45. On July 10, 2024, Commission Staff filed the direct testimony of David Bautista, an engineer in the engineering section of the Commission's infrastructure division.

Referral to SOAH for Hearing

46. On May 24, 2024, the Commission referred this docket to SOAH and filed a preliminary order specifying issues to be addressed in this proceeding.

47. In SOAH Order No. 2 filed on June 13, 2024, the SOAH ALJ provided notice of a hearing on the merits set for 9:00 a.m. on July 26, 2024 via videoconference.

48. On July 22, 2024, AEP Texas, Commission Staff, and the intervenors filed an agreement supporting construction of the transmission facilities on route E.

49. In SOAH Order No. 5 filed on July 22, 2024, the SOAH ALJ admitted the following into the evidentiary record:

    a. AEP Texas's application and all attachments to the application filed May 21, 2024;

    b. Direct testimony of Thomas J. Ademski and attachments filed May 21, 2024;

    c. Direct testimony of Dewey G. Peters filed May 21, 2024;

    d. Direct testimony of Jaylon J. Robinson filed May 21, 2024;

    e. Direct testimony of Tong Wang filed May 21, 2024;

    f. AEP Texas's proof of notice and publication filed June 10, 2024;

    g. Commission Staff's recommendation on the sufficiency of the application and notice filed June 13, 2024;

    h. Direct testimony of Kennon Guglielmo on behalf of Twin Mountain Landmark Cattle, LLC filed June 27, 2024;

    i. Direct testimony of Ruth K. Agather on behalf of AS Gage Ranches Partnership Ltd. filed June 27, 2024;

    j. Direct testimony of Stephen Rabourn on behalf of himself filed June 27, 2024;

    k. Direct testimony of Ginger Griffice on behalf of herself filed June 27, 2024;

    l. AEP Texas's supplemental information regarding cost estimates filed July 9, 2024;

    m. Direct testimony of David Bautista on behalf of Commission Staff filed July 10, 2024;

    n. Intervenor map filed July 22, 2024; and

    o. Unanimous stipulation and settlement agreement filed July 22, 2024.

50. In SOAH Order No. 5 filed on July 22, 2024, the SOAH ALJ canceled the remaining procedural schedule and dismissed the proceeding from SOAH's docket and remanded it to the Commission.

Adequacy of Existing Service and Need for Additional Service

51. The existing Alamito Creek-to-Fort Davis transmission line was originally placed in service in 1929 and its electric service performance has declined due to the age and condition of the existing wood structures and lack of overhead ground wire to the point that it is necessary to replace the transmission line.

52. The proposed transmission facilities will strengthen the system against west Texas weather and decrease the likelihood and duration of sustained, community-wide outages.

53. The majority of the existing line is parallel to, and in close proximity of, existing pipelines. Constructing the proposed transmission facilities farther from the pipelines provides an additional benefit of increasing the distance between the transmission line and the pipelines for future maintenance, repair, and replacement activities on either.

54. The proposed transmission facilities will improve the operational performance and reliability of the power line and decrease the likelihood of larger, sustained community power outages.

55. The proposed transmission facilities will improve the reliability and adequacy of the transmission system in the proposed transmission line area to serve the existing electrical loads.

56. The proposed transmission facilities will replace aging infrastructure with modern steel poles to meet current engineering and operational standards.

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

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

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

Routing of the Transmission Facilities

60. The application included nine routes based on 41 routing segments.

61. The routes identified in the application range in length from 19.91 to 29 miles.

62. The routes presented in the application are viable and constructible.

63. Route E, the agreed route, consists of the following segments: 1, 3, 7, 8, 11, 12, 16, VT2, 21a, 21b, 21d, 23, 27, 30, 34, 35, and 36.

64. The agreed route and each of its routing segments were included in the application.

65. The agreed route is 19.91 miles in length, making it the shortest route.

66. Burns & McDonnell recommended route E as the route that best balances 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

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

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

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

Estimated Costs

70. The estimated construction costs of the nine filed routes range from $32,074,653 to $40,662,646, excluding the Valentine Tap phase-over-phase switch equipment. The estimated cost to construct the transmission facilities using the agreed route is $35,536,569, excluding the Valentine Tap phase-over-phase switch equipment.

71. The estimated cost of the Valentine Tap phase-over-phase switch equipment for any route is $1.15 million, which includes costs of engineering and design, procurement of materials and supplies, and facilities construction.

72. The estimated transmission-line cost includes cost of engineering, acquiring rights-of-way, procurement of materials and supplies, site preparation, construction labor and transportation, and administration.

73. The cost of the transmission facilities using the agreed route is reasonable considering the range of the cost estimates for the routes.

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

Prudent Avoidance

75. 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."

76. The number of habitable structures within 300 feet of the application routes' centerlines ranges from 34 to 52.

77. The agreed route has 37 habitable structures within 300 feet of its centerline.

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

Community Values

79. Questionnaires distributed at the virtual town hall and the public meetings requested a ranking of 13 factors that respondents see as the most important considerations for a transmission-line route development. Twenty-one of the 23 respondents (91%) rated the factors; however, not all these respondents rated all the factors.

80. The questionnaire provided a space for respondents to include any additional remarks and comments. The following five written responses were provided:

    a. The first respondent stated that segment 10 bisects the entire Dixon Water Foundation Mimms Unit Ranch and compromises several ongoing research and demonstration projects;

    b. The second respondent stated that the proposed transmission line will impact the Calamity Creek Ranch and that using the existing route would be the least impacting option;

c. The third respondent simply responded that they were the county judge;

d. The fourth respondent stated the potential segments affect their business due to a loss of grassland for livestock and erosion; and

e. The fifth responded by stating that consideration should be taken for people's homes and views when submitting the preferred routes to the Commission.

81. A summary of the comments provided by federal, state, and local officials was provided in the environmental assessment and routing analysis, including comments from Brewster-Presidio-Jeff Davis County Farm Service Agency, Federal Aviation Administration, Federal Emergency Management Agency, General Land Office, National Resources Conservation Service, National Park Service, United States Department of Defense Military Aviation and Installation Assurance Siting Clearinghouse, Railroad Commission of Texas, Texas Historical Commission, Texas Parks and Wildlife Department, and Texas Department of Transportation.

82. Burns & McDonnell and AEP Texas considered information such as public meeting input and agency coordination and input in developing and evaluating the routes.

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

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

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

85. The routes in the application use or parallel existing compatible rights-of-way or parallel apparent property boundaries for 21.97% to 92.37% of the length of the route, depending on the route selected.

86. The agreed route uses or parallels existing compatible rights-of-way or parallels apparent property boundaries for 92.37% of its length.

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

Engineering Constraints

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

89. 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

90. The area traversed by the routes (the study area) for the proposed transmission facilities is predominantly rangeland.

91. The area is sparsely populated, with residential development within the study area primarily concentrated in and around the city of Marfa and Fort Davis. Smaller residential subdivisions include Fort Davis Estates located southwest of State Highway 118 in the northeastern portion of the study area, and Mano Prieto Estates located east of State Highway 17 in the northern half of the study area.

92. Commercial development in the study area is primarily located in proximity to Fort Davis and Marfa, with a few isolated commercial uses located along main roadways, including the Village Farms, LP largescale greenhouse farming operations located on the west side of State Highway 17.

93. The study area lies in the basin and range physiographic region. Study area elevations range from a low of approximately 4,665 feet within Alamito Creek in the southern portion of the study area, to a high of approximately 6,358.

94. 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

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

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

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

Airstrips and Airports

98. There are no airports 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.

99. There is one airport registered with the Federal Aviation Administration and equipped with at least one runway longer than 3,200 feet within 20,000 feet of the agreed route's centerline.

100. There is one private airstrip within 10,000 feet of the agreed route's centerline.

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

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

Irrigation Systems

103. The agreed route crosses zero miles of agricultural lands with known mobile irrigation systems.

104. It is unlikely that the transmission facilities will adversely affect any agricultural lands with known mobile irrigation systems.

Pipelines

105. The number of times a proposed route crosses a pipeline transmitting hydrocarbons ranges from three to five times. The agreed route crosses pipelines transmitting hydrocarbons five times and parallels any pipeline within 500 feet of the centerline for 14.6 miles.

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

Recreational and Park Areas

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

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

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

Historical and Archaeological Values

110. All of the proposed routes cross areas with a high potential for historical or archaeological sites for some of their lengths. The agreed route crosses areas with a high potential for historical or archaeological sites for 9.41 miles.

111. There are no properties listed on or determined eligible for listing on the National Register of Historic Places crossed by any of the proposed routes' rights-of-way, and 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.

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

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

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

Aesthetic Values

115. The agreed route is located within the foreground visual zone of United States and state highways for 5.54 miles.

116. The agreed route is located within the foreground visual zone of farm-to-market or county roads for 1.51 miles.

117. The agreed route is within the foreground visual zone of a park or recreational area for 2.40 miles.

118. The study area exhibits a high degree of aesthetic quality and includes mountain ranges, canyons, and desert, and displays topographic variation, color, and a diversity of scenic elements. However, portions of the study area have been altered by land-use practices and infrastructure associated with agriculture, transportation, residential and commercial development, and existing electric transmission and distribution facilities.

119. Construction of the proposed 138-kV transmission line could have both temporary and permanent aesthetic effects, and these impacts may occur on any proposed route. Construction along the existing transmission-line route helps mitigate new impacts to aesthetics.

Environmental Integrity

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

121. Burns & McDonnell evaluated the effects of the transmission facilities on the environment, including endangered and threatened species.

122. Burns & McDonnell 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.

123. 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.

124. The agreed route crosses upland woodlands for 0.20 miles.

125. The agreed route crosses bottomland or riparian woodlands for 0.02 miles.

126. The agreed route crosses no wetlands mapped by the National Wetland Inventory.

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

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

129. 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.

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

131. 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.

132. 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.

133. 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.

134. 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.

135. 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.

136. 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.

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

Texas Parks and Wildlife Department's Written Comments and Recommendations

138. On July 17, 2024, the Texas Parks and Wildlife Department filed a letter making various comments and recommendations regarding the transmission facilities.

139. 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 that the Commission and utilities must consider in CCN applications.

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

141. 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.

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

143. 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.

144. 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 (TCEQ), AEP Texas will cooperate with the United States Fish and Wildlife Service, United States Army Corps of Engineers, and the TCEQ as appropriate to coordinate permitting and perform any required mitigation.

145. Burns & McDonnell 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.

146. 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.

147. 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.

148. 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.

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

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

Permits

151. 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.

152. 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.

153. 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.

154. 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 TCEQ. 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 TCEQ, and to comply with all other applicable requirements of the general permit.

155. 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 Jeff Davis and Presidio counties 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.

156. 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

157. 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

158. 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.

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

Informal Disposition

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

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

162. No hearing was needed.

163. Commission Staff recommended approval of the application.

164. 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 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).

7. All route segments in the agreed route were included in the application. Accordingly, additional notice of the approved route is not required under 16 TAC § 22.52(a)(2).

8. AEP Texas held public meetings and provided notice of the public meetings in compliance with 16 TAC § 22.52(a)(4).

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

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

11. 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).

12. 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.

13. 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.

1. The Commission approves the agreed route and amends AEP Texas's CCN number 30170 to the extent provided in this Order.

2. The Commission amends AEP Texas's CCN number 30170 to include construction and operation of a new single-circuit 138-kV transmission line, to be double-circuited with an existing transmission line for approximately 1.6 miles, along the agreed route, and the Valentine Tap phase-over-phase switch equipment.

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.

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[2] Administrative Procedure Act, Tex. Gov't Code §§ 2001.001–.903.

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 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. 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 24th day of October 2024.

PUBLIC UTILITY COMMISSION OF TEXAS

THOMAS J. GLEESON, CHAIRMAN

[Not in attendance at meeting]

LORI COBOS, COMMISSIONER

JIMMY GLOTFELTY, COMMISSIONER

KATHLEEN JACKSON, COMMISSIONER

COURTNEY K. HJALTMAN, COMMISSIONER

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