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PUC DOCKET NO. 48358
SOAH DOCKET NO. 473-18-5064

APPLICATION OF LCRA TRANSMISSION SERVICES CORPORATION TO AMEND A CERTIFICATE OF CONVENIENCE AND NECESSITY FOR THE COOKS POINT 138-KV TRANSMISSION LINE IN BURLESON COUNTY	§ § § § § § §	**PUBLIC UTILITY COMMISSION** **OF TEXAS**

ORDER

This Order addresses the application of the Lower Colorado River Authority Transmission Services Corporation (LCRA) to amend its certificate of convenience and necessity (CCN) for the proposed Cooks Point 138-kilovolt (kV) transmission line in Burleson County. The proposal for decision recommends approval of route 12. The Commission adopts the proposal for decision, including findings of fact and conclusions of law, except as discussed in this Order.

The Commission makes the following additions, modifications, and deletions to the proposal for decision. The Commission adds finding of fact 1A to reflect that the applicant is an electric utility. To better address issues concerning environmental integrity and to achieve greater consistency with recent Commission orders, the Commission adds findings of fact 127A through 127G. To address required permits and regulatory approvals and to achieve greater consistency with recent Commission orders, the Commission adds findings of fact 175A through 175D. The Commission adds finding of fact 177A to clarify that this Order addresses only those Texas Parks and Wildlife recommendations for which there is record evidence. The Commission modifies finding of fact 28 to correct a date.

The Commission modifies conclusion of law 8 to clarify that no additional notice is needed in this docket because no route modifications were made after the application was filed. The Commission deletes conclusion of law 14 because it is not a proper conclusion of law. In addition, the Commission makes other non-substantive changes to the Order for such matters as capitalization, spelling, grammar, punctuation, style, correction of numbering, and readability.

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I. Findings of Fact

The Commission adopts the following findings of fact.

Applicant

1. LCRA is a non-profit corporation providing service under CCN number 30110.

1A. LCRA owns and operates facilities to transmit electricity in the Electric Reliability Council of Texas (ERCOT) region.

Application

2. On May 31, 2018, LCRA filed with the Commission an application to amend its CCN to build, own, and operate a new 138-kV transmission line in Burleson County connecting a new substation to the electric grid.

3. LCRA retained URS Corporation to prepare an environmental assessment and routing analysis for the proposed transmission line that was included as part of the application.

Description of Proposed Transmission Facilities

4. The proposed new transmission line will connect a new load-serving electric substation (Cooks Point substation) located in the vicinity of the Cooks Point community in northern Burleson County (near the intersection of State Highway 21 and Farm-to-Market Road 1362) to either Bluebonnet Electric Cooperative, Inc.'s existing Lyle Wolz substation or Bluebonnet's Lyons substation.

5. The proposed transmission facilities will be constructed on 138-kV single-circuit steel or concrete pole structures for typical tangent, angle, and dead-end structures. If ordered to or in constrained or other appropriate areas (such as line crossings or in proximity to airports or heliports), LCRA could use alternative structure types, including H-frames. The heights of typical structures proposed for the transmission line range from 75 to 110 feet above ground.

6. LCRA will design, operate, maintain, and own all of the proposed transmission line facilities including conductors, wires, structures, hardware, and easements. LCRA will also design, operate, maintain, and own the new electric load-serving substation that will be constructed in conjunction with the transmission line.

7. The application included 26 alternative routes composed from 84 route segments.

8. After the application was filed, three additional routes utilizing the existing route segments presented in LCRA's application were identified and assessed: modified route 7, EC-1, and Commission Staff RFI 1-1.

9. The alternative routes range from approximately 17 to 23 miles in length.

10. The application's route alternatives have an estimated total cost ranging between approximately $35 million and approximately $44 million for transmission and substation facilities.

Procedural History

11. In Commission Order No. 3 issued on July 2, 2018, the administrative law judge (ALJ) granted the motions to intervene filed by Kirk Sumner, Christopher Evers (on behalf of Evers Group, LLC), Christopher Smith, Kate O'Keefe (on behalf of the O'Keefe and Hoot Family Limited Partnership), Peter Cook, William and Mary Hillmann, Wayne and Debi McMillian, June Calvin, Ol' Army Ranch, LLC, Amber Owen, Bettye Langham, and T. L. Calvin.

12. In Commission Order No. 5 issued on July 9, 2018, the ALJ granted the motions to intervene filed by Mary Engelmann, David Odstrcil, Barbara Krob, Otto Kubecka, Jr., William Allen Lange, Jr., Patricia and Thomas Novosad, Roy Bohn, Jeff L. Kubecka, Donald Kubecka, and Tammy Baker.

13. In Commission Order No. 6 issued on July 17, 2018, the ALJ granted the motions to intervene filed by Katharine Fraser, Carla Faske, David Knesek, Mary Goff, Mark Kovar, Kathryn Kovar, Janice Lynn Ofczarzak, Patricia Hatfield, Carol Christian, and James Jezek.

14. In Commission Order No. 7 issued on July 20, 2018, the ALJ granted the motions to intervene filed by Kathryn E. Williams, John and Nehoma Brown, Ramon and Alice Vasquez, Maria and David Cormier, David Reue, Timothy Goff, Rosie and Jerry Groves, DCP Intrastate Network, LLC, Pamela Reed, Debra Gryder, James Siptak, Donald C.

Krause, Leroy C. Kazmir, Elaine H. Mitchell, Marshall A. Harrell Jr., and Key Energy Services, LLC.

15. In Commission Order No. 8 issued on July 24, 2018, the ALJ granted the motions to intervene filed by Robert Tolar, Lampe Partners, L.P., Joseph Vychopen, Patty Vychopen, Billy M. Jezek, Elizabeth R. Clanton, Frank Horak, Andrew Perry, Shirley O. Perry, William "Billy" Lowery, Edward E. Taylor, John Adams, John Holleman, Leda Long-Williams, Sherry Calvin Green Adams, David R. and Rhonda Calvin Wolz, John and Whitney Wolz Anderson, Kenneth Hronek, Sr., Jason Paul Hronek, Novella Hronek, Fredrick Pagel, Adelle Morehead, Atmos Pipeline-Texas, and Susan Dorman.

16. On July 27, 2018, the Texas Parks and Wildlife Department filed a letter containing its comments and recommendations regarding the proposed transmission facilities.

17. On August 8, 2018, the Commission referred this case to the State Office of Administrative Hearings (SOAH) and identified a number of issues to be addressed.

18. In SOAH Order No. 1 issued on August 14, 2018, the SOAH ALJs provided notice of a prehearing conference, described jurisdiction, and provided other information.

19. On September 5, 2018, the SOAH ALJs convened a prehearing conference in this docket in Austin, Texas, at which time a procedural schedule was adopted.

20. In SOAH Order No. 2 issued on September 14, 2018, the SOAH ALJs gave notice of the convening of the hearing on the merits at the SOAH offices in Austin at 9:00 a.m. on January 8, 2019.

21. In SOAH Order No. 2, the SOAH ALJs also established an intervention deadline, memorialized the procedural schedule, adopted a protective order, addressed other procedural matters, and granted the motions to intervene filed by Sylvia Ann Gold Stegent, Weldon Ginzel, Kimberly Martensen, Joel Wayne Pembleton, Robert Houlgrave, Christopher Chmelar and Christel Chmelar, Bryan and Patricia Coffman, Richard Neal, Robert Murray Alford, Loretta Beran Alford, Ronald H. Stern, Paline Koumonduros, Jane Collier, Gabe and Gail Broussard, Sarah Hronek, Suzanne Strong, Cirilo Zamora, Jr., Angie Zamora, Cierra Zamora, and Alexander Zamora.

22. On September 10, 2018, LCRA filed the direct testimonies of Mr. Kristian Koellner, Ms. Melinda Jensen, Ms. Jessica Melendez, and Mr. Justin Stryker in support of the application.

23. One hundred and four parties were granted intervention in this docket.

24. Twenty-two intervenor direct testimonies or statements of position were filed on or about October 23, 2018.

25. Of the parties initially granted intervention, 70 were dismissed from this docket for failure to file testimony or statements of position in accordance with the requirements of SOAH Order No. 2.

26. Commission Staff filed the direct testimony of its witness, Mr. Blake Ianni, on November 16, 2018.

27. On December 7, 2018, LCRA filed the rebuttal testimonies of Mr. Koellner, Ms. Jensen, Ms. Melendez, and Mr. Stryker.

28. On January 8, 2019, the hearing on the merits convened before SOAH ALJs Joanne Summerhays and Rudy Calderon. The following parties made appearances, either personally or through their legal counsel, and participated in the hearing on the merits: LCRA; Commission Staff; Atmos Energy Corporation, on behalf of Atmos Pipeline-Texas (Atmos); Mary Goff; DCP Intrastate Network; William A. Lange, Jr. (representing the Lange family properties); Leda Williams; Robert Tolar (representing himself and Jim Siptak); Ol' Army Ranch, LLC; Leroy Kazmir; Donald Krause; Elaine Mitchell; Marshall A. Harrell, Jr.; Christopher and Christel Chmelar; Kate O'Keefe and the O'Keefe and Hoot Family Limited Partnership; John Adams (representing himself and Sherry Adams; T.L. and June Calvin; and Rhonda and David Wolz); and Key Energy Services, LLC. Two additional self-represented intervenors, Joel Wayne Pembleton and Lampe Partners, LP, did not appear but had their direct testimony submitted by another party without objection. The hearing concluded that same day.

29. The evidentiary record closed on January 10, 2019, and the hearing record closed on February 15, 2019, after the filing of closing written arguments and proposed findings of fact and conclusions of law.

Notice and Sufficiency of Application and Route Adequacy

30. On May 31, 2018, LCRA:

    a. mailed direct written notice of the filing of the application by first-class mail to each owner of land directly affected by the construction of the proposed transmission facilities, as determined by review of the Burleson County Appraisal District tax data;

    b. mailed direct written notice of the filing of the application by first-class mail to the county government of Burleson County, as well as the city governments for the cities of Caldwell and Somerville;

    c. mailed direct written notice of the filing of the application by first-class mail to the following neighboring utilities providing electric utility service within five miles of the requested facilities: City of Caldwell Utilities, Bluebonnet, Bryan Texas Utilities, and Entergy Texas, Inc.; and

    d. mailed written notice of the filing of the application by first-class mail to other interested entities, including the Office of Public Utility Counsel and the United States Department of Defense Siting Clearinghouse.

31. On June 7, 2018, LCRA published public notice of the application in the *Burleson County Tribune*, a newspaper of general circulation in Burleson County, Texas.

32. On June 20, 2018, LCRA filed an affidavit attesting to, among other things, the provision of notice of the application to the Office of Public Utility Counsel; and notice of the application to cities, counties, neighboring utilities, the United States Department of Defense Siting Clearinghouse, and directly affected landowners.

33. On June 20, 2018, LCRA filed an affidavit attesting to published notice of the application in the *Burleson County Tribune*, a newspaper of general circulation in Burleson County, Texas, the county where the CCN amendment is being requested.

34. No party challenged the sufficiency of the application.

35. In Commission Order No. 2 issued on June 21, 2018, the ALJ found the application to be sufficient and materially complete.

36. In Commission Order No. 4 issued on July 5, 2018, the ALJ approved LCRA's provision of notice of the application in this proceeding.

37. LCRA, together with its routing consultant, URS, initially developed and evaluated 26 geographically diverse alternative routes (routes 1 through 26), comprising 84 alternative route segments that can be combined into a wide variety of alternate routes. Later, three additional routes (modified route 7, EC-1, and Commission Staff RFI 1-1) were identified from combinations of alternative route segments presented in the application.

38. No party raised a route adequacy challenge.

39. The application's 26 geographically diverse routes are an adequate number of reasonably differentiated alternative routes to conduct a proper evaluation.

Need for the Proposed Transmission Facilities

40. The proposed transmission facilities are needed to meet the existing and forecasted retail electric service demand of customers in Burleson County and to address reliability risks associated with continuing to serve the area's electric load requirements using the existing load-serving substations.

41. The new Cooks Point substation is planned to serve an area remote from Bluebonnet's existing facilities at the edge of its service territory and is needed to ensure that electric service needs for present and future customers within the area are met in a reliable, efficient, and cost-effective manner.

42. The proposed transmission facilities will help ensure that, among other things, over time (a) increasing load will not outstrip the distribution system's ability to perform at levels required by utility planning criteria; (b) low voltage conditions and overloaded conductors will not occur, placing customer load at risk of outage, damage, or misoperation; and (c) an excessive amount of voltage-regulating equipment will not be required.

43. The proposed transmission facilities will help prevent future violations of Bluebonnet and LCRA distribution and transmission planning criteria likely resulting from load growth in the area. Specifically, based on the load forecast for the area, if the proposed transmission facilities are not approved, anticipated violations of Bluebonnet's distribution system

criteria include: (1) an inability to maintain voltages meeting ANSI C84.1 Range A limits under normal operating conditions; (2) exceeding optimum conductor loading levels on distribution feeders; and (3) the need for an excessive number of voltage regulators.

44. The proposed transmission facilities will help address the potential, at the transmission level, of over 20 megawatts of peak customer load being subject to interruption due to the loss of a single transmission element.

45. The proposed transmission facilities will help address a post-contingency overload of the Gay Hill-to-Lyons transmission line that would otherwise be expected to occur by 2023 per ERCOT regional transmission plan findings.

46. LCRA presented the proposed transmission facilities (including all transmission alternatives considered and addressed in response to question 15 of the application) for review by ERCOT Staff and the ERCOT Regional Planning Group on July 8, 2016.

47. ERCOT market participants Bluebonnet, Bryan Texas Utilities, and Oncor Electric Delivery Company, LLC, as well as the City of Caldwell, all filed comments supporting the recommended alternative during the ERCOT Regional Planning Group review process.

48. Following its review, ERCOT Staff designated the proposed transmission facilities as a tier 4 neutral project on July 7, 2017.

49. ERCOT Staff determined the proposed transmission facilities will not result in any violations of North American Electric Reliability Corporation or ERCOT performance requirements.

50. After the RPG review was completed, the proposed transmission facilities' recommended transmission alternative was identified by ERCOT Staff during the 2017 regional transmission plan as a transmission element that will mitigate a reliability constraint identified within the proposed transmission facilities area.

51. Burleson County and the City of Caldwell each adopted resolutions supporting the need for the proposed transmission facilities.

52. No party disputed the need for the proposed transmission facilities.

53. All of the 29 routes under consideration in this docket, including the 26 presented in the application and the three additional routes identified by Commission Staff and intervening parties, will satisfy the need for the proposed transmission facilities.

54. Electric customers within the proposed transmission facilities area will benefit from the improved transmission system reliability and capacity provided by the proposed transmission facilities.

55. LCRA and Bluebonnet considered a distribution-only alternative.

56. Distribution alternatives are not adequate to resolve the need for the proposed transmission facilities.

57. A distribution system-only alternative would require multiple projects to significantly upgrade existing facilities. Beyond 2020, these distribution system improvements would no longer provide acceptable results because criteria violations would reoccur. Furthermore, with an anticipated timeframe of four years to complete the distribution system improvements, the improvements would not be sufficient by the time of completion.

58. No party has argued that a distribution alternative would resolve the need for the proposed transmission facilities.

Routing of the Transmission Line

59. The URS project team included professionals with expertise in different environmental and land use disciplines who were involved in data acquisition, routing analysis, and environmental assessment for the proposed transmission facilities.

60. To identify preliminary alternative route segments for the proposed transmission facilities, URS delineated a study area, sought public official and agency input, gathered data regarding the study area, performed constraints mapping, identified preliminary alternative route segments and alternative substation sites, and reviewed and adjusted the preliminary alternative route segments and alternative substation sites following field reconnaissance and the public meeting.

61. URS examined potential routes taking into consideration the factors that appear in PURA[1] § 37.056(c)(4)(A)-(D), 16 Texas Administrative Code (TAC) § 25.101, and the Commission's CCN application form.

62. From the preliminary alternative route segments, URS and LCRA identified 26 reasonable, feasible alternative routes. In identifying these, URS considered a variety of information, including input from the public and public officials, geographic diversity within the study area, and an inventory and tabulation of a number of environmental and land use criteria.

63. LCRA reviewed the alternative routes with regard to cost, construction, engineering, and right-of-way maintenance issues and constraints, and conducted field reviews.

64. At the time it filed the application, and in accordance with the requirement in the Commission's CCN application form, LCRA identified route 7 as the route that best addressed the Commission's routing criteria for the reasons included in response to question 17 of the application.

65. LCRA's application confirms that all proposed routes are viable and constructible and meet the factors in PURA § 37.056(c)(4)(A)-(D), 16 TAC § 25.101, and the Commission's CCN application form.

66. At the hearing and in post-hearing briefs, LCRA supported the choice of route 12 as the route that best meets the statutory and regulatory criteria, and best addresses the concerns raised by the Texas Parks and Wildlife Department and the parties.

67. Commission Staff submitted evidence supporting the choice of Route 12 as the route that best meets the statutory and regulatory criteria, and best addresses the concerns raised by the Texas Parks and Wildlife Department and the parties.

68. All of the parties that participated in the hearing, or provided evidence that was submitted at the hearing, support or do not oppose route 12.

69. Based on the evidence presented, route 12 best meets the regulatory and statutory criteria because it:

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

- is estimated to be the second least costly route with an estimated cost of $35,712,000;
- is the sixth shortest route at 18.3 miles;
- utilizes paralleling (including all compatible corridors) for 16.5 miles, or 90% of its total length;
- utilizes the Lyle Wolz substation endpoint, which better addresses reliability concerns than routes utilizing the Lyons substation endpoint;
- impacts 28 habitable structures, which is less than the 42 habitable structures impacted by LCRA's recommended route, route 7, and only ten more than the route that impacts the fewest habitable structures;
- crosses the endangered Houston toad's potential habitat for only 0.3 miles, which is tied with route 21, the Texas Parks and Wildlife Department's recommended route, for second least distance crossed;
- avoids using segments that the Texas Parks and Wildlife Department expressed the most concern about;
- does not cross any rare or unique plant location;
- crosses least amount of areas of high prehistoric and historic archaeological site potential (1.2 miles); and
- avoids Atmos's and Key Energy's business, operational, and safety concerns with alternative routes.

Effect of Granting Certificate on LCRA and Utilities Serving the Proximate Area

70. Electric utilities serving the proximate area of the proposed transmission facilities include the City of Caldwell Utilities, Bluebonnet, Bryan Texas Utilities, and Entergy Texas, Inc.

71. Electric service requirements for many current and future end-use customers within the area will be met by Bluebonnet with the installation of the new electric load-serving substation associated with the proposed transmission facilities. The new substation will provide the electrical source to supply existing and future electrical loads in the area. The new substation will also increase the reliability of service to the broader area.

72. Because of the significant benefits, ERCOT market participants Bluebonnet and Bryan Texas Utilities, along with the City of Caldwell, support the proposed transmission facilities.

Community Values

73. LCRA held a public meeting for the proposed transmission facilities on January 30, 2018, at the City of Caldwell Civic Center in Caldwell, Texas.

74. The purpose of the public meeting was to solicit input from landowners, public officials, and other interested persons about the proposed transmission facilities, the preliminary alternative route segments, and the alternative substation sites. Further, the public meeting was designed to promote a better understanding of the proposed transmission facilities, including the purpose, need, potential benefits and impacts, and Commission certification process; inform the public with regard to the routing procedure, schedule, and route approval process; and gather and understand the values and concerns of the public and community leaders.

75. LCRA mailed 1,216 written notices of the public meeting to all owners of property within 300 feet of the centerline of each preliminary alternative segment.

76. LCRA also mailed or hand delivered notices of the public meeting to local public officials and various state and federal officials.

77. Notice of the public meeting was additionally published in the *Burleson County Tribune*, the local newspaper of general circulation in Burleson County, on January 18 and January 25, 2018.

78. The United States Department of Defense Siting Clearinghouse was given notice of the proposed transmission facilities both before and after the public meeting.

79. On October 18, 2017, several months before the public meeting, written information was provided to the United States Department of Defense Siting Clearinghouse about the study area and the nature of the proposed transmission facilities.

80. On December 14, 2017, the United States Department of Defense Siting Clearinghouse reported that the proposed transmission facilities will have minimal impact on military operations conducted in the area.

81. Concurrent with the filing of the application, written notice was mailed by first-class mail to the United States Department of Defense Siting Clearinghouse.

82. On August 9, 2018, the United States Department of Defense Siting Clearinghouse again reported that the proposed transmission facilities will have minimal impact on military operations conducted in the area.

83. A total of 159 people signed in as attending the public meeting.

84. Attendees were provided questionnaires, and LCRA received a total of 78 completed questionnaires.

85. The public feedback received by LCRA was evaluated and considered in determining the routes to be included in the application. Based on input, comments, information received at and following the public meeting, and additional analyses conducted by LCRA and URS, eight preliminary alternative route segments were modified, eight preliminary alternative route segments were deleted, and six alternative route segments were added.

86. The study area is primarily rural with concentrations of residential and commercial development within the City of Caldwell and along State Highway 21 and State Highway 36.

87. The predominant land use within the study area is undeveloped or agricultural land.

88. None of the identified routes traverse a heavily populated residential area. Whenever possible, LCRA and URS avoided identifying alternative route segments near habitable structures.

89. The 29 routes under consideration in this proceeding varied in length from approximately 17 to 23 miles.

90. All 29 routes are viable, feasible, and reasonable from environmental, engineering, and cost perspectives.

91. The greatest number of habitable structures within 300 feet of the centerline of any route is 63, on route 5.

92. The least number of habitable structures within 300 feet of the centerline on any route is 18, on routes 15 and 23.

93. Route 7 has a total of 42 habitable structures within 300 feet of the centerline.

94. Route 12 has 28 habitable structures within 300 feet of the centerline, 14 fewer than route 7 and only 10 more than the routes with the lowest number of habitable structures.

Parks and Recreation Areas

95. There are very few park and recreational areas throughout the study area.

96. LCRA and URS properly identified and described park and recreational areas within the study area in Section 4.7.3, and on Table 4-1, of the environmental assessment.

97. None of the alternative routes directly cross any park or recreational areas as defined by the Commission's standard application for a CCN.

98. There are only two park or recreational areas located within 1,000 feet of the centerline of any of the alternative routes: the Copperas Hollow Country Club and Texas Department of Transportation Rest Area 2.

99. No route has more than two park or recreational areas within 1,000 feet of its centerline.

100. Routes 1, 2, 3, 14, 16, 18, 25, and 26 are within 1,000 feet of Texas Department of Transportation Rest Area 2.

101. Routes 1, 2, 3, 5, 7, 9, 17, 25, 26 and modified route 7 are within 1,000 feet of Copperas Hollow Country Club.

102. Route 12 is not within 1,000 feet of any park or recreational area.

103. During construction, minor and temporary disruption to recreational users of the rest area and Copperas Hollow Country Club may occur; however, long-term impacts are not anticipated. Upon completion of the proposed transmission facilities, recreational activities within these areas would be anticipated to resume.

104. No significant impacts to the use of the parks and recreation facilities located within the study area are anticipated from any of the alternative routes.

Cultural, Historical, and Aesthetic Values

105. LCRA has identified and summarized the number of known or recorded historic or prehistoric archaeological sites and cemeteries within 1,000 feet of the right-of-way of each proposed route.

106. No previously recorded cultural resources sites are crossed by an alternative route.

107. There are 14 known cultural resources sites within 1,000 feet of an alternative route. These cultural resources included six official Texas historic markers and eight cemeteries. Two of these cemeteries, Kramer Cemetery and the Slovanska Podporujici Jednota Statu Texas Cemetery, have been designated as historic Texas cemeteries.

108. The minimum number of cultural resource sites within 1,000 feet of the centerline of any route is two, while the maximum is 11.

109. Routes 7 and 12 both have only two cultural resource sites within 1,000 feet of their centerline.

110. A total of five archaeological sites are located within 1,000 feet of an alternative route. None of the sites have been determined eligible for listing in the National Register of Historic Places or for designation as a state antiquities landmark.

111. Kramer Cemetery is designated as a historic Texas cemetery. This site is located 256 feet from the centerline of the nearest route and would therefore not be impacted by construction.

112. To provide an assessment of archaeological site sensitivity for the proposed transmission facilities, a predictive model was developed by URS on the basis of landform, soil type, distance from water sources, extant site distributions, and proximity to the El Camino Real de Los Tejas National Historic Trail.

113. The study area was divided into areas of high, moderate, and low potential for prehistoric archaeological sites, with high potential areas possessing the greatest potential for containing cultural resource sites.

114. Of all the proposed alternative routes, route 12 has the lowest percentage of line that crosses high potential areas for prehistoric archaeological sites, with only 6.6% of the route crossing high potential areas, while route 26 has the highest, at 77.7%.

115. One measure of aesthetic values is the length of right-of-way that is within the foreground visual zone of United States and state highways, farm-to-market roads, and parks and recreational areas.

116. Route 26 has the longest length within the foreground visual zone of United States and state highways, at 16.8 miles, while route 20 has the shortest length, at 4.3 miles.

117. Route 3 has the longest length, 3.5 miles, within the foreground visual zone of parks or recreational areas, while routes 4, 10, 19, and 20 have the shortest length, zero miles.

118. Route 12 is within the visual foreground of highways for 11.1 miles and is in the visual foreground of parks and recreation areas for 3.1 miles.

Environmental Integrity

119. LCRA and URS evaluated the impacts on environmental integrity from the proposed transmission facilities, and set out such impacts in detail in the environmental assessment and summarized them in Section 4.5.2.5 of the environmental assessment.

120. The proposed transmission facilities have the potential to affect the modeled optimal habitat for the federally listed endangered Houston toad.

121. Of the alternative routes within the study area, routes 11 and 12 cross the least amount of modeled optimal Houston toad habitat, with 0.21 mile and 0.32 mile, respectively.

122. Routes 6 and 10 cross the most modeled optimal Houston toad habitat, with 3.18 miles and 5.30 miles, respectively.

123. LCRA and URS properly determined and identified the lengths of potential Houston toad habitat crossed by each alternative route segment and each alternative route in appendices E and F of the environmental assessment.

124. Notwithstanding the existence of endangered species and habitat in the study area, the proposed transmission facilities are not anticipated to affect populations of any federally-listed endangered or threatened species in a significantly adverse manner.

125. Commission rule 16 TAC § 25.101(a) states that the "commission may grant a certificate for the construction of generating or transmission facilities within the coastal boundary as defined in 31 TAC § 503.1 only when it finds that the proposed facilities are as required under the applicable goals and policies of the Coastal Management Program specified in 31 TAC § 501.14(a), or that the proposed facilities will not have any direct and significant

impacts on any of the applicable coastal natural resource areas specified in 31 TAC § 501.3(b)."

126. No part of any of the proposed transmission facilities is located within the Coastal Management Program boundary, as defined in 31 TAC § 503.1.

127. No significant impacts to wetland resources, ecological resources, endangered and threatened species, or land use are anticipated as a result of the construction of the proposed transmission facilities.

127A. It is appropriate that LCRA protect raptors and migratory birds by following the procedures outlined in the following publications: *Reducing Avian Collisions with Power Lines: The State of the Art in 2012*, Edison Electric Institute and Avian Power Line Interaction Committee, Washington, D.C. 2012; *Suggested Practices for Avian Protection on Power Lines: The State of the Art in 2006*, Edison Electric Institute, Avian Power Line Interaction Committee, and the California Energy Commission, Washington, D.C. and Sacramento, CA 2006; and *Avian Protection Plan Guidelines*, Avian Power Line Interaction Committee and United States Fish and Wildlife Service, April 2005.

127B. It is appropriate that LCRA minimize the amount of flora and fauna disturbed during construction of the proposed transmission line.

127C. It is appropriate that LCRA revegetate cleared and disturbed areas using native species and consider landowner preferences and wildlife needs in doing so.

127D. It is appropriate that LCRA avoid causing, to the maximum extent possible, adverse environmental burdens 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.

127E. It is appropriate that LCRA implement erosion control measures and return each affected landowner's property to its original contours unless otherwise agreed to by the landowners. It is appropriate that LCRA not be required to restore original contours and grades where different contours or grades are necessary to ensure the safety or stability of the proposed

transmission line's structures or the safe operation and maintenance of the transmission line.

127F. It is appropriate that LCRA 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 must comply with the rules and guidelines established in the Federal Insecticide, Fungicide, and Rodenticide Act and with the Texas Department of Agriculture regulations.

127G. It is appropriate that LCRA use best management practices to minimize the potential burdens on migratory birds and threatened or endangered species.

128. Route 12 is the best choice from an environmental standpoint because it does not have any rare or unique plants within its right-of-way and because it does not use any of the segments about which the Texas Parks and Wildlife Department expressed particular concern.

Engineering Constraints

129. There are no significant engineering constraints along any of the alternative routes that cannot be adequately addressed by utilizing design and construction practices and techniques usual and customary in the electric utility industry.

Costs, Use of Existing Compatible Right-of-Way, and Prudent Avoidance

130. LCRA prepared cost estimates for all 29 alternative routes under consideration in this proceeding.

131. Route 7 is estimated to be the least expensive route, with an estimated cost of $35,178,000.

132. Route 12 is estimated to be the second least expensive route, with an estimated cost of $35,712,000.

133. Route 18 is estimated to be the most expensive route, with an estimated cost of $43,534,000.

134. The use and paralleling of existing compatible rights-of-way (existing transmission lines, roadways, railroads, and telephone utilities), apparent property boundaries, and natural or cultural features was taken into account in the development of the route alternatives.

135. The proposed alternative routes are adjacent to and parallel public roads and highways anywhere from 0.3 to 13 miles.

136. Route 7 parallels public roads and highways for 12 miles.

137. Route 12 parallels public roads and highways for 1.5 miles.

138. Routes 15 and 23 each have 10.7 miles that are parallel and adjacent to railroads, which is the most of any route. Eleven routes (1, 2, 4, 6, 7, 8, 9, 17, 25, 26, and modified route 7) do not have any length parallel and adjacent to railroads.

139. Route 12 has 5.3 miles that are parallel and adjacent to railroads.

140. The routes range from 1.7 to 16.7 of miles paralleling existing apparent property boundaries.

141. None of the proposed routes utilize existing transmission line right-of-way.

142. The proposed alternative routes are adjacent and parallel to existing transmission lines anywhere from 0.1 miles to 14.1 miles.

143. Route 7 parallels existing transmission lines for 0.3 miles of its length.

144. Route 12 parallels existing transmission lines for approximately 6.2 miles of its length.

145. Route 7 parallels all existing compatible corridors, including apparent property boundaries, for 85% of its length.

146. Route 12 parallels existing compatible corridors, including apparent property boundaries, for 90% of its length.

147. Routes 14 and 24 have the highest percentage of paralleling (97%), while route 8 has the lowest (80%).

148. Prudent avoidance is defined in 16 TAC § 25.101(a)(6) as the "limiting of exposures to electric and magnetic fields that can be avoided with reasonable investments of money and effort."

149. All of the routes presented in the application conform to the Commission's policy of prudent avoidance in that they reflect reasonable investments of money and effort to limit exposure to electric and magnetic fields.

150. Route 12 best complies with the Commission's policy of prudent avoidance in that it has only 28 habitable structures within 300 feet of the centerline, which is only 10 more than the route with the lowest number of habitable structures.

Additional Routing Concerns

151. No known AM radio transmitters were identified within the study area or within 10,000 feet of the alternative routes.

152. The number of microwave towers and other electronic communication towers located within 2,000 feet of any of the alternative routes ranges from zero for routes 14 and 16 to nine for route 11.

153. The number of electronic installations within 2,000 feet of an alternative route centerline are shown in Table 4-4 of the environmental assessment, along with general descriptions of the installations and their distances from the nearest alternative route segment.

154. The Caldwell Municipal Airport has a runway length of greater than 3,200 feet and is within 20,000 feet of each of the alternative routes.

155. One private airstrip and the private Weber Ranch Airport (each with a runway length of 3,200 feet or less) are within 10,000 feet of one or more of the alternative routes.

156. There are no public Federal Aviation Administration (FAA)-registered airports or military airstrips with runways shorter than 3,200 feet within 10,000 feet of any of the alternative routes.

157. One FAA-registered heliport, the Burleson County Hospital Heliport, is within 5,000 feet of one or more of the alternative routes.

158. LCRA has identified, listed, and described each airport, airstrip, and heliport, with the approximate distance from the centerline of each of the alternative routes, in Table 4-3 and appendix D of the environmental assessment.

159. No landowners have made requests for specific reconfigurations or modifications to accommodate landowner preferences.

160. Routing the line through Key Energy Services, LLC's business property as proposed by route 7 would pose a health and safety risk due to Key Energy's rig maintenance and training exercises. The rigs maintained and serviced by Key Energy are the same height as the transmission line poles. If the rigs come into contact with the transmission lines, it could cause health and safety risks for the employees of Key Energy. If route 7 is chosen, it could compromise Key Energy's ability to continue its rig maintenance and training activities.

161. Route 12 would not adversely affect Key Energy's business or operations.

162. Route 12 would not adversely affect Atmos's natural gas metallic pipelines located in the study area.

Texas Park and Wildlife Department's Comments and Recommendations

163. The Texas Parks and Wildlife Department provided information and recommendations regarding the preliminary study area for the proposed transmission facilities to URS on November 6, 2017.

164. On July 27, 2018, after the application had been filed, the Texas Parks and Wildlife Department filed a letter containing its comments and recommendations regarding the proposed transmission facilities.

165. In its comments, the Texas Parks and Wildlife Department recommended route 21 for the proposed transmission facilities.

166. URS and LCRA have taken into consideration the recommendations offered by the Texas Parks and Wildlife Department .

167. Once a route is approved by the Commission, LCRA can undertake on-the-ground measures to identify potential endangered or threatened species habitat and respond appropriately.

168. LCRA will use avoidance and mitigation procedures to comply with laws protecting federally listed species.

169. LCRA will revegetate the new right-of-way as necessary and according to LCRA's vegetation management practices, the storm-water pollution-prevention plan developed for construction of the proposed transmission facilities, and, in many instances, landowner preferences or requests.

170. LCRA's standard vegetation removal, construction, and maintenance practices adequately mitigate concerns expressed by the Texas Parks and Wildlife Department.

171. LCRA has stated it will use appropriate avian protection procedures.

172. LCRA has stated it will comply with all environmental laws and regulations, including those governing threatened and endangered species.

173. LCRA has stated it will comply with all applicable regulatory requirements in constructing the proposed transmission facilities, including any applicable requirements under section 404 of the Clean Water Act.

174. LCRA has stated it will cooperate with the United States Fish and Wildlife Service and the Texas Parks and Wildlife Department if threatened or endangered species habitats are identified during field surveys.

175. Environmental permitting and mitigation measures are determined after a route is approved by the Commission and on-the-ground surveys are completed for the route. Should construction impact federally listed species or their habitat or impact water under the jurisdiction of the United States Army Corps of Engineers or the Texas Commission on Environmental Quality, LCRA will cooperate with the United States Fish and Wildlife Service, United States Army Corps of Engineers and the Texas Commission on Environmental Quality to obtain permits and any required mitigation.

175A. LCRA has stated it will obtain a permit from the Texas Department of Transportation for instances where the proposed transmission line crosses a state-maintained road or highway or if any portion of the transmission line will be accessed from a state-maintained road or highway.

175B. LCRA has stated that because more than one acre will be disturbed during construction of the project it will prepare the necessary storm-water pollution-prevention plan and will

field monitor the controls specified in the storm-water pollution-prevention plan. In addition, because more than five acres will be disturbed during construction of the project, it will prepare a notice of intent for the Texas Commission on Environmental Quality.

175C. LCRA has stated that upon approval of the application and prior to construction, it will perform a detailed natural resources assessment and cultural resources assessment on the approved route. LCRA has also stated that it will obtain, before construction, all permits or regulatory approvals from the United States Army Corps of Engineers and the United States Fish and Wildlife Service that are required by the results of these assessments.

175D. LCRA has stated that after designing and engineering the alignments, structure locations, and structure heights, LCRA will make a final determination of the need for FAA notification, based on the final structure locations and designs. If necessary, LCRA will use lower-than-typical structure heights, line marking, or line lighting on certain structures to avoid or accommodate FAA requirements.

176. The standard mitigation requirements included in the ordering paragraphs in this Order, coupled with LCRA's current practices, are reasonable measures for a utility to undertake when constructing a transmission line and are sufficient to address the Texas Parks and Wildlife Department's comments and recommendations.

177. Route 12 does not include any of the route segments identified by the Texas Parks and Wildlife Department as concerning from the standpoint of threatened or endangered species.

177A. This Order addresses only those Texas Parks and Wildlife Department recommendations and comments for which there is record evidence.

Effect on the State's Renewable Energy Goal

178. The Texas Legislature established a goal in PURA § 39.904(a) for 10,000 megawatts of renewable capacity to be installed in Texas by January 1, 2025. This goal has already been met.

179. The proposed transmission facilities cannot adversely affect the goal for renewable energy development established in PURA § 39.904(a).

Limitation of Authority

180. It is reasonable and appropriate for a CCN order not to be valid indefinitely because it is issued based on the facts known at the time of issuance.

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

II. Conclusions of Law

The Commission adopts the following conclusions of law.

1. LCRA is an electric utility as defined in PURA §§ 11.004(1) and 31.002(6).

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

3. LCRA must obtain the approval of the Commission to construct the proposed transmission facilities and provide service to the public using those facilities.

4. SOAH exercised jurisdiction over this proceeding in accordance with PURA § 14.053 and Texas Government Code §§ 2003.021 and 2003.049.

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

6. This docket was processed in accordance with the requirements of PURA, the Administrative Procedure Act,[2] and the Commission's rules.

7. LCRA provided notice of the application in compliance with PURA § 37.054 and 16 TAC § 22.52(a).

8. No modifications were made to the proposed routes that were included in the application; therefore, additional notice of the approved route is not required under 16 TAC § 22.52(a)(2). LCRA is required to provide notice under 16 TAC § 22.52(a)(6).

9. Except in regard to the United States Department of Defense Siting Clearinghouse, LCRA provided notice of the public meeting in compliance with 16 TAC § 22.52(a)(4).

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

10. Good cause exists under 16 TAC § 22.5 to grant an exception to the requirement in 16 TAC § 22.52(a)(4) that notice of the public meeting be provided to the United States Department of Defense Siting Clearinghouse.

11. The hearing on the merits was set and notice of the hearing was given in compliance with PURA § 37.054 under Texas Government Code §§ 2001.051 and 2001.052.

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

13. The Texas Coastal Management Program does not apply to any of the transmission facilities proposed in the application and the requirements of 16 TAC § 25.102 do not apply to the application.

14. DELETED.

III. Ordering Paragraphs

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

1. The Commission adopts the proposal for decision, including findings of fact and conclusions of law, except as discussed in this Order.

2. The Commission amends LCRA's CCN number 30110 to include the construction and operation of the Cooks Point substation, a new load-serving electric substation located in the vicinity of the Cooks Point community in northern Burleson County (near the intersection of State Highway 21 and Farm-to-Market Road 1362), and a new 138-kV transmission line that will connect the new Cooks Point substation to Bluebonnet's existing Lyle Wolz substation. The new Cooks Point substation will be located at proposed substation site 4 and the new transmission line must be built using segments A-B-S3-P-R3-H1-M1-C2-L2-Q2-V2-W2.

3. The authority granted by this Order is limited to a period of seven years from the date the order is signed unless, before that time, the transmission line is commercially energized.

4. LCRA 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 AC interference on existing natural gas pipelines that are paralleled by the proposed electric transmission facilities.

5. LCRA must conduct surveys to identify metallic pipelines that could be affected by the proposed transmission line, if not already completed, and cooperate with pipeline owners in modeling and analyzing potential hazards because of AC interference affecting pipelines being paralleled.

6. In the event LCRA or its contractors encounter any archaeological artifacts or other cultural resources during construction of the proposed transmission facilities, work must cease immediately in the vicinity of the artifact or resource and the discovery must be reported to the Texas Historical Commission. In that situation, LCRA must take action as directed by the Texas Historical Commission.

7. Before beginning construction, LCRA must undertake appropriate measures to identify whether a potential habitat for endangered or threatened species exists and must respond as required.

8. LCRA must use best management practices to minimize the potential impact to migratory birds and threatened or endangered species.

9. LCRA must follow the procedures to protect raptors and migratory birds as outlined in the publications: *Reducing Avian Collisions with Power Lines: State of the Art in 2012*, APLIC, 2012, Edison Electric Institute and Avian Power Line Interaction Committee (APLIC), Washington, D.C. 2012; *Suggested Practices for Avian Protection on Power Lines, The State of the Art in 2006*, Edison Electric Institute, APLIC, and the California Energy Commission, Washington, D.C. and Sacramento, CA 2006; and *Avian Protection Plan Guidelines*, APLIC and United States Fish and Wildlife Service (USFWS), 2005. LCRA must take precautions to avoid disturbing occupied nests and take steps to minimize the impact of construction on migratory birds during the nesting season of the migratory bird species identified in the area of construction.

10. LCRA 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, and must ensure that such herbicide use complies with rules and guidelines established in the Federal Insecticide, Fungicide and Rodenticide Act and with Texas Department of Agriculture regulations.

11. LCRA must minimize the amount of flora and fauna disturbed during construction of the proposed transmission facilities, except to the extent necessary to establish appropriate right-of-way clearance for the transmission line. In addition, LCRA must re-vegetate using native species and must consider landowner preferences and wildlife needs in doing so. Furthermore, to the maximum extent practical, LCRA must avoid adverse environmental impact to 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. LCRA must implement erosion control measures as appropriate. Erosion control measures may include inspection of the right-of-way before and during construction to identify erosion areas and implement special precautions as determined reasonable to minimize the impact of vehicular traffic over the areas. LCRA 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. LCRA will not be required to restore original contours and grades where a different contour or grade is necessary to ensure the safety or stability of the transmission line's structures or the safe operation and maintenance of the line.

13. LCRA must cooperate with directly affected landowners to implement minor deviations from the approved route to minimize the impact of the proposed transmission facilities. Any minor deviation from the approved route must only directly affect the landowners who were sent notice of the transmission line in accordance with 16 TAC § 22.52(a)(3) and landowners who have agreed to the minor deviation.

14. LCRA is not authorized to deviate from the approved route in any instance in which the deviation would be more than a minor deviation without further amending its CCN.

15. If possible, and subject to the other provisions of this Order, LCRA must prudently implement appropriate final design for this transmission line to avoid being subject to the

FAA's notification requirements. If required by federal law, LCRA must notify and work with the FAA to ensure compliance with applicable federal laws and regulations. LCRA is not authorized to deviate materially from this Order to meet the FAA's recommendations or requirements. If a material change would be necessary to comply with the FAA's recommendations or requirements, then LCRA must file an application to amend its CCN as necessary.

16. LCRA must obtain all permits, licenses, plans, and permission required by state and federal law that are necessary to construct the proposed transmission facilities. If LCRA fails to obtain any such permit, license, plan, or permission, LCRA must notify the Commission immediately.

17. LCRA 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, LCRA must provide final construction costs, with any necessary explanation for cost variance, after completion of construction when all costs have been identified.

18. The Commission denies all other motions, requests for entry of specific findings of fact or conclusions of law, and any other requests for general or specific relief, if not expressly granted.

Signed at Austin, Texas the 17th day of June 2019.

PUBLIC UTILITY COMMISSION OF TEXAS

DEANN T. WALKER, CHAIRMAN

ARTHUR C. D'ANDREA, COMMISSIONER

SHELLY BOTKIN, COMMISSIONER

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