

**BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION**

**IN THE MATTER OF SOUTHWESTERN PUBLIC SERVICE )  
COMPANY’S APPLICATION REQUESTING: (1) ISSUANCE )  
OF A CERTIFICATE OF PUBLIC CONVENIENCE AND )  
NECESSITY AUTHORIZING CONSTRUCTION AND )  
OPERATION OF THE ROADRUNNER TO PHANTOM TO )  
CHINA DRAW 345-KV TRANSMISSION LINE AND )  
ASSOCIATED FACILITIES; (2) APPROVAL OF THE )  
LOCATION OF THE 345-KV TRANSMISSION LINE AND ) CASE NO. 20-00085-UT  
ASSOCIATED FACILITIES; (3) DETERMINATION OF )  
RIGHT-OF-WAY WIDTH FOR THE TRANSMISSION LINE; )  
AND (4) AUTHORIZATION TO ACCRUE AN ALLOWANCE )  
FOR FUNDS USED DURING CONSTRUCTION FOR THE )  
TRANSMISSION LINE AND ASSOCIATED FACILITIES, )  
 )  
SOUTHWESTERN PUBLIC SERVICE COMPANY, )  
APPLICANT. )**

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**INITIAL ORDER AND ORDER APPOINTING HEARING EXAMINER**

**THIS MATTER** comes before the New Mexico Public Regulation Commission upon Southwestern Public Service Company’s (“SPS”) Application requesting issuance of a certificate of public convenience and necessity authorizing construction and operation of the Roadrunner to Phantom to China Draw 345 KV transmission line and associated facilities; approval of the location of the 345-KV transmission line and associated facilities; determination of right-of –way width for the transmission line; and authorization to accrue an allowance for funds used during construction for the construction for the transmission line and associated facilities (the “Application”); wherefore, being duly advised in the premises;

**THE COMMISSION FINDS AND CONCLUDES:**

1. On April 14, 2020, SPS filed its Application requesting the Commission issue an order: a) issuing a certificate of public convenience and necessity (“CCN”) that authorizes SPS to

construct, operate, and maintain a 345-kilovolt (“kV”) transmission line and associated facilities in Eddy and Lea Counties, New Mexico that extends from SPS’s Roadrunner Substation to its Phantom Substation to its China Draw Substation (“Proposed Project”); b) approving the location of the 345-kV transmission line route and the location of associated substation facilities pursuant to Section 62-9-3 of the PUA and 17.9.592.10 NMAC (“Rule 592”); c) determining that a right-of-way (“ROW”) width of 150 feet, with a 200-foot ROW width at the Pecos River crossing, is necessary for SPS’s construction, operation, and maintenance of the proposed 345-kV transmission line pursuant to Section 62-9-3.2 of the PUA; d) authorizing SPS to accrue the proposed allowance for funds used during construction (“AFUDC”) for the Proposed Project pursuant to 17.3.580 NMAC; and e) granting such other approvals, authorizations, and relief to SPS as the Commission deems necessary and proper.

2. SPS is a New Mexico corporation that owns, operates, and controls electric generation, transmission, and distribution plant, property, and facilities that provide retail electric service and wholesale electric capacity and energy in portions of New Mexico and Texas. With respect to its provision of retail electric service in New Mexico, SPS is a public utility as defined in Section 62-3-3 of the PUA, and SPS’s New Mexico retail electric service is subject to the jurisdiction and authority of this Commission.

3. According to the Application, the Project’s transmission line will extend approximately 42.22 miles from SPS’s Roadrunner Substation, located approximately 22.6 miles northwest of Jal, New Mexico, to the China Draw Substation, which is located approximately 14.2 miles southwest of Malaga, New Mexico, with connection at the Phantom Substation. The 345-kV transmission line will cross approximately 23.08 miles (121,864.63 feet) of federal land, approximately 18.91 miles (99,862.785 feet) of state-owned land, and approximately 0.23 miles

(1,200 feet) of SPS-owned land.

4. Regarding the request for a CCN, SPS states that the Proposed Project will serve the public convenience and necessity of New Mexico retail jurisdictional customers, in accordance with Section 62-9-1 and 62-9-6 of the PUA, by: (a) providing transmission service to SPS's existing and increasing New Mexico retail loads in Eddy and Lea Counties, New Mexico; and (b) enhancing reliability of SPS's southeastern New Mexico transmission system by preventing transmission system thermal and voltage violations during contingency conditions. SPS asserts that the Project is needed, because the Southwest Power Pool ("SPP") prepared a Delivery Point Network Study ("DPN Study") to evaluate SPS's transmission system and existing load growth in the Eddy and Lea County areas, and the SPP determined that the Proposed Project is needed for transmission system reliability and stability purposes as described in SPS's pre-filed testimony. Based on the DPN Study findings, the SPP issued a Notification to Construct on December 11, 2018, which directs SPS to construct a new 345-kV transmission line between SPS's Roadrunner and China Draw Substations, and SPS subsequently responded accepting the SPP's directive. SPS stated that load growth in Eddy and Lea Counties and southeastern New Mexico requires construction and operation of the Proposed Project by November 2021. In addition, SPS stated that it has received numerous new load requests since the preparation of the DPN Study and stated that the Proposed Project will address and resolve potential voltage problems on SPS's transmission system that could result from the expected new load growth.

5. SPS informed that it contracted with SWCA, Inc. ("SWCA") to evaluate the potential environmental impacts on federal, state, and private lands crossed by the Proposed Project and SWCA prepared an Environmental Assessment ("EA") that analyzed the potential impacts on important environmental values in relation to the transmission line route and the

substation facilities, in accordance with Sections 62-9-3(F) and 62-9-3(M) of the PUA and Rule 592.10(H).

6. SPS further informed that based on the BLM's review of the matters covered in the EA, the BLM issued findings of no significant impact (i.e., FONSI) and Decision Records, and thereafter, the BLM granted the requested ROWs on federal lands for the 345-kV transmission line route, and ROWs for the existing Roadrunner Substation to the Phantom Substation to the China Draw Substation.

7. In addition, SPS stated that the New Mexico State Land Office ("NMSLO") has issued a ROW grant to SPS, authorizing SPS to construct and maintain the proposed 345-kV transmission line on New Mexico state lands. SPS is the only owner of private land crossed by the Proposed Project. In relation to SWCA's evaluation of the potential environmental impacts of the 345-kV transmission line route and associated substation facilities for location approval purposes.

8. According to the Application, SWCA has concluded that the Proposed Project: (a) comports with, and satisfies, all applicable requirements of Sections 62-9-3(F) and (M) of the PUA and Rules 592.10(C) and (H); and (b) will not unduly impair any important environmental values that are identified in Section 62-9-3(M) of the PUA and Rule 592.10(H).

9. Regarding compliance with location approval requirements set forth in Sections 62-9-3(G) and 62-9-3(M) of the PUA, and Rules 592.10(A), (B), (F), (G), (I), (J), and (K), SPS asserts that the Application establishes compliance with the necessary prerequisites for Commission approval of the location of the 345-kV transmission line route and associated substation facilities in accordance with Section 62-9-3 of the PUA and Rule 592.10.

10. Regarding SPS's request for a Commission ROW width determination for the

proposed 345-kV transmission line and associated facilities, SPS has prepared engineering analyses which, according to the Application, demonstrate that based on National Electrical Safety Code requirements, the proposed 345-kV Roadrunner to Phantom to China Draw transmission line will generally require a 150-foot ROW width that allows for 75 feet on either side of the center line and, therefore, SPS requests approval of a 200-foot ROW width at the Pecos River crossing due to the length of the span at that location. According to SPS, 200-foot ROW is necessary for SPS's construction, operation, and maintenance of the Proposed Project in accordance with Section 62-9-3.2 of the PUA.

11. SPS states that it will serve a copy of this Application and supporting pre-filed direct testimony in accordance with Section 62-9-1 and 62-9-6 of the PUA and provide the notices in accordance with the PUA and Rule 592 to the following: the New Mexico Attorney General, the Commission's Utility Division Staff, the New Mexico Environment Department, the New Mexico State Engineer, the Eddy and Lea County Commissions, and the Carlsbad and Lea County Soil and Water Conservation Districts (Rule 592.10(J)). SPS states that it will also make available a copy of this Application and supporting pre-filed direct testimony in the public libraries located in the county seats of Eddy and Lea Counties (Carlsbad, New Mexico and Lovington, New Mexico), as well as in the public library in Hobbs, New Mexico, once the libraries re-open following the end of the public health emergency declared as a result of the Covid-19 virus. Additionally, SPS states it will post its Application and supporting filing on Xcel Energy's *Power for the Plains* website (<http://www.powerfortheplains.com/>) (see Rule 592.13).

12. Regarding notice of hearing, SPS states, in accordance with 17.1.2.9(D) NMAC, SPS will publish notice of any initial hearing at least twenty days before the time set for hearing regarding this Application; and in accordance with Section 62-9-3.2(D) of the PUA, SPS will

mail notice of the time and place of hearing on this application to all landowners and persons in actual occupancy of all lands crossed by the Proposed Project at least twenty days before the time set for hearing.

13. Lastly, SPS is not requesting a determination of ratemaking principals and treatment that will apply to the Project's facilities in ratemaking proceedings. However, SPS states that the estimated cost of the Proposed Project is approximately \$81.8 million, which includes AFUDC. SPS asserts that because the Proposed Project involves a 345-kV transmission line that was identified as needed through an SPP study process, the total cost of the Proposed Project will be allocated among the members of the SPP according to the SPP Base Plan Funding – Highway/Byway cost allocation methodology (amounts attributed to SPS will be allocated according to SPS's rate-setting jurisdictions, i.e., New Mexico retail, Texas retail, and FERC wholesale).

14. SPS indicates, that in accordance with Sections 62-9-1(C) and 62-9-3(K) of the PUA, the Commission may approve SPS's requests for a CCN and location approval without formal hearing if no protest is filed within 60 days after SPS's publication of notice regarding the filing of the application in this case.

15. NMSA 1978, Section 62-9-3 provides the Commission with jurisdiction to approve the "construction of any plant designed for or capable of operation at a capacity of three hundred thousand kilowatts (300 MW) or more for the generation of electricity for sale to the public within or without this state, whether or not owned or operated by a person that is a public utility subject to regulation by the commission, or of transmission lines in connection with such a plant." A "transmission line" subject to such approval requirement is defined as "any electric transmission line and associated facilities designed for or capable of operations at a nominal

voltage of two hundred thirty kilovolts or more, to be constructed in connection with and to transmit electricity from a new plant for which approval is required." Section 62-9-3(C) requires that the "Application contain all information required by the commission to make its determination, be in writing setting forth the facts involved and be filed with the commission" and requires that the Commission act on the Application "upon such notice as the commission may prescribe." Pursuant to §62-9-3(K), the commission must issue an order approving or denying the application within six months of the filing of the application. However, §62-9-3(K) additionally provides that the commission may approve an application "without a formal hearing if no protest is filed within sixty days of the date notice is given that the application has been filed." The proposed procedural order gives notice that the commission may act to approve the application without hearing if no timely protests are received. §62-9-3(E) provides that the commission "shall approve the application unless the commission finds that the operations of the facilities for which approval is sought will not be in compliance with all applicable air and water pollution control standards and regulations existing" as "established by the agency of this state having jurisdiction over a particular pollution source." Similarly, with respect to transmission lines, §62-9-3(G) further provides that the Commission "shall approve the application for the location of transmission lines unless the commission finds that the location will unduly impair important environmental values. "Pursuant to Section 62-9-3.2 NMSA 1978: "no person shall begin the construction of any transmission line requiring a width for right of way of greater than one hundred feet without first obtaining from the commission a determination of the necessary right-of-way width to construct and maintain the transmission line... For the purposes of this section, "transmission line" means any electric transmission line and associated facilities requiring a width for right of way of greater than one hundred feet. Section 62-9-3.2 further requires the applicant to provide notice of the time and place of hearing on the application for the

right-of-way determination to any owner of property proposed to be taken and, if applicable, to the person in actual occupancy of the property at least twenty days before the time set for hearing. Section 62-9-3.2 provides that the Commission shall, after public hearing, act upon the application, within six months from the date the application is filed with the commission and that failure to issue its order within six months is deemed to be approval of the application.

**IT IS THEREFORE ORDERED:**

A. A proceeding concerning SPS's Application is hereby commenced, as provided by this Initial Order.

B. Pursuant to NMSA 1978, §8-8-14 and the Commission's Utility Division Procedural Rules, 17.1.2.1 NMAC, et seq, Chris Ryan is appointed as Hearing Examiner to preside, take all actions necessary and convenient within the limits of the Hearing Examiner's authority, conduct any necessary hearings and take such other action in this case that is consistent with Commission procedure, including but not limited to, issuing a Recommended Decision with findings of fact and conclusions of law.

C. The Hearing Examiner shall issue a procedural order at his earliest convenience establishing the terms under and by which notice of SPS's Application shall be made and establishing a timeframe for protests / intervention by any interested parties in accordance with statutory and regulatory requirements.

D. This Order is effective immediately and a copy of this Order shall be served upon all persons listed on the attached Certificate of Service by e-mail, if e-mail addresses are known, or by regular mail otherwise.



ISSUED under the Seal of the Commission at Santa Fe, New Mexico, this 6<sup>th</sup> day of  
May, 2020.

**NEW MEXICO PUBLIC REGULATION COMMISSION**

*/s/ Cynthia B. Hall, electronically signed*

**CYNTHIA B. HALL, COMMISSIONER DISTRICT 1**

*/s/ Jefferson Byrd, electronically signed*

**JEFFERSON L. BYRD, COMMISSIONER DISTRICT 2**

*/s/ Valerie Espinoza, electronically signed*

**VALERIE ESPINOZA, COMMISSIONER DISTRICT 3**

*/s/ Theresa Becenti-Aguilar, electronically signed*

**THERESA BECENTI-AGUILAR, COMMISSIONER DISTRICT 4**

**NO VOTE CAST**

**STEPHEN FISCHMANN, COMMISSIONER DISTRICT 5**



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APPLICANT. )**

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing **Initial Order and Order Appointing Hearing Examiner** issued by the New Mexico Public Regulation Commission on May 6<sup>th</sup>, 2020 was sent via email to the parties indicated below:

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**DATED this 6<sup>th</sup> day of May, 2020.**

**NEW MEXICO PUBLIC REGULATION COMMISSION**

**/s/ Isaac Sullivan-Leshin, electronically signed**

**Isaac Sullivan-Leshin, Paralegal**