

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

**IN THE MATTER OF THE APPLICATION)
OF SOUTHLINE TRANSMISSION, LLC)
FOR APPROVALS AND AUTHORIZATIONS)
FOR (1) THE LOCATION OF A 345Kv)
TRANSMISSION LINE AND ASSOCIATED)
FACILITIES, (2) DETERMINATION THAT)
THE RIGHT OF WAY WIDTH OF GREATER)
THAN ONE HUNDRED FEET (100') IS)
NECESSARY FOR THE 345-kV)
TRANSMISSION LINE AND ASSOCIATED)
FACILITIES, AND (3) ANY OTHER)
APPROVALS AND AUTHORIZATIONS)
THAT MAY BE REQUIRED IN CONNECTION)
WITH THE LINE)**

Case No. 17-00040-UT

FINAL ORDER APPROVING STIPULATION

THIS MATTER comes before the New Mexico Public Regulation Commission (“Commission” or “NMPRC”) on the August 7, 2017 Certification of Stipulation issued by Hearing Examiner Elizabeth Hurst concerning the June 9, 2017 Joint Stipulation filed by the Utility Division Staff of the Commission (“Staff”) and applicant Southline Transmission, LLC (Southline) proposing a “just and reasonable disposition” of the issues raised by Southline’s Application for location approval of a 345 kV double circuit merchant transmission line and approving a right of way (ROW) width in excess of 100 feet pursuant to §62-9-3 NMSA 1978. The Commission, having reviewed the Certification (a copy of which is not attached hereto due to its length but is incorporated by reference), the pleadings and other documents comprising the record in this matter, and being otherwise duly informed, **FINDS:**

1. The Commission has jurisdiction over the parties and the subject matter of this case.

2. The Statement of the Case, Discussion, Determinations, Findings of Fact and Conclusions of Law set forth in the Certification of Stipulation are adopted in full and incorporated herein by reference as though fully set forth herein.

3. Two private landowners - Ms Nadine Dawson and Ms. Darr Shannon, intervened in this proceeding on a *pro se* basis and provided testimony in opposition to the Application and proposed Stipulation. However, only Ms. Dawson filed formal exceptions to the Certification of Stipulation on August 14, 2017 as required by 1.2.20 (B)(5)(b) NMAC.

4. Ms. Dawson owns the 193 acre Cevener Estates Subdivision south of the proposed Southline easement and a separate 71.72 acre parcel of land through which the easement would run. The two tracts of land are separated by a railroad track and State Highway 549. Ms. Dawson's intervention asserts that the proposed location of the Project would cause "harm and interference" with her use and enjoyment of her property and that Southline's solely financial self interest in the Project was outweighed by the financial and economic harm that would be cause by the Project.

5. Ms. Dawson objects to the HE's finding in her Certification that Southline has demonstrated that the Project will not unduly impair "land uses". Ms. Dawson asserts the Project's 200' easement would impair the land use of her parcel by making it impossible for her to either develop it or sell it, notwithstanding the current existence of other easements, including a railroad track, a pipeline and electric transmission lines running parallel to the Southline easement. Ms. Dawson's exceptions expressly note that she is not opposed to the Project if Southline purchases the entire tract and acknowledges that negotiations are ongoing between her and Southline with regard to her request that Southline purchase her entire tract..

6. As shown in Southline's Exhibit 13A, the top 72 acre portion of Ms. Dawson's property is already crossed by a number of easements including a railroad line, an aviation fuel pipeline. Ms. Dawson argues that the construction of yet another transmission line would both prevent her from being able to construct a commercial development on the upper 71 acre lot, as well as impair the value of the lower lots due to the visual impact of the lines and potential noise impacts. Although Ms. Dawson testified she has had subdivision approval for the property since 1973, she has never tried to sell the lots individually and has awaited an offer to sell the lots to a developer as a group.

7. Although Intervener Shannon failed to file exceptions to the Certification, she provided testimony objecting to the Project's visual impacts and physical impact where it would cross her land. Ms Shannon testified that her land is extremely ecologically fragile and would be negatively impacted by the Project. Shannon also testified that she was still negotiating with Southline to reroute the Project around her land.

8. §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.***"

9. As the Certification notes, in determining whether a proposed transmission line would unduly impair important environmental values, §62-9-3(M) NMSA 1978 provides that the Commission may consider: (1) existing plans of the state, local government and private entities

for other development at or in the vicinity of the proposed location; (2) fish, wildlife, and plant life; (3) noise emission levels and interference with communications signals; (4) the proposed availability of the location to the public for recreational purposes, consistent with safety considerations and regulations; (5) existing scenic areas, historic, cultural or religious sites and structures, or archeological sites at or near the vicinity of the proposed location; and (6) additional factors that require consideration under applicable federal and state laws pertaining to the location.

10. As the Certification properly notes, both Ms. Shannon and Ms. Dawson's testimony in this case fails to demonstrate that the impacts of the Project rise to the level of "unduly" impairing important environmental values. The interveners' objections are based primarily on alleged potential localized personal impacts and financial loss that may result from the construction of the transmission line. Both interveners acknowledge that they are still engaged in negotiations with Southline to address their individualized concerns. As Southline's testimony establishes, in the event Southline is unable to reach a satisfactory resolution of these objections, because the Project is a public-private endeavor between Southline and the Western Area Power Administration (WAPA), any nonconsensual land acquisition will proceed through the exercise of WAPA's eminent domain powers. That process would necessarily take place in the district court where the reasonableness of any property taking would be addressed and appropriate compensation values established. Accordingly, the Commission rejects the exceptions filed by intervener Ms. Dawson to the Certification of Stipulation.

IT IS THEREFORE ORDERED:

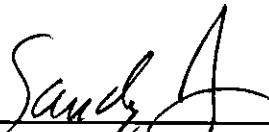
- A. Except as expressly modified or disapproved herein, the Hearing Examiner's August 7, 2017 Certification of Stipulation, is incorporated by reference as if fully set forth herein

and is adopted , approved, and accepted as the Order of the Commission and Southline's March 3, 2017 Application is approved.

- B. All exceptions, pending motions, requests or any other matter not expressly ruled on or addressed in the hearing or in this order herein are hereby deemed denied and disposed of consistent with this Final Order.
- C. A copy of this order shall be served on all parties listed on the attached certificate of service via e-mail where such e-mail addresses are known and if not known, by regular first class postal delivery.
- 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 30th day
of August, 2017.

NEW MEXICO PUBLIC REGULATION COMMISSION



SANDY JONES, CHAIR



CYNTHIA B. HALL, VICE CHAIR



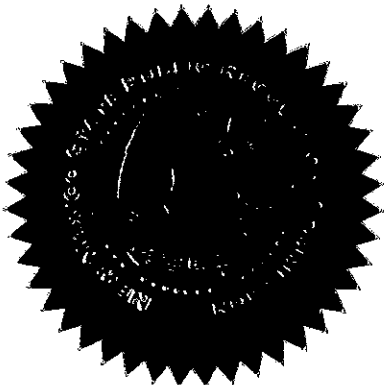
PATRICK H. LYONS, COMMISSIONER



VALERIE ESPINOZA, COMMISSIONER



LYNDA LOVEJOY, COMMISSIONER



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)
)
SOUTHLINE TRANSMISSION, LLC.)
APPLICAT)**

Case No. 17-00040-UT

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing **Final Order Approving**

Stipulation issued on August 30, 2017, was sent via email and regular mail on August 30, 2017, to the

parties listed below:

Germaine R. Chappelle	Germaine.Chappelle@gknet.com ;	Jennifer L. Hower	Jennifer.Hower@state.nm.us ;
Anthony J. Trujillo	AJT@gknet.com ;	Bill Garcia	Bill.Garcia@state.nm.us ;
James M. Bushee	Jamesbushee@eversheds-sutherland.com ;	Cydney Beadles	Cydney.Beadles@state.nm.us ;
James E. Guy	jamesguy@eversheds-sutherland.com ;	John Bogatko	John.Bogatko@state.nm.us ;
Martha M. Hopkins	martyhopkins@eversheds-sutherland.com ;	Michael Smith	MichaelC.Smith@state.nm.us ;
Mario A. Contreras	Mario.A.Contreras@xcelenergy.com ;		
Ryan E. Anderson	Ryan.Anderson@pnmresources.com ;	<u>Hidalgo County</u>	<u>Commissioners</u>
Jim Foy/Deming Atty.	deming@cityofdeming.org ;	Darr Shannon	Shortcom@hotmail.com ;
Nadine Dawson	sultana@cybernesa.com ;	Joey Mora	Morav701@gmail.com ;
Darr Shannon	Shortcom@hotmail.com ;	Marianne Stewart	Stewartjm@aznex.net ;

Land Office

Craig Johnson cjohnson@slo.state.nm.us;

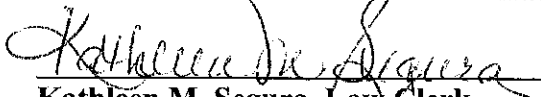
Via regular mail

Jennifer Hower Darr Shannon
General Counsel P.O. Box 446
NM Environment Department Lordsburg, NM 88045
Harold Runnels Bldg.
1190 St. Francis Drive, Ste.
N4050
Santa Fe, NM 87505

Nadine Dawson
1723 W. Alameda St.
Santa Fe, NM 87501

DATED this 30th day of August 2017.

NEW MEXICO PUBLIC REGULATION COMMISSION



Kathleen M. Segura, Law Clerk