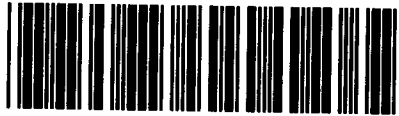


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SOAH DOCKET NO. 473-10-5546
PUC DOCKET NO. 38354

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PUBLIC UTILITY COMMISSION
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APPLICATION OF LCRA § BEFORE THE STATE OFFICE
TRANSMISSION SERVICES §
CORPORATION TO AMEND ITS §
CERTIFICATE OF CONVENIENCE AND §
NECESSITY FOR THE PROPOSED §
MCCAMEY D TO KENDALL TO § OF
GILLESPIE 345-KV CREZ §
TRANSMISSION LINE IN §
SCHLEICHER, SUTTON, MENARD, §
KIMBLE, MASON, GILLESPIE, KERR, §
AND KENDALL COUNTIES § ADMINISTRATIVE HEARINGS

SOAH ORDER NO. 2
REGARDING SPECIAL PROCEDURES AND INFORMATION TO PARTIES

I. GENERAL INFORMATION,
INSTRUCTIONS FOR CONDUCTING RESEARCH, AND
LOGGING ONTO THE PUC'S INTERCHANGE

SOAH Order No. 2 must be read by every party to this proceeding. Together with SOAH Order No. 1, SOAH Order No. 2 sets out procedures and information specific to this case, and amends certain procedures set forth in the Public Utility Commission of Texas' (PUC) procedural rules. Note that SOAH Order No.1 sets out standard procedures and a procedural schedule for this case.

For information regarding the PUC's procedural and substantive rules, log onto the PUC's website (www.puc.state.tx.us). Although this case has been filed with the PUC, and all filings must be made at the PUC, this docket has been referred to the State Office of Administrative Hearings (SOAH) and assigned to the undersigned Administrative Law Judges (ALJs) to conduct a hearing and issue a proposal for decision (PFD) to the PUC.

For intervenors who may not be familiar with the PUC processes, all PUC filings are available for viewing and downloading from the PUC's website at <http://interchange.puc.state.tx.us>.

Once there, click "login" and type in the control number 38354 and press "enter." A list of documents filed in this docket will appear and you may access those documents by clicking on the document number.

For information regarding SOAH, log onto SOAH's website (www.soah.state.tx.us). Helpful information may be found in the sections marked "Not an Attorney?" and "Research Resources." Although SOAH has its own set of procedural rules, the PUC's procedural rules apply to this proceeding.

A prehearing conference (prehearing) is scheduled for September 1, 2010 (See Order No. 1). All intervenors should attend this hearing unless they are represented by counsel or designate a representative who will attend on their behalf. A representative should have written authority to represent an intervenor in this proceeding. At the prehearing, the ALJs will discuss the basics of this proceeding, rule on certain motions to intervene, and require the alignment of all intervenors that are not represented by an attorney. Alignment is discussed below.

II. INTERVENTION – WHAT IT MEANS TO INTERVENE AND BECOME A PARTY

In order to participate in this proceeding, a person must file a "motion to intervene." If the motion is granted, that person is considered to be a "party" to the proceeding, also known as an "intervenor." Not everyone can participate in this proceeding and the PUC's rules governing who can become a party are set out at P.U.C. PROC. R. 22.103.

Becoming a party involves certain responsibilities. Once a person becomes a party, they are subject to all rules and requirements for this proceeding. For instance, if a party receives a request for information (known as a "discovery request") they must respond to the request within the applicable timeframe. Furthermore, all intervenors will be required to either file testimony or a statement of position in this case by the deadline set in the procedural schedule, which is found in SOAH Order No. 1. As set out in that order, if an intervenor fails to comply with this deadline, they

will be struck as a party and will not be permitted to participate in the hearing on the merits or file post-hearing briefing.

NOTE: *Due to the number of potential parties to this proceeding, all motions to intervene are presumed granted, unless denied.*

III. INTERVENORS ARE REQUIRED TO ALIGN

Due to the large number of potential parties in this matter, the ALJs must keep the number of parties questioning witnesses to an absolute minimum. This can be achieved by “aligning” intervening parties who have similar interests under a single party representative. For instance, if ten neighbors (who are parties) oppose a particular route, they should select a single representative for purposes of questioning witnesses at the hearing on the merits, and the service list. Those ten parties would be considered aligned and any motion or discovery filings would be sent to their representative only. **As a result, aligned parties may only select a representative that has internet access and is willing to check the PUC interchange on a daily basis.** The representative will be responsible for informing the aligned parties of any filing that impacts them. The representative will also be responsible for filing anything on behalf of the represented parties. Each of the ten parties will continue to be an individual party for all other purposes in this proceeding. This means that each of those parties may request discovery and shall respond to discovery, which is directed to them.

At the hearing on the merits, the represented parties shall ask questions of witnesses only through their representative.

IV. SUSPENSION OF TRADITIONAL SERVICE REQUIREMENTS

Due to the large number of intervenors expected to participate in this proceeding, the ALJs are suspending traditional service requirements.¹ As stated above and in SOAH Order No. 1, all documents filed in this case must be filed at the PUC. Normally, when a party files a document with

¹ See, PUC Procedural Rule 22.5(b).

the PUC, they are required to serve the document on every other party. To achieve this, a “service list” is created at the beginning of the proceeding and continually updated to add new parties. The service list includes the names and addresses of all parties. Normally, the service list is attached to each filing so that the parties know that every party has been served with that filing.

Traditional service, however, will not be required in this case, because too many parties are anticipated. Instead, all parties are required to log onto the PUC’s interchange as often as possible to see what has been filed and respond, if necessary. The ALJs strongly recommend checking the interchange daily. Instructions for logging onto the interchange are in Section I of this order.

Remember that for most, but not all intervenors, there are only two matters to be concerned with prior to the hearing on the merits:

1. Sending out or responding to discovery requests; and
2. Meeting the deadline to file testimony or a statement of position. See SOAH Order No.1 for the deadline to file intervenor testimony or statement of position.

Exceptions to the suspension of traditional service:

The ALJs may permit certain exceptions to the suspension of traditional service. Listed below are exceptions to the suspension of traditional service:

1. Any discovery request, response to a discovery request, motion, or response to a motion must be served on the party or parties that are the target of the motion or response.
2. The ALJs may serve a party or parties with an order if the circumstances warrant.
3. A party *that is not aligned or represented by counsel* may file a “motion for good cause to use traditional service.” Parties that have access to the internet will not be granted a good cause exception. Parties that do not have access to the internet, but are either represented by counsel or aligned, will not be granted a good cause exception. The ALJs will only grant a motion for an exception where good cause has

been clearly demonstrated. **Motions for an exception must be filed no later than September 3, 2010.**

If a motion to use traditional service is granted, that party's contact information will be added to a traditional service list, which is a mailing list of all the parties who have been granted the right to use and be served by traditional service methods. Any time a document is filed in this case, it must be sent to every party on the traditional service list, using one of official service methods set out in the PUC's procedural rules and described in Order No. 1.

V. HEARINGS, DIRECT TESTIMONY, AND STATEMENTS OF POSITION

A. Hearings

Unless the ALJs order otherwise, there will be two hearings in this proceeding:

1. The prehearing set for September 1, 2010, at 10:00 a.m. at the Palmer Events Center, 900 Barton Springs Road, Austin, Texas; and
2. The trial (also known as a "hearing on the merits"), set from October 25, 2010, through November 5, 2010, at a facility to be determined and identified in a later order.

The hearing on the merits is the final hearing where evidence will be heard. This hearing is essentially the trial of this case and the Texas Rules of Evidence apply.

B. Testimony and Statements of Position

Between the prehearing and the hearing on the merits is a period when parties are entitled to conduct discovery of each other's case. There are also deadlines set during this period. For instance, there will be a deadline for intervenors to file their "direct testimony" or "statement of position." This is one of the most important deadlines for intervenors, because if an intervenor fails to file either testimony or a statement of position by the deadline, the intervenor will be struck as a party to this case and prohibited from further participation.

In a traditional trial, a party offers their evidence through direct witness testimony, followed by a round of cross-examination. In this proceeding, however, parties will pre-file their direct testimony and then be subject to cross-examination at the trial. Pre-filing direct testimony makes the hearing on the merits move much faster. For instance, because all parties will have the direct testimony of each witness before the hearing on the merits, any party or party representative that intends to cross-examine a witness must have all of their questions prepared before the hearing on the merits begins.

Intervenors may opt to file a statement of position instead of testimony. A statement of position is simply an intervenor's position in this case in support of or opposition to a particular link and/or route. A statement of position is not sworn-to, is not considered evidence, and is not subject to cross-examination. However, so long as an intervenor timely files a statement of position, they will be permitted to participate at the hearing on the merits and file post-hearing briefing, if they wish. **Any intervenor who does not file a statement of position or prefiled testimony by the deadline will not be allowed to participate further.** See SOAH Order No. 1 for the intervenor testimony deadline.

C. **Witness Panels**

It is anticipated that most of the hearing will be spent by parties cross-examining LCRA TSC witnesses on their direct and rebuttal testimony. To speed this process, LCRA TSC shall present its witnesses in a panel format. All LCRA TSC witnesses will testify at the same time and all parties intending to cross-examine LCRA TSC witnesses shall be prepared to conduct cross-examination of all witnesses on the first hearing day. LCRA TSC witnesses shall also be presented as a panel on rebuttal.

There will be only one round of cross-examination and one redirect permitted at the hearing.

VI. OBJECTIONS TO PREFILED TESTIMONY

Parties are encouraged to file limited objections to prefiled testimony. The ALJs are able to evaluate the evidence and give appropriate weight to material that may be objectionable. Objections to prefiled testimony may not contain argument and must be filed in a table format exactly like the table shown below.

Witness and testimony	Page and line	Testimony objected to	Basis of objection and rule cite
Joan Smith Cross-Rebuttal	P. 10, l. 4	"Fred told me his house is made of steel"	Hearsay, 801(d)

Responses to objections must also be provided in table format exactly like the table shown below.

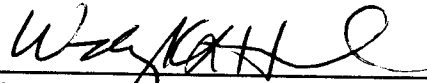
Objecting Party	Witness and testimony	Pg.& line	Basis of objection	Basis of response
Fred Jones	Joan Smith Cross-Rebuttal	P. 10, l. 4	Hearsay, 801(d)	Admission of a party-opponent

The one exception to the table format of objections is the requirement that parties must use general objections to intervenor testimony regarding concerns over electro-magnetic fields (EMF) and the line's impact to the value of their property. A list of each witness who provides testimony of that nature will suffice for purposes of preserving the objection for appeal. The ALJs are well-aware of the PUC's position on evidence regarding a line's impact to an intervenor's property and the necessity of expert testimony on EMF. Intervenor testimony on these two issues are common as are objections to such testimony. Unless such testimony is specifically found to be relevant or offered by an expert, the ALJs will only regard it as a legitimate statement of concern by intervenors, but not as evidence upon which to base a recommendation to the PUC regarding placement of the line. Subject to this caveat, intervenor testimony on these topics may be generally objected to, but will not be struck from the record.

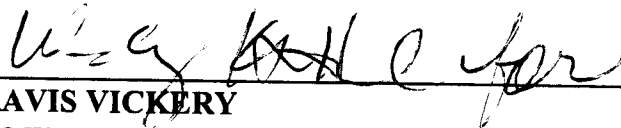
VII. ATTORNEYS: STATEMENTS OF REPRESENTATION

Attorneys who have not already done so must file a statement clearly identifying who they represent and any intervenors for whom they are accepting service. **The statement must be filed no later than two business days after the intervention deadline and must be updated within two business days of any changes to representation.**

SIGNED July 30, 2010



**WENDY K.L. HARVEL
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS**



**TRAVIS VICKERY
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS**