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SOAH DOCKET NO. 473-07-0218
PUC DOCKET NO. 32707

APPLICATION OF RAYBURN
COUNTRY ELECTRIC
COOPERATIVE, INC. FOR A
CERTIFICATE OF CONVENIENCE
AND NECESSITY (CCN) FOR A
PROPOSED TRANSMISSION LINE IN
HENDERSON AND VAN ZANDT
COUNTIES, TEXAS

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BEFORE THE STATE OFFICE
OF
ADMINISTRATIVE HEARINGS

2007 MAY 23 AM 11:38
PUBLIC UTILITIES COMMISSION
FILING CLERK

RECEIVED

ORDER NO. 29
GRANTING MOTIONS TO INTERVENE OF
ROUTE 10 INTERVENORS AND ROUTE 6 INTERVENOR GROUP

On April 27, 2007, the following persons filed a Motion to Intervene:

- Theron and Katie Brittain
- Theron Brittain, Jr. and Patty Brittain
- Bob Johnson
- Tex and Fran Bradford
- E.L. and Mary Jane Saxon
- James B. Birt
- David and Deb Clark
- Danny Farmer
- Stacy Saxon
- Harriette Forrester
- Karen Saxon Gilbert
- Allan Springer
- Jerry Daniel
- Gary Saxon
- Peggy Sides

These persons are aligned in a single group designated as "Route 10 Intervenor," and they are represented by attorney Don Walden. Their motion cites P.U.C. PROC. R. 22.104(d)(1), which provides that the presiding officer shall consider the following in acting on a late filed motion to intervene:

- (A) any objections that are filed;
- (B) whether the movant had good cause for failing to file the motion within the time prescribed;
- (C) whether any prejudice to, or additional burdens upon, the existing parties might

- result from permitting the late intervention;
- (D) whether any disruption of the proceeding might result from permitting late intervention; and
- (E) whether the public interest is likely to be served by allowing the intervention.

The motion argues that no party will suffer prejudice or additional burden if the interventions are granted, and no disruption of the proceeding will result. The Route 10 Intervenors state that they accept the record as it stands, and they do not request the restoration of any right that they would have had if they had timely intervened. They also point out that the hearing on the merits has been postponed (at Rayburn Country's request) until further order of the ALJ, so the procedural schedule will not be disrupted. Finally, the Route 10 Intervenors contend that the public interest will be served because their intervention will more fully develop the record.

On May 3, 2007, the following persons filed a Motion to Intervene:

- Sheila G. Betterton
- W.A. Harville, Jr. and Lynn W. Harville
- Kelly and Mitch Easley
- Joe and Pat Urban (Urban Living Trust)
- Michael L. Keener
- Benny Peavey
- Jack Mewbourn
- James E., Howard, and Kathryn Bilyeu
- James D. and Elizabeth Cann
- Clarence Lewis
- Bree and Clay Wright
- Dorothy Phillips
- James D. McGehee
- Thomas G. Whatley
- Janice Reid
- Larry and Sherri Jefferson
- Eugene A. Mayer, Jr.
- June L. Burkholder
- Jack C. Kellam
- Brenda Oliver

These persons are aligned in a single group designated as "Route 6 Intervenor Group." Currently, Sheila G. Betterton is acting as the designated representative of this group. This group

adopted by reference the arguments made by the Route 10 Intervenors.

Rayburn Country and Commission Staff filed responses to the motions to intervene. Both point out that the intervention deadline expired more than seven month ago, and the movants have offered no explanation to show good cause for the delay. Rayburn Country also states that allowing the interventions will cause additional burdens for existing parties by making settlement more difficult; adding to discovery on Rayburn Country's proposed supplemental direct testimony; increasing cross-examination at hearing; and possibly increasing post-hearing briefing.

The ALJ GRANTS the motions to intervene filed by Route 10 Intervenors and the Route 6 Intervenor Group. The ALJ agrees with Staff and Rayburn Country that the intervenors have not stated good cause for their late requests. However, that is only one criterion to be considered under P.U.C. PROC. R. 22.104(d). Two other criteria are whether prejudice or additional burdens will be imposed on other parties and whether a disruption of the proceeding might occur. In this case, the movants will be required to accept the current procedural schedule and other restrictions will be imposed. Because discovery has closed (except for discovery on Rayburn Country's possible supplemental direct testimony) and the deadline for intervenors to file direct testimony has passed, there will be little additional burden placed on the existing parties. Further, the hearing on the merits has been delayed at Rayburn Country's request, so the schedule for the proceeding will not be disrupted. And finally, the ALJ believes the public interest will be served by allowing the intervention. Property owned by these persons may be affected by the proposed transmission line. It will help maintain the public's confidence in the hearing process to allow them to participate, rather than exclude them. In short, the ALJ believes that the modest inconvenience that will occur from the interventions is outweighed by the public interest of allowing affected persons to participate in the hearing process.

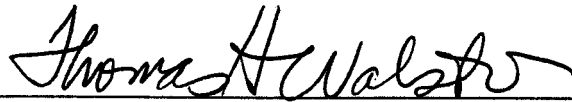
Therefore, the motions to intervene filed by Route 10 Intervenors and the Route 6 Intervenor Group are GRANTED pursuant to P.U.C. PROC. R. 22.104(d), subject to the following conditions:

- Intervenors are bound by the procedural schedule and the record as it exists at the time

they filed their motions to intervene;

- Each group shall be aligned and treated as one party and will have an attorney or one spokesperson to act on its behalf.
- Other parties, TCEQ, and SOAH shall be required to serve pleadings and other papers only on the spokesperson or attorney for each group; that is, they are not required to serve all members of each group. The spokesperson or attorney for each group is responsible for keeping their respective group members informed of the schedule and developments in the case.
- Ms. Sheila G. Betterton is designated as the spokesperson for the Route 6 Intervenor Group and Mr. Don Walden is designated as attorney for Route 10 Intervenors. They may withdraw from their position and be replaced only by order of the ALJ.

Signed May 21, 2007.



**THOMAS H. WALSTON
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS**