

Control Number: 37448



Item Number: 1153

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**SOAH DOCKET NO. 473-10-1097  
PUC DOCKET NO. 37448**

**APPLICATION OF LCRA  
TRANSMISSION SERVICES  
CORPORATION TO AMEND ITS  
CERTIFICATE OF CONVENIENCE  
AND NECESSITY FOR THE  
GILLESPIE TO NEWTON 345-KV  
CREZ TRANSMISSION LINE IN  
GILLEPIE, LLANO, SAN SABA,  
BURNET AND LAMPASAS  
COUNTIES, TEXAS**

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**BEFORE THE STATE OFFICE**

**OF**

**ADMINISTRATIVE HEARINGS**

**RECEIVED  
10 APR 24 PM 4:27  
PUBLIC UTILITY COMMISSION  
FILED CLERK**

**LANDOWNERS PRESERVATION GROUP'S  
RESPONSE TO OBJECTIONS TO NOTICE OF ADDITIONAL MEMBERS**

**TO THE HONORABLE PUBLIC UTILITY COMMISSION:**

The Landowners Preservation Group (LPG) hereby files this response to intervenors' objections<sup>1</sup> to the Notice of Additional Members, which was filed pursuant to P.U.C. PROC. R. 22.103(b), and Notices of Support, which were provided by various property owners, homeowner associations' leadership and the Cassie Volunteer Fire Department in the Buchanan Dam Communities. The LPG respectfully submits the following in support of its Notice of Additional Members and other protestors' comments in support of the LPG and in opposition to Route GN6:

**Response to Objections to LPG's Notice of Additional Members**

The LPG has been referred to as a group throughout this proceeding. The reference to the LPG in this proceeding is similar to other groups who commonly participate in proceedings at the Public Utility Commission, including various city groups (e.g. Steering Commission of Cities Served by Oncor, which is represented by Lloyd Gosselink Rochelle & Townsend, PC,

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<sup>1</sup> KDCB Garrett Ranch, Ltd., J17 Ranch, LLC, Mountain Place, Inc., Hank and Linda Weghorst, Margaret Wilkinson, Yates and Boultinghouse jointly filed objections on April 13, 2010; Point Peak et. al filed objections on April 12, 2010.

who represents KDCB Garrett Ranch of this proceeding who objected to the LPG's Notice of Additional Members).

In its Motion to Intervene, the LPG members were initially identified and it was stated that *the group* would be participating in the proceeding.<sup>2</sup> Moreover, in Staff and LCRA TSC's List of Intervenor Who Did Not File Testimony and Should be Removed from the Service List, Staff and LCRA TSC identified the LPG as a group and stated its members were *only participating as part of the LPG*.<sup>3</sup> Order No. 15 accordingly also referenced the LPG as a group.<sup>4</sup> In fact, as Point Peak *et. al* states in its objections, the membership of the group has changed several times over the course of the proceeding due to members being added or subtracted as landowners' ability or desire to participate in the group, and this demanding docket, changed.<sup>5</sup> The most recent notice is simply the latest addition of members of which the LPG has a duty to notify the Commission, pursuant to 22.103(b).

Finally, as recently as the PFD, the LPG was listed as a group and was the only group whose members were not individually listed. Although the LPG would like its membership to be noted, as it is significant to the number of landowners who oppose routes going south of the City of Lampasas, the PFD's treatment of the LPG is representative of its members' *only* participating in this proceeding as a group. It is inexplicable why intervenor Point Peak *et. al* on one hand criticizes the LPG members for *only* participating as a group and then claims that the group is loosely aligned.<sup>6</sup> For example, the Friedrichs participated only through the LPG; they did not personally file testimony, as Point Peak attacks, because they are members of a group who filed testimony (7 testimonies total) on behalf of its members, including the Friedrichs. That group,

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<sup>2</sup> Motion to Intervene of Ronald Shroyer, Roy Shroyer, Kaye Fischer-Hales, Catherine Rainwater, Richard & Ann Moore Johnson, Ed & Jacqueline Harrell, Jeffrey & Carolin Harrell, Jack N. Clark, Cynthia Clark, Jeffrey M. Hobbs, Terry Lowe, Janice Perry, Jana Perry, Ronald Griffin, Jane Moore Gamel, Doris Moore Faubion, Jack C. Goodman, Jack Haby, Early Hamby, Sr., Henry V. Campbell III, Gordon M. Griffin, Al and Susann Friedrichs (Collectively Landowners' Preservation Group) at 6 (Nov. 30, 2010).

<sup>3</sup> Joint Response of Staff and LCRA TSC Providing List of Intervenor Who Did Not File Testimony or Statements of Position and Who Should Be Removed from the Service List at 3 (Jan. 22, 2010).

<sup>4</sup> Order No. 15 at 7 (Fe. 2, 2010).

<sup>5</sup> See Docket No. 37448, Interchange Filing Nos. 330, 495, 496.

<sup>6</sup> Point Peak's Objections to Notice of Additional Members at 1 and 2.

the LPG, should be afforded treatment under procedural rule, specifically 22.103(b), that exists for groups such as the LPG that have members.

Pursuant to P.U.C. PROC. R. 22.103(b), members may be added to groups at *any time* by supplementing its list of members. This is exactly what the LPG did on April 9, 2010.

However, should the Commission determine that the additional members are instead persons seeking late intervention, the LPG submits that good cause does indeed exist to permit these two parties to intervene late in this proceeding, pursuant to P.U.C. PROC. R. 22.104(d). Mr. and Mrs. Widener and Mr. and Mrs. Marseca were both unable to intervene at an earlier point in time due to serious health issues. As stated in the Notice of Additional Members, Mr. Widener ("Danny") underwent surgery in the month prior to the proceeding commencing. His health has been declining since and he suffered a stroke three weeks ago. His wife, Samantha Widener, has Power of Attorney of Danny. Similarly, Mr. Marseca suffers from multiple health issues. Counsel for the LPG only listed two of those conditions, disability due to Agent Orange and congestive health failure, out of respect for Mr. Marseca's medical privacy. These property owners own property, including their residences, and a business, Danny's Country Diner, that would be in very close proximity to the proposed line on what has become the ALJ's recommended route, Route GN6.

Permitting these landowners to participate in this proceeding as part of the LPG does not prejudice any party. The LPG's position in this proceeding is not affected. No new arguments are being introduced by these landowners. They are simply joining a group of landowners with similar interest as theirs. Moreover, the parties objecting have not served any discovery on any of the LPG members for discovery to be now used as a to prevent these parties from participating in this proceeding to protect their property rights.

Further, the proceeding will not be disrupted by these landowners' participating. Again, they are simply joining in with a group who has been advocating for Route GN5 and who will continue to advocate for Route GN5. Finally, public interest is always served the Commission allowing landowners to participate in proceedings in which their community may be harmed, their businesses may be financially damaged and their property rights are at risk. Thus, should the Wideners and Marsecas not be able to be added as additional members of the LPG, pursuant

to 22.103(b) (similar to members of city groups), they should be granted late intervention for good cause under 22.104(d).

### **Response to Objections to Notices of Support**

Numerous community groups in Buchanan Dam have signed notices stating their support for the LPG and their opposition to Route GN6. The LPG filed these notices on their behalves. KDCB Ranch et. al object to these notices as being statements that are not in the administrative record. However, comments are not part of the administrative record and are not limited to statements that are in the administrative record, although many of the statements supplied by the protestors are supported by the evidence in the record. Further, protestors are not subject to discovery; protestors are not parties. Thus, KDCB Garrett does not provide reason as to why these protestors should have their comments struck.

### **Prayer**

The LPG simply requests that the notices of support provided by those in Buchanan Dam Communities be considered by the Commission similar to all other comments filed in this proceeding. Further, the LPG requests that Mr. and Mrs. Marseca and Mr. Widener be permitted to participate in this proceeding as part of the LPG.

Respectfully submitted,

**HERRERA & BOYLE, PLLC**  
816 Congress Avenue, Suite 1250  
Austin, Texas 78701  
(512) 474-1492 (voice)  
(512) 474-2507 (fax)

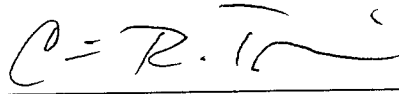
By: 

ALFRED R. HERRERA  
State Bar No. 09529600  
JIM BOYLE  
State Bar No. 02795000  
FELIPE ALONSO III  
State Bar No. 24045400  
CARRIE R. TOURNILLON  
State Bar No. 24053062

**ATTORNEYS FOR LANDOWNERS  
PRESERVATION GROUP**

**CERTIFICATE OF SERVICE**

I hereby certify that on this the 14<sup>th</sup> day of April 2010, a true and correct copy of the foregoing document was served upon all parties of record by facsimile and/or First-class mail United States mail, postage paid.

By:   
Carrie R. Tournillon