



Control Number: 37448



Item Number: 131

Addendum StartPage: 0

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

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| <b>APPLICATION OF LCRA<br/>TRANSMISSION SERVICES<br/>CORPORATION TO AMEND ITS<br/>CERTIFICATE OF CONVENIENCE<br/>AND NECESSITY FOR THE<br/>GILLESPIE TO NEWTON 345-KV<br/>CREZ TRANSMISSION LINE IN<br/>GILLESPIE, LLANO, SANSABA,<br/>BURNET, AND LAMPASAS<br/>COUNTIES, TEXAS</b> | <b>§<br/>§<br/>§<br/>§<br/>§<br/>§<br/>§<br/>§<br/>§<br/>§</b> | <b>BEFORE THE STATE OFFICE<br/><br/>OF<br/><br/>ADMINISTRATIVE HEARINGS</b> |
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**COMMISSION STAFF'S RESPONSE TO INTERVENORS' COMMENTS ON  
PROPOSED PROCEDURAL SCHEDULE**

**COMES NOW** the Staff (Staff) of the Public Utility Commission of Texas (Commission), representing the public interest and files this response to intervenor's comments on proposed procedural schedule.

**I. BACKGROUND**

On October 28, 2009, LCRA Transmission Services Corporation (LCRA TSC) filed its application (the Application) to amend its certificate of convenience and necessity (CCN) for a proposed 345-kV Competitive Renewable Energy Zones (CREZ) transmission line in Gillespie, Llano, San Saba, Burnet, and Lampasas Counties, Texas. Pursuant to PURA §39.203(e), the Commission must issue a final order in this docket before the 181<sup>st</sup> day after the date the application was filed, same being April 26, 2009. At the prehearing conference held on November 12, 2009, LCRA offered a proposed procedural schedule and on November 16, 2009 staff filed its proposed procedural schedule. On November 20, 2009 William R. Hinckley filed his proposed procedural schedule and Barnes Keith Ranch filed comments requesting the addition of cross-rebuttle testimony on the same date as the Applicant's rebuttal testimony.

**II. TESTIMONY FILING DEADLINES AND HEARING DATES**

The procedural schedule proposed by Staff is substantively similar in design to the schedules that have been proposed and adopted in the seven other CREZ CCN cases that are

currently pending before the State Office of Administrative Hearings (SOAH).<sup>1</sup> The schedules were designed to provide all parties the maximum amount of time practicable to develop their cases and prepare testimony within the unavoidably short timeframe mandated by PURA §39.203(e). Staff is a party to all eight CREZ CCN cases and its proposed procedural schedules in each case have been carefully designed to allow Staff to employ its resources as effectively as possible. Consequently, Staff must oppose any proposed changes to the schedule that would unduly burden its resources by further compressing the time available to prepare and present a case.

There are currently 45 intervenors in this docket and Staff has reason to expect that more requests to intervene will be filed on or near the intervention deadline of November 30, 2009. Mr. Hinkley's proposed schedule gives Staff only *six* days to review intervenor testimony, reevaluate the application in light of that testimony, determine what is in the public interest and prepare and file testimony supporting its recommendation. If Staff is going to adequately review

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<sup>1</sup> **P.U.C. Docket No. 37407; SOAH Docket No. 473-10-0399** - *Application of Oncor Electric Delivery Company LLC to Amend its Certificate of Convenience and Necessity (CCN) for The Tonkawa - Sweetwater East - Central Bluff 345-kV CREZ Transmission Line in Scurry, Mitchell, Fisher, Nolan and Taylor Counties;* **P.U.C. Docket No. 37408; SOAH Docket No. 473-10-0398** - *Application of Oncor Delivery Company LLC to Amend a Certificate Of Convenience and Necessity (CCN) for The Riley-Bowman 345-kV CREZ Transmission Line (Formerly Oklaunion – Bowman Line) Within Archer, Wichita, And Wilbarger Counties;* **P.U.C. Docket No. 37409; SOAH Docket No. 473-10-0400** - *Application of Oncor Delivery Company LLC to Amend a Certificate of Convenience and Necessity (CCN) for the Central B – Central A – Tonkawa 345-kV CREZ Transmission Line in Scurry And Mitchell Counties;* **P.U.C. Docket No. 37448 SOAH Docket No. 473-10-1097** - *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 Gillespie Llano, San Saba, Burnet and Lampasas Counties;* **P.U.C. Docket No. 37463 SOAH Docket No. 473-10-0709** - *Application of Oncor Electric Delivery Company, LLC to Amend a Certificate of Convenience and Necessity (CCN) for a Proposed CREZ 345 kV Transmission Line Within Bell, Burnet and Lampasas Counties;* **P.U.C. Docket No. 37464 SOAH Docket No. 473-10-0710** - *Application of Oncor Electric Delivery Company, LLC to Amend a Certificate of Convenience and Necessity (CCN) for a Proposed CREZ 345 kV Transmission Line Within Brown Mills, Lampasas, Mcculloch and San Saba Counties;* **P.U.C. Docket No. 37529 SOAH Docket No. 473-10-1089** - *Application of Oncor Electric Delivery Company LLC to Amend its Certificate of Convenience and Necessity for the Central Bluff – Bluff Creek 345-kV CREZ Transmission Line in Nolan, Taylor, and Runnels Counties;* and **P.U.C. Docket No. 37530 SOAH Docket No. 473-10-1088** - *Application Of Oncor Electric Delivery LLC to Amend its Certificate of Convenience and Necessity for the Bluff Creek – Brown 345-kV CREZ Transmission Line within Taylor, Runnels, Coleman, and Brown Counties*

and respond to the Application and intervenor testimony it must have sufficient time to do so. Consequently, Staff opposes the schedule proposed by Mr. Hinkley and requests that its proposed schedule be adopted.

Mr. Hinkley's arguments for additional time to file intervenor testimony are not persuasive. All parties, including Staff, must accept short deadlines in CREZ dockets in order to meet the 180-day timeline imposed by PURA §39.203(e). Although the filing date proposed by Staff for intervenor testimony in this case follows New Year's Day, the filing date is 35 days after the intervention deadline and 68 days after LCRA TSC filed its Application. By comparison, Staff has only 11 days from the filing of intervenor testimony on its proposed schedule to review and consider that testimony for incorporation into Staff's own testimony. To compress that timeframe further would make it very difficult to properly incorporate the concerns of intervenors into Staff's testimony.

Mr. Hinkley also suggested delaying the hearing date by a week from February 1-3 to February 9-11, 2010. Staff objects to the delay of the hearing on the merits to the week of February 9-11, 2010 because doing so would reduce the time for the SOAH administrative law judge (ALJ) to issue a proposal for decision (PFD) and for the Commission to make a final decision in this case following any exceptions to the PFD filed by the parties. Because Staff cannot agree to a delay of the hearing date, the deadline for discovery conducted on LCRA TSC's rebuttal testimony must remain on January 28, 2010. Staff does not agree that the response time for requests for information (RFIs) should be shortened to 5 days for discovery conducted on rebuttal testimony and instead recommends that discovery be limited to depositions as proposed in Staff's procedural schedule. Staff does not oppose the reservation of the entire week of February 1-5, 2010 for the hearing dates, though it is not possible at this time to estimate the number of days that a hearing may require.

### **III. CROSS REBUTTAL TESTIMONY**

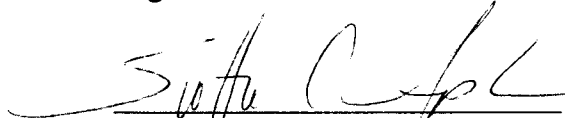
Staff has no objection to Barnes Keith Ranch's request to add cross rebuttal testimony to the schedule to be due on the same date as the Applicant's rebuttal testimony.

**Dated: November 23, 2009**

Respectfully Submitted,

Thomas S. Hunter  
Division Director  
Legal Division

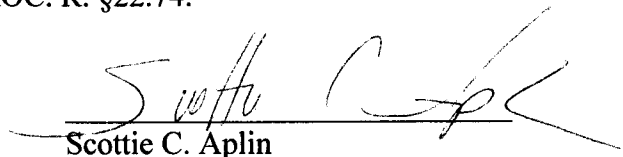
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### **CERTIFICATE OF SERVICE**

I certify that a copy of this document will be served on all parties of record on November 23, 2009, in accordance with P.U.C. PROC. R. §22.74.



Scottie C. Aplin