



Control Number: 37448



Item Number: 157

Addendum StartPage: 0

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

RECEIVED
09 NOV 25 AM 11:06
PUBLIC UTILITY COMMISSION
FILING CLERK

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, TEXAS	§ § § § § § § § § §	BEFORE THE STATE OFFICE OF ADMINISTRATIVE HEARINGS
--	--	---

**COMMISSION STAFF'S OBJECTION TO REQUESTS TO INTERVENE
FILED BY ERIN HOWARD MITCHELL, MARIANNE PARKER, ROBERT
THOMPSON, DAVID AND SALLY THOMPSON, RICHARD AND MICHELE
THOMPSON, MARK SUTTON, JOHN HARRIS, LINDSEY HARIS SWENSON,
GEORGE KANE, III, PAUL AND GRACIE TERRILL**

COMES NOW the Staff (Staff) of the Public Utility Commission of Texas (Commission), representing the public interest, and pursuant to Order No. 1, files this, its Objections to the Requests to Intervene filed by Erin Howard Mitchell, Marianne Parker, Robert Thompson, David and Sally Thompson, Richard and Michele Thompson, Mark Sutton, John Harris, Lindsey Haris Swenson, George Kane, III, and Paul and Gracie Terrill, and would show the following:

I. BACKGROUND

On October 28, 2009, LCRA Transmission Services Corporation (LCRA TSC) filed its application (the Application) with the Commission 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 181st day after the date the application was filed, same being April 26, 2009. On November 18 and 19, 2009, Staff received the Requests to Intervene in PUC Docket No. 37448 filed by Erin Howard Mitchell, Marianne Parker, Robert Thompson, respectively. On November 20, 2009, Staff also received the Requests to Intervene in PUC Docket No. 37448 filed by David and Sally Thompson, Richard and Michele Thompson, and Mark Sutton, respectively. On November 23,

151

2009, Staff received the Requests to Intervene in PUC Docket No. 37448 filed by John Harris, Lindsey Haris Swenson, George Kane, III and Paul and Gracie Terrill, respectively. Order No. 1 in this docket requires that responsive pleadings be filed by a party within three working days from receipt of the pleading to which the response is made. Accordingly, Staff's objections are timely filed regarding the requests filed after the November 20, 2009. Staff requests leave of the ALJ to submit its objections to the interventions filed prior to that date for showing of good cause, specifically that Staff received an unusually high volume of intervention requests in the three CREZ dockets filed on October 28th, 2009.

II. COMMISSION STAFF'S OBJECTIONS AND REQUEST FOR RELIEF

A. Requests to Intervene in Docket No. 37448

1. Erin Howard Mitchell

On November 18, 2009, Erin Howard Mitchell filed a Request to Intervene that indicates that she has property that will be crossed by one of LCRA TSC's routes. She is not on the Applicant's notice list and staff is unable to verify her location on any of the routes. No other basis for intervention was stated in the Request to Intervene.

2. Marianne Parker

On November 19, 2009, Marianne Parker filed a Request to Intervene which stated that she owns properties over which a proposed route will pass, and that there is a habitable structure on that property within the proposed route. She is not on the Applicant's notice list and staff is unable to verify her location on any of the routes. No other basis for intervention was stated in the Request to Intervene.

3. Robert Thompson

On November 20, 2009, Robert Thompson filed a Request to Intervene that states he owns properties over which a proposed route will pass, and that there is a habitable structure on that property within the proposed route. He is not on the Applicant's notice list and staff is unable to verify her location on any of the routes. No other basis for intervention was stated in the Request to Intervene.

4. David and Sally Thompson

On November 20, 2009, David and Sally Thompson filed a Request to Intervene which states they own properties over which a proposed route will pass, and that there is a habitable

structure on that property within the proposed route. They are not on the Applicant's notice list and staff is unable to verify her location on any of the routes. No other basis for intervention was stated in the Request to Intervene.

5. Richard and Michele Thompson

On November 20, 2009, Richard and Michele Thompson filed a Request to Intervene which states they own properties over which a proposed route will pass, and that there is a habitable structure on that property within the proposed route. They are not on the Applicant's notice list and staff is unable to verify her location on any of the routes. No other basis for intervention was stated in the Request to Intervene.

6. Mark Sutton

On November 20, 2009, Mark Sutton filed a Request to Intervene that indicates that she has property that will be crossed by one of LCRA TSC's routes. She is not on the Applicant's notice list and staff is unable to verify her location on any of the routes. No other basis for intervention was stated in the Request to Intervene.

7. John Harris

On November 23, 2009, John Harris filed a Request to Intervene that indicates that she has property that will be crossed by one of LCRA TSC's routes. She is not on the Applicant's notice list and staff is unable to verify her location on any of the routes. No other basis for intervention was stated in the Request to Intervene.

8. Lindsey Haris Swenson

On November 20, 2009, Lindsey Haris Swenson filed a Request to Intervene that indicates that she has property that will be crossed by one of LCRA TSC's routes. She is not on the Applicant's notice list and staff is unable to verify her location on any of the routes. No other basis for intervention was stated in the Request to Intervene.

9. George Kane, III

On November 20, 2009, George Kane, III filed a Request to Intervene that indicates that she has property that will be crossed by one of LCRA TSC's routes. She is not on the Applicant's notice list and staff is unable to verify her location on any of the routes. No other basis for intervention was stated in the Request to Intervene.

10. Paul and Gracie Terrill

On November 23, 2009 Paul and Gracie Terrill filed a Request to Intervene which stated that they own property with a habitable structure on that property within close proximity of one or more of the proposed routes. She is not on the Applicant's notice list and staff has been unable to verify her location on any of the routes. No other basis for intervention was stated in the Request to Intervene.

B. Applicable Law

In order to participate in proceedings before the Commission, a person must file a motion to intervene and be recognized as a party under P.U.C. PROC. R. 22.104. Standing to intervene is governed by P.U.C. PROC. R. 22.103, which states that a person has standing to intervene if that person (1) has a right to participate which is expressly conferred by statute, commission rule or order or other law; or (2) has or represents persons with a justiciable interest which may be adversely affected by the outcome of the proceeding. In electric licensing proceedings, such as the one proposed in the instant application, a person is considered "directly affected" if the land owned by the person would be crossed by the proposed transmission lines, or if the person owns a habitable structure within 500 feet of the centerline of a transmission project of more than 230 kV.¹

In all ten of the Requests to Intervene addressed in this pleading, the requestors do not adequately claim that they own property that would be crossed by one or more of LCRA's proposed routes or that they own property with a habitable structure within 500 feet of the centerline of any proposed route. As such, Staff objects to the Requests to Intervene filed by Erin Howard Mitchell, Marianne Parker, Robert Thompson, David and Sally Thompson, Richard and Michele Thompson, Mark Sutton, John Harris, Lindsey Haris Swenson, George Kane, III, and Paul and Gracie Terrill because all ten of those Requests fail to plead facts sufficient to establish that each respective requestor has standing to intervene in this docket as required by P.U.C. PROC. Rule 22.52(a)(3). Staff requests that the ALJs require the above listed interveners

¹ P.U.C. PROC. RULE 22.52(a)(3).

to supplement their Motions to Intervene in order to provide additional information, including responses to the following questions:

- 1) Is the Intervenor seeking to intervene in an individual capacity as a landowner whose interests may be affected by the proposed transmission project?
- 2) In whose name is title to the land that forms the basis of the Intervenor's Motion held?
- 3) Approximately how close, in terms of feet, does the Intervenor claim the proposed transmission lines will come to the land or habitable structure that forms the basis of his/her Motion?

C. Requested Relief

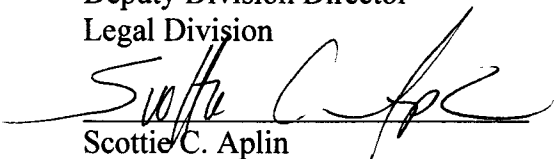
In light of the foregoing, Staff respectfully requests that the Administrative Law Judges (ALJs) require the above intervenors to supplement their Motions to Intervene to address the questions listed above, and any others the ALJs deem appropriate, before ruling on their Motions to Intervene. Further, Staff requests that the ALJs deny the respective Motions to Intervene if they do not timely respond to the ALJs' request for supplemental information.

Dated: November 25, 2009

Respectfully Submitted,

Thomas S. Hunter
Division Director
Legal Division

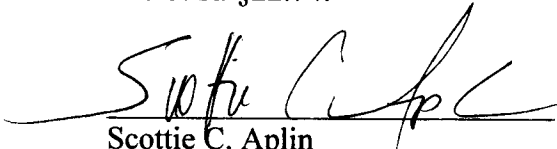
Keith Rogas
Deputy Division Director
Legal Division



Scottie C. Aplin
Attorney-Legal Division
State Bar No. 24001664
(512) 936-7289
(512) 936-7268 (facsimile)
Public Utility Commission of Texas
1701 N. Congress Avenue
P.O. Box 13326
Austin, Texas 78711-3326

CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on this 25rd of November 2009, in accordance with P.U.C. PROC. R. §22.74.


Scottie C. Aplin