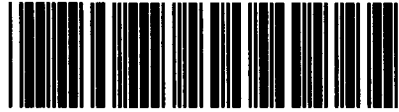




Control Number: 37448



Item Number: 261

Addendum StartPage: 0

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 GILLESPIE,
LLANO, SAN SABA, BURNET, AND
LAMPASAS COUNTIES, TEXAS

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BEFORE THE STATE OFFICE

OF

ADMINISTRATIVE HEARINGS

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ORDER NO. 4
MEMORIALIZING SECOND PREHEARING CONFERENCE;
ESTABLISHING PROCEDURAL SCHEDULE;
SETTING PREHEARING AND HEARING ON THE MERITS; DENYING REQUEST
FOR EXPEDITED RELIEF; ADDRESSING CERTAIN INTERVENTIONS;
AND ESTABLISHING PROCEDURES RELATED TO EVIDENCE AND EXHIBITS

On December 3, 2009, the Administrative Law Judge (ALJ) convened a previously scheduled second prehearing conference in this docket. At the second prehearing conference, the parties agreed to a procedural schedule and the ALJ discussed the establishment of service-by-email. Additionally, the ALJ admitted as parties all intervenors who filed unopposed interventions on or before November 25, 2009.¹

I. PROCEDURAL SCHEDULE

At the prehearing conference, the parties proposed a procedural schedule. Upon reflection, the ALJ finds that two extra days of hearing will better accommodate the number of parties. Matters that would have been addressed at the final prehearing conference will be taken up on the first day of hearing. If the parties wish to schedule a settlement conference, they may do so on their own. Accordingly, the following procedural schedule is adopted, with changes marked by an asterisk:

Event	Deadline
Objections to applicant's direct testimony	December 14, 2009 *
Replies to objections to applicant's direct testimony	December 18, 2009 *

¹ Additional interventions will be ruled on in the next order.

Event	Deadline
Discovery on applicant's direct case ends	January 6, 2010
Intervenor direct testimony and/or statements of position	January 7, 2010
Objections to intervenor direct testimony	January 14, 2010
Staff direct testimony	January 20, 2010
Responses to objections to intervenor direct testimony	January 20, 2010
Intervenor cross-rebuttal	January 22, 2010
Discovery on intervenors' and Staff's direct cases ends	January 26, 2010
Objections to Staff direct testimony	January 26, 2010
Applicant rebuttal testimony	January 26, 2010
Cross-rebuttal discovery ends and objections to cross-rebuttal due	January 27, 2010 *
Discovery ends on applicant's rebuttal testimony	January 29, 2010 *
Objections to applicant rebuttal testimony and responses to objections to Staff direct	January 29, 2010 *
Replies to objections to cross-rebuttal	Live at hearing
Hearing on the Merits	February 4-5 and 8-12, 2010 *

II. HEARING ON THE MERITS

The hearing on the merits in this matter will convene at **9:00 a.m. on February 4, 2010, at a location to be determined and established in a future order**, and will continue until concluded. The parties shall be prepared to attend the hearing beginning early in the morning and late in the evening.

III. COMMENTS FROM THE TEXAS PARKS AND WILDLIFE DEPARTMENT (TPWD)

On November 30, 2009, the Commission issued a Supplemental Preliminary Order stating that the recent amendment to Section 12.0011 of the Texas Parks and Wildlife Code requires agencies with statewide jurisdiction, such as the Commission, to provide a written response to each recommendation or informational comment made by TPWD on or after September 1, 2009. If TPWD provides recommendations or comments in this docket, the Supplemental Order directs the ALJ to include written responses thereto in their proposal for decision.

No timeframe appears to be set for TPWD to provide recommendations or comments. However, given the statutorily-established deadline in this docket, the parties need time prior to the hearing on the merits to prepare responses to any filings by TPWD. Accordingly, the ALJ believe that TPWD should file recommendations or comments, if it intends to do so, no later than the deadline for intervenor direct testimony and/or statements of position. The ALJ request that Staff forward a copy of this order to TPWD through TPWD's General Counsel or any other appropriate office at TPWD.

IV. PREHEARING MATTERS

A. PUC Website and Interchange and Filing Requirements

All documents (pleadings, discovery requests, statements of position, testimony, etc.) must be filed with the PUC. The PUC requires a certain number of copies of the documents for filing (for example, 12 copies for pleadings) and may not accept a document if you do not present enough copies to the PUC filing clerk. All filed documents must be served on (provided to) all parties. To recap, all documents must be properly filed, then served on all parties.

The PUC's procedural rules include the rules for filing and are available at the PUC website (www.puc.state.tx.us).² Again, pleadings and other filings shall be deemed filed when the proper number of legible copies are presented to the Commission filing clerk for filing. **All documents must contain both the SOAH and Commission docket numbers to allow for efficient processing.** Procedural Rule 22.71(c) lists the numbers of copies of documents to be filed at the Commission. James Galloway is available at 512-936-7181 to answer questions.

All PUC filings are available for viewing and downloading from the PUC interchange at <http://interchange.puc.state.tx.us>. **Once there, click "login" and type in the control number 37530 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.

² PUC Staff Attorney, Scottie Alpin, may assist with questions regarding the PUC interchange or the PUC website. She may be reached at (512) 936-7289 or scottie.alpin@puc.state.tx.us.

B. Service

Pursuant to PUC Procedural Rules 22.5(b) and 22.74(b), service-by-email is established in this docket. Service can be accomplished by emailing a copy of a document or by sending an item by first-class mail. SOAH is in the process of setting up an email service for this case. Once it is ready, the ALJ will issue an order with information that may make it easier to serve all parties. If you have not already provided the ALJ with your email address, please email Ms. Rhonda Faught immediately: Ms. Rhonda Faught at rhonda.faught@soah.state.tx.us or (512) 475-4996.

Again, a copy of the current service list is attached to this order, for the parties' convenience. **Only one address per party will be included on the official service list maintained by SOAH.** Each party is responsible for providing the Commission, SOAH, and all parties with any change in service information. Corrections to the official service list maintained by SOAH should be directed to Ms. Rhonda Faught at rhonda.faught@soah.state.tx.us or (512) 475-4996. Parties are responsible for updating their own service lists to reflect changed information and the addition of other parties.

Once the email service list is established, mail sent to the parties by the ALJ will be sent by email (if an email address has been provided) or first class mail. If a party requests express mailing and provides an express mail account number, mail will be sent by express mail. Parties seeking to arrange express mailing should contact Ms. Faught. The ALJ will email or fax time-sensitive orders to the parties. Any document that requires the ALJ's immediate attention must be filed and either emailed to Ms. Faught, hand-delivered to the ALJ at the William P. Clements Building, Room 504, 300 West 15th Street, Austin, Texas, or faxed to the ALJ at 512-475-4995 and 512-936-0730.

C. Discovery

Because this case is proceeding on an expedited basis, the standard discovery deadlines found in P.U.C. PROC. R. 22.144 are shortened as stated in Order No. 1.

Parties submitting discovery requests to other parties must file copies with the Commission, but need not serve all other parties with the request. Responses to the discovery request need only be provided to the requestor and filed at the Commission. **The parties need not provide copies of the discovery requests or the responses to the ALJ or to the other parties.**

V. EVIDENCE AND EXHIBITS

A. Testimony or Statements of Position

Pursuant to P.U.C. PROC. R. 22.124(a) and as noted above, intervening parties must either file written testimony or a statement of position by **January 7, 2010**. A statement of position clarifies a party's position but is not evidence. Testimony is generally offered as evidence and must conform to the Texas Rules of Evidence. For example, if the witness is not an expert, the testimony must be based on the witness' personal knowledge. *See* TEX. R. EVID. 602, 701, and 702. **Any party that does not timely file either written testimony or a position statement will be dismissed from this proceeding and prohibited from participating in the hearing on the merits and post-hearing briefing in accordance with P.U.C. PROC. R. 22.124 and 22.161.**

B. Exhibits Offered into Evidence at the Hearing

Exhibits will be marked in advance *by the court reporter* and will have the correct number of copies for distribution. The party submitting the exhibits will have responsibility for complying with this order. The pages of any multi-page exhibit will be numbered consecutively. Please arrive early on the date of the hearing to allow time for the court reporter to prepare.

At the time a party offers *prefiled testimony* into evidence during its direct case, it will provide **two copies** to the court reporter and **three copies** to the ALJ. With respect to *exhibits* offered, the party will provide **two copies** to the court reporter and **four copies** to the ALJ. Two of the copies provided to the ALJ will be used in preparing the administrative record in the event the Commission's final order in this case is the subject of judicial review. Therefore, the copies must conform with any changes or corrections that are made to the official exhibit.

Demonstrative exhibits that are used at the hearing and that are otherwise admissible in evidence will not be placed in the record if their admission would unduly burden the record. Parties instead may submit photographs that fairly and accurately represent such exhibits, for admission into evidence. Copies of photographs will be provided by the sponsoring party to all other parties participating in the hearing.

C. Information for Court Reporter

At the start of the hearing, each party will provide the court reporter with the following information:

1. A list of the party's witnesses with the correct spelling of the witnesses' names and a contact phone number for each witness.
2. The name and address of the representative for that party.
3. A glossary of technical terms and acronyms referenced in the party's testimony, if such has been prepared or is available.

D. Scope of Questions

The scope of redirect examination will be limited to the scope of cross-examination. The scope of re-cross examination will be limited to the scope of redirect. If the ALJ has clarifying questions, all parties will be allowed to ask additional questions limited to the scope of the clarifying questions. Also, the scope of cross-examination concerning rebuttal testimony is limited to the scope of rebuttal testimony.

E. Objections

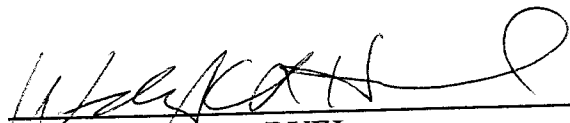
Parties wishing to object to questions or answers during live examination should state concisely the grounds of the objection. Untimely objections will be overruled. Oral argument concerning discussion of an objection will be limited to the party or parties making the objection and the party or parties against whom the objection is directed, unless the ALJ extends a broader invitation for argument.

To clarify the record or assist in understanding the evidence and issues, the ALJ may ask questions of witnesses at the hearing. On occasion, counsel might be concerned that the phrasing of such a question might cause problems (such as ambiguity or inquiry into privileged information) of which the ALJ is unaware. Counsel should voice such concerns just as they would object to questions by other counsel.

VI. DENYING REQUEST FOR ADDITIONAL NOTICE

On November 30, 2009, the Gillespie Substation Intervenors filed a Request for Expedited Relief requesting that LCRA TSC provide additional notice to landowners not on any of the filed routes but along a different route that the Gillespie Substation Intervenors contend should be studied. At the prehearing conference, LCRA TSC and Staff both opposed the Motion because of the limited time available in this docket and because any issue regarding a deficiency in the application should have been filed no later than November 12, 2010. The ALJ agrees with Staff and LCRA TSC that the intervenors' objections were filed too late. The request for additional notice is denied.

SIGNED December 4, 2009.



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

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WILLIAM P. CLEMENTS BUILDING
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Phone (512) 475-4993
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SERVICE LIST

AGENCY: **PUBLIC UTILITY COMMISSION OF TEXAS**

STYLE/CASE: **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 SAB A, BURNET, AND LAMPASAS COUNTIES, TEXAS**

SOAH DOCKET NUMBER: **473-10-1097**

PUC DOCKET NUMBER: **37448**

STATE OFFICE OF ADMINISTRATIVE HEARINGS	WENDY K. L. HARVEL ADMINISTRATIVE LAW JUDGE
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xc: Docket Clerk, State Office of Administrative Hearings