



Control Number: 37448



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

APPLICATION OF LCRA	§	BEFORE THE STATE OFFICE
TRANSMISSION SERVICES	§	
CORPORATION TO AMEND ITS	§	
CERTIFICATE OF CONVENIENCE AND	§	
NECESSITY FOR THE GILLESPIE TO	§	OF
NEWTON 345-KV CREZ	§	
TRANSMISSION LINE IN GILLESPIE,	§	
LLANO, SAN SABA, BURNET, AND	§	
LAMPASAS COUNTIES, TEXAS	§	ADMINISTRATIVE HEARINGS

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**INTERVENOR DAVID WILLIS'S RESPONSE TO
LCRA TRANSMISSION SERVICES CORPORATION'S OBJECTION AND MOTION
TO STRIKE PREFILED DIRECT TESTIMONY OF DAVID P. WILLIS**

Intervenor David Willis (Willis) responds to LCRA Transmission Services Corporation's (LCRA) Objection and Motion to Strike the Prefiled Direct Testimony of David P. Willis as follows:

A. Objections as to Unqualified Opinion Testimony

1. LCRA objects to the statements on page 4, lines 26-28, and page 5, lines 10-18, relating to the environmental sensitivity of the land.

2. As Willis testifies without objection on page 3, line 12, the ranch is used for wildlife habitat that, as stated without objection on page 5, line 18, he and his family have worked carefully to manage.

3. Willis is qualified to testify to what he knows, and he knows from preserving the habitat on his property about the nature of the habitat and its interrelationship with surrounding habitat. This testimony is clearly limited to his rational perception of the nature of the habitat and help the presiding administrative law judge to clearly understand his testimony on this point. *See Tex. R. Evid. 701.* That is, even if his testimony is opinion, it is permissible lay opinion testimony because Willis is testifying based on his eight years of personal observations and experiences

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managing the wildlife habitat on his property. *See Carter v. Steere Tank Lines, Inc.*, 835 S.W.2d 176, 187 (Tex. App.—Amarillo, 1992, writ denied).

4. Because Willis's testimony is grounded in his personal observations and experiences that are not objected-to, the objection should be denied.

B. Objections as to Lack of Personal Knowledge

5. LCRA objects to the statements on page 3, lines 22-26, which states what LCRA has and has not done, and page 4, lines 7-10, which describe the property, as not being within Willis's personal knowledge.

6. Link C23 primarily traverses property currently owned by Willis or owned by him at one time. He testified that he's owned the property for eight years. Willis's offered testimony is clearly limited to the impact of the proposed link on his property and, if not understood that way by LCRA, can be understood that way by the presiding administrative law judge.

7. The objected-to testimony references feasibility studies related to the local terrain, searched for any archeological sites, other studies of his environmentally sensitive area, or investigations of the subsurface stability and accompanying impacts to aquifer or recharge zones. Willis would know whether persons entered his land for these purposes and can testify on that basis.

8. Further, since the proposed link covers a good deal of his current property, surrounding property once owned by him, and his use of the property for the past eight years, Willis has personal knowledge of the terrain and its coverage by access roads, etc.

9. LCRA itself does not dispute the facts stated in Willis's testimony other than to say that Willis does not know what it has done in regards to Willis's property. LCRA stated in its application that it only conducted a high-level review of the proposed routes and that any

detailed review of the type described by Willis would be performed after the application was approved.

10. Since Willis's testimony is clearly from his personal knowledge and can be properly understood by the presiding administrative law judge as relating to his property, the objection should be overruled.

C. Objection as to Materiality

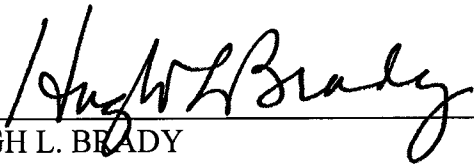
11. LCRA objects to the statements on page 4, lines 4-5 and 14-15 as "not relat[ing] to a matter to be proved or otherwise considered *in a CREZ docket*" under existing law.

12. Willis stated the enumerated statutory factors for granting a certificate of convenience and necessity as stated in Section 37.056(c), Utilities Code. The Commission has explicitly stated in its "CREX brochure" that it "may approve an application to obtain or amend a CCN for a CREZ transmission line after considering the . . . factors" as stated by Willis in his testimony. Pub. Util. Commn. of Tex., Landowners and Transmission Line Cases at the PUC Competitive Renewable Energy Zone (CREZ) Projects at 1 (Feb. 3, 2009).

13. The testimony is material because it shows that Willis understands the statutory factors and form the basis for his answer on beginning on page 4, line 20, and ending on page 5, line 5.

14. Because the testimony is material, the objection should be overruled.

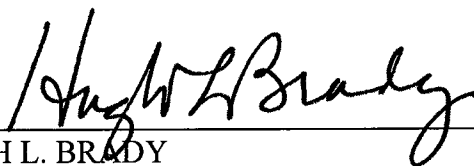
Respectfully submitted,

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DAVID WILLIS,
INTERVENOR

CERTIFICATE OF SERVICE

I certify that a copy of this document was served on the persons in this proceeding entitled to service of this document on January 20, 2010, in accordance with P.U.C. PROC. R. § 22.74 and the orders of the presiding administrative law judge.


HUGH L. BRADY