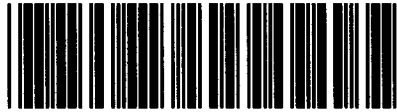




Control Number: 37448



Item Number: 896

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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FILING CLERK

KDCB GARRETT RANCH, LTD'S
RESPONSE TO LCRA TSC'S MOTION TO COMPEL
AND MOTIONS FOR SANCTIONS

TO THE HONORABLE ADMINISTRATIVE LAW JUDGES:

KDCB Garrett Ranch, Ltd. ("KDCB Garrett Ranch") files this response to LCRA TSC's Motion to Compel and Motion for Sanctions ("Motion").

LCRA TSC alleges in its Motion that KDCB Garrett Ranch has failed to file responses to its Requests for Information.¹ LCRA TSC further expresses shock at the alleged failure to respond. However, had LCRA TSC taken the time to contact counsel for KDCB Garrett Ranch prior to filing its Motion, it would have learned that KDCB Garrett Ranch's responses are not actually due to be filed until January 29, 2010.

Counsel for KDCB Garrett Ranch did not receive the Requests for Information until after 3:00 p.m. on Friday, January 15, 2010.² Order No. 1 in this docket, Item D.4., provides as follows:

¹ LCRA TSC Motion at 4 (fn 5) and 7-8.

² A copy of the first page of the Requests for Information showing the facsimile transmittal time is attached hereto as Attachment A.

4. Facsimile or Email Transmission: If a document has been served by facsimile transmission before 3:00 p.m., on a work day, the ALJ will assume that the document was received on that day; *otherwise, the ALJ will assume that the document was received the next work day after filing.*³

The next work day after Friday, January 15, 2010, was Tuesday, January 19, 2010, because Monday, January 18, 2010, was a state holiday. LCRA TSC itself acknowledged the “non-work day” status of January 18, 2010, in a filing of January 20, 2010, wherein it acknowledged January 18, 2010 as a holiday in claiming that its pleading was timely filed.⁴

Order No. 1 herein established a ten calendar day response period for discovery requests. With service accomplished on Tuesday, January 19, 2010, KDCB Garrett Ranch’s responses to the discovery requests are not due until Friday, January 29, 2010. However, KDCB Garrett Ranch is providing its responses to LCRA TSC today, January 27, 2010.

LCRA TSC’s Motion contains *one* correct statement with regard to KDCB Garrett Ranch: KCB Garrett Ranch has been extremely active in this docket.⁵ Because of the enormous impact the proposed transmission line will have on the Ranch, it certainly behooves the owners thereof to be active and to protect their interests within the boundaries of this administrative proceeding. It is unfortunate that LCRA TSC has fastened upon this activity as an excuse to hurl invective and to cast aspersions upon the motivations of this party, or of any party to this proceeding. The expedited procedural schedule is weighing heavily on all the parties, and it is difficult enough to focus on the substantive issues without having to respond to pleadings such as this Motion that are simply not grounded in fact.

³ Order No. 1 at 7 (Nov. 5, 2009) (emphasis added).

⁴ See, LCRA TSC’s Response to Motion to Exclude Testimony of Rob R. Reid and Dennis Palafox. The first page of this pleading is attached hereto as Attachment B.

⁵ LCRA TSC Motion at 8.

WHEREFORE, PREMISES CONSIDERED, KDCB Garrett Ranch respectfully requests that LCRA TSC's Motion be denied in all respects with regard to KDCB Garrett Ranch, as the Motion has been shown as not grounded in facts, and KDCB Garrett Ranch has timely responded to LCRA TSC's Requests for Information.

Respectfully submitted,

LLOYD GOSSELINK ROCHELLE
& TOWNSEND, P.C.

P.O. Box 1725

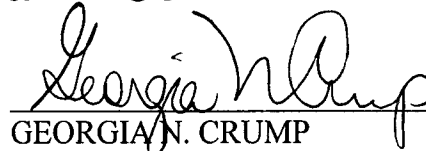
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(512) 322-5800

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GEORGIA N. CRUMP

State Bar No. 05185500

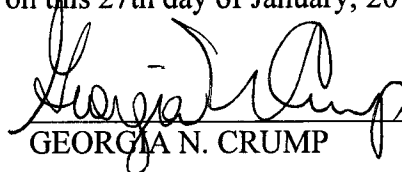
PATRICK N. JACKSON

State Bar No. 24055724

ATTORNEYS FOR KDCB GARRETT RANCH, LTD.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was served on all parties as provided by Orders No. 5 and 6, on this 27th day of January, 2010, via facsimile, email and/or First Class Mail.



GEORGIA N. CRUMP

Attachment A

**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	§ § § § § § § §	BEFORE THE STATE OFFICE OF ADMINISTRATIVE HEARINGS
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**LCRA TRANSMISSION SERVICES CORPORATION'S FIRST REQUEST
FOR INFORMATION TO ALL PARTIES LISTED IN ATTACHMENT A**

LCRA Transmission Services Corporation (LCRA TSC) requests that all parties listed in Attachment A provide the following information and answer the following question(s) under oath. If you are a part of a group, the questions are being served on your counsel of record, but the responses should be completed by the individual named on Attachment A. The question(s) are to be answered in sufficient detail to fully present all of the relevant facts, within 10 days as per Order No. 1 in this docket. These question(s) are continuing in nature, and if there is a relevant change in circumstances, you are to submit an amended answer, under oath, as a supplement to your original answer.

LCRA TSC requests the answers to these questions to the extent that the information requested is not answered in an Intervenor's Direct Testimony or Statement of Position statement filed on January 7, 2010. If material in your testimony or position fully presents relevant facts and presents the information called for in a question, you may respond, "See Testimony" or "See Statement."

Please copy the question immediately above the answer to each question. Please also state the name of the witness in this case who will sponsor the answer to the question and can vouch for the truth of the answer.

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

APPLICATION OF LCRA TRANSMIS- SION SERVICES CORPORATION TO AMEND ITS CERTIFICATE OF CON- VENIENCE 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
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**LCRA TSC'S RESPONSE TO MOTION TO EXCLUDE TESTIMONY
OF ROB R. REID AND DENNIS PALAFOX**

TO THE HONORABLE WENDY K.L. HARVEL:

COMES NOW LCRA Transmission Services Corporation (LCRA TSC) and files this Response to Intervenor Peggy Jean Mueller (on behalf of J17 Ranch, hereinafter "J17"), CJ Ranch, Hank and Linda Weghorst, and Margaret Wilkinson (hereinafter collectively referred to as "Movants") Motion to Exclude Testimony of Rob R. Reid and Dennis Palafox, and accompanying Motion for Leave to file same, and in support thereof would respectfully show the following:

I. Background

Movants filed their Motion for Leave and their Motion to Exclude Testimony (Motion to Exclude) on January 14, 2010 in this docket. Per Order No. 1, LCRA TSC's responses to these motions are to be filed within three working days from receipt of the pleadings responded to. Due to the weekend and the January 18th Martin Luther King, Jr. holiday, this response was timely filed on January 20, 2010. LCRA TSC objects to the Motion for Leave, and to the underlying Motion to Exclude Testimony.

The Motion to Exclude and accompanying Motion for Leave to File simply represent the latest salvos fired in the air by an aligned group of intervenors¹ attempting to distract the ALJ's

¹ As the ALJ noted in Order No. 11, certain parties are sponsoring joint witnesses. In addition to sponsoring their own individual witnesses, KDCB Garrett Ranch (proponent of the first two failed delay Motions) and J17 Ranch, CJ Ranch, the Weghorsts, and Margaret Wilkinson (propo-