



Control Number: 37448



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

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PUBLIC UTILITY COMMISSION  
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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.

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BEFORE THE STATE OFFICE

OF

ADMINISTRATIVE HEARINGS

**RESPONSE TO ROBERT T. PAYNE'S OBJECTION TO PUC DIRECT TESTIMONY  
AND MOTION TO STRIKE**

COMES NOW the Staff (Staff) of the Public Utility Commission of Texas (Commission) and files this Response to Robert T. Payne's Objection to PUC Direct Testimony of PUC Staff Witness T. Brian Almon, P.E and Motion to Strike. The pleading was served on Staff on January 25, 2010. Accordingly, this response is timely filed.

**I. MR. PAYNE'S PLEADING IS NOT APPROPRIATE OBJECTION TO  
TESTIMONY**

Though Mr. Payne styles his pleading as an "Objection to PUC Direct Testimony" the document does not state a single evidentiary objection and consists entirely of argument, occasionally diverting into menacing and derogatory language that is inappropriate in this proceeding.<sup>1</sup> Pre-filed testimony is subject to evidentiary objection in the same manner as oral testimony.<sup>2</sup> Commission proceedings apply the Texas Rules of Civil Evidence in contested cases.<sup>3</sup> Legal arguments or factual disagreements that a party may wish to express at hearing do not form the basis for evidentiary objection within the Texas Rules of Civil Evidence or the P.U.C. Procedural Rules. The entirety of Mr. Payne's pleading consists of such arguments and

<sup>1</sup> See, for example, Payne's Objection at 1 ("I hope and pray that all those co-conspirators that participated in keeping this available existing technology from serious consideration have their participation in that travesty of justice hung around their PERSONAL AND INDIVIDUAL necks to the end of time.").

<sup>2</sup> P.U.C. PROC. R. 22.225(b).

<sup>3</sup> P.U.C. PROC. R. 22.221(a).

factual disagreements and does not include a single stated evidentiary objection. Accordingly, no part of Mr. Payne's pleading provides any legal basis for striking any part of Mr. Almon's testimony.

Staff understands that this case, like other CCN applications, affects closely held interests of large numbers of people and that it may be difficult at times to separate the emotion aroused in defending those interests from the procedural decorum required in any contested case. It is simply inappropriate, however, for pleadings to contain menacing, insulting, and purely argumentative language. Unfortunately, Mr. Payne's pleading contains all of these qualities. Consequently, Staff respectfully requests that it be stricken from the record.

## VII. CONCLUSION

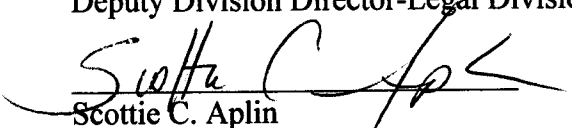
For the reasons described above, Staff respectfully requests that the Mr. Payne's objections be denied in entirety and that the pleading be stricken from the record.

DATE: January 28, 2010

Respectfully submitted,

Thomas S. Hunter  
Division Director-Legal Division

Keith Rogas  
Deputy Division Director-Legal Division

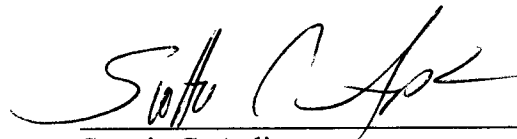


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**CERTIFICATE OF SERVICE**

I certify that a copy of this document will be served on all parties of record on this the 28<sup>th</sup> day of January, 2010, in accordance with P.U.C. Procedural Rule 22.74 and Order No. 5.

A handwritten signature in black ink, appearing to read "Scottie C. Aplin", is written over a horizontal line.

Scottie C. Aplin