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**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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**RESPONSE TO LCRA'S OBJECTIONS TO AND MOTION TO STRIKE REBUTTAL
TESTIMONY OF MICHAEL MORRISON AND MARK TURNBOUGH**

NOW COMES CJ Ranch, on behalf of itself and the other Intervenors who offered the rebuttal testimony of Dr. Michael Morrison and Dr. Mark Turnbough namely Mountain Place, Inc., Hank and Linda Weghorst, Margaret Wilkinson, Point Peak Mountain Resort, L.L.C., Barbara Barron, Allen Paksima, KDCB Garrett Ranch, Ltd., Peggy Jean Mueller, GP of J17 Fortune, L.P. and R. G. Mueller, Jr., Partnership, and files this, their response to LCRA's objections to the rebuttal testimony of Dr. Morrison and Dr. Turnbough. This response is timely filed. Intervenors respectfully state as follows:

I.

As Intervenors understand LCRA's objections to portions of the rebuttal testimony of Dr. Morrison and Dr. Turnbough, they are based on LCRA's allegation that Dr. Morrison's and Dr. Turnbough's rebuttal testimony regarding Yancey Creek Ranch witness, Tom Van Zandt, and PUC Staff witness, Brian Almon, is not proper intervenor cross-rebuttal testimony. Because Dr. Morrison's and Dr. Turnbough's rebuttal testimony is directed to Van Zandt's and Almon's testimony, LCRA's objections to Dr. Morrison's and Dr. Turnbough's rebuttal testimony and motion to strike should be overruled.

**RESPONSE TO LCRA'S OBJECTIONS TO MICHAEL MORRISON'S AND MARK TURNBOUGH'S
REBUTTAL TESTIMONY**

II.

LCRA asserts that Dr. Morrison's and Dr. Turnbough's rebuttal testimony is improper because, rather than responding to Van Zandt's and Almon's testimony, Intervenor use it as a "back-door mechanism" to rebut LCRA's direct case. LCRA alleges that Dr. Morrison's and Dr. Turnbough's rebuttal testimony regarding Van Zandt and Almon is a restatement of their criticism of LCRA's routing study process. The fact that Van Zandt's and Almon's direct testimony includes their opinions on issues also addressed in Dr. Morrison's and Dr. Turnbough's direct testimony does not transform their rebuttal testimony into a rebuttal of LCRA's direct case.

Dr. Morrison's rebuttal testimony responds to Van Zandt's testimony that LCRA's route selection study and environmental assessment were objectively and competently executed and properly considered the preferred route's environmental impact. Dr. Morrison discussed his opinion on the proper consideration of endangered species habitat in both his direct testimony and rebuttal testimony; however, his rebuttal responds to Van Zandt's opinion—which was not available to him at the time his direct testimony was filed—that LCRA's route selection study and environmental assessment properly considered this issue. Likewise, Dr. Morrison's rebuttal properly responds to Almon's testimony that damages to endangered species habitat can be addressed through mitigation. Dr. Morrison's rebuttal responds to Almon's opinion on this issue, which again was unavailable at the time Dr. Morrison's direct testimony was filed. Dr. Morrison cannot be faulted for rebutting the opinions presented in Van Zandt's and Almon's testimony simply because similar opinions may have been voiced by LCRA's witnesses on direct.

LCRA also asserts that portions of Dr. Morrison's rebuttal are improper because intervenor cross-rebuttal should be limited to what the intervenor could not have known or raised in its direct testimony so as not to "sandbag" LCRA and other intervenors with positions that could have been set forth in direct testimony. As LCRA points out, Dr. Morrison's direct testimony addressed his opinions on the consideration of endangered species habitat in the routing process. His rebuttal testimony addresses Van Zandt's and Almon's conclusions on these issues, and his position with

respect to their opinions should come as no surprise to LCRA. LCRA's own argument that Dr. Morrison's rebuttal testimony simply "restate[s]" and "elaborate[s]" on his direct testimony, while untrue, shows that this is not a case of Intervenor's "laying behind the log" as alleged by LCRA.

Likewise, Dr. Turnbough's rebuttal testimony properly responds to Van Zandt's testimony that LCRA's route selection study was objectively and competently executed and properly considered endangered species habitat in selecting the preferred route. Dr. Turnbough discussed his opinion on the proper consideration of endangered species habitat in both his direct testimony and rebuttal testimony; however, his rebuttal responds to Van Zandt's opinion regarding the impact of LCRA's consideration of habitat on the objectivity and competency of the LCRA's route selection process, which was not available to him at the time his direct testimony was filed. Likewise, Dr. Turnbough's rebuttal properly responds to Almon's testimony that a modified route GN10 is preferable to other routes, including GN6. Specifically, Dr. Turnbough addresses: (1) the issue of whether parties along Link C21, which Almon uses in his modified route GN10, were properly notified, and (2) Almon's conclusion regarding a modified route GN10 in light of Senator Fraser's request that CREZ applicants use "the path's of least resistance" in locating lines. Dr. Turnbough's rebuttal merely responds to Almon's opinion on route selection, which again was unavailable at the time Dr. Turnbough's direct testimony was filed. Dr. Turnbough cannot be faulted for rebutting the opinions presented in Van Zandt's and Almon's testimony. In light of the arguments made in their testimony, Dr. Turnbough's rebuttal testimony cannot be construed as simply "a rebuttal or critique of the adequacy of LCRA TSC's routing study process."

III.

Because Dr. Morrison's and Dr. Turnbough's rebuttal testimony is proper, Intervenor respectfully request that LCRA's objection to and motion to strike portions of Dr. Morrison's and Dr. Turnbough's rebuttal testimony be overruled.

Respectfully submitted,

LOCKE LORD BISSELL & LIDDELL, LLP

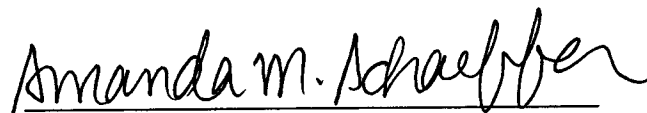


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CERTIFICATE OF SERVICE

I hereby certify that on the 2nd day of February, 2010, a copy of the foregoing was served on all parties or their attorneys of record by email, fax, or U.S. Mail.


Amanda M. Schaeffer