



Control Number: 37464



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**SOAH DOCKET NO. 473-10-0710
PUC DOCKET NO. 37464**

APPLICATION OF ONCOR ELECTRIC DELIVERY COMPANY LLC TO AMEND ITS CERTIFICATE OF CONVENIENCE AND NECESSITY FOR A PROPOSED CREZ 345-KV TRANSMISSION LINE IN BROWN MCCULLOCH, MILLS, SAN SABA AND LAMPASAS COUNTIES, TEXAS	§ § § § § § §	BEFORE THE STATE OFFICE OF ADMINISTRATIVE HEARINGS
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**COMMISSION STAFF'S RESPONSE TO CORRESPONDENCE FROM THE LAW
OFFICES OF SHANNON K. MCCLENDON**

COMES NOW the Staff (Staff) of the Public Utility Commission of Texas (Commission), representing the public interest, and files this, its Response to Correspondence from The Law Offices of Shannon K. McClendon, and would show the following:

I. BACKGROUND

On October 7, 2009, Oncor Electric Delivery Company, LLC (Applicant or Oncor) filed its application (the Application) with the Commission to amend its certificate of convenience and necessity (CCN) for a proposed Competitive Renewable Energy Zone (CREZ) 345-kV transmission line in Brown, Mills, Lampasas, McCulloch and San Saba counties. On November 12, 2009, Staff filed objections to numerous individuals who filed Requests to Intervene in this proceeding. On November 17, 2009, Staff received correspondence (Letter) from Matthew D. Durham of the Law Offices of Shannon K. McClendon stating that she did not represent the individuals the subject of the Letter, however, he provided an attachment (Attachment) wherein he provided the positions of numerous individuals. The individuals themselves did not sign the Letter or Attachment. The administrative law judges (ALJs) entered Order No. 1, which requires that responsive pleadings be filed by a party within three working days after receipt of the pleading to which the response is made. Staff received the Letter on November 17, 2009. Accordingly, if the Letter or Attachment is determined to be a pleading, Staff's Reply is timely filed.

II. REPLY

A. Insufficiency of Pleading

Pleadings must be submitted with the style and number of the docket, shall include a heading describing the nature of the document submitted, with the name of the party submitting the document, and *shall be signed by the party or the party's representative.*¹ Mr. Durham of the Law Offices of Shannon K. McClendon identified the style of the case and nature of the document in the Letter, but disavowed representation of the individuals that were identified in the Attachment. The individuals did not sign the Attachment; therefore, the document was not signed by the party or the party's representative. The formal requisites of the Commission procedural rules were not met.²

Staff appreciates the benefits of consolidating the interests of intervenors in cases such as this where a large number of requests for intervention have been filed, and it may be possible for the interests of some of those individuals to be effectively and efficiently represented by counsel for other intervenors with common objectives and route preferences. Staff also does not want to unduly hinder the efficient consolidation of intervenor interests on the basis of procedural formalities. The form of the Letter presents substantive concerns, however, that Staff cannot ignore. It is difficult for Staff to consider as "official" the change in status of an individual from intervenor to protestant – effectively withdrawing that individual's request to intervene – without having some written pleading to that effect from the individual or an acknowledged legal representative. It is also troubling that if the responses to Staff's objections to intervention contained in the Attachment are not pleadings filed by each intervenor's representative – as Mr. Durham states that he is not – then the responses should not be considered and those individuals whose responses are contained in the Attachment will not have offered any response to Staff's objections though they may believe that they have done so through the Letter. Additionally, the representations of property ownership made in the Attachment cannot be determinatively relied upon as they have not been made by the individuals asserting the interests.

For these reasons, Staff would request that the ALJs either rule that the Law Offices of Shannon K. McClendon, by filing the Letter, is the legal representative of each of the individual intervenors named in the letter and rule on Staff's objections accordingly; or, that the ALJs rule

¹ P.U.C. PROC. R. 22.72(b)(1)

² P.U.C. PROC. R. 22.72 *et seq.*

that the Letter does not constitute a response to any of Staff's objections because it has not been signed by the representative of the intervenors named within, and require that each intervenor file a signed response.

B. Intervenor changing to Protesters

The Attachment represented that Braxton Harris, Britt Hopson, Claudia J. McCarley, Martin L. McCarley, David McCarley, Randall Richardson, Bill and Anita Wappler, W. Troy Wappler, George Roland Lang, Wanda Lang, Clint Lang, Amanda Gautier, Kent Burkhardt, Cynthia Lang Evans, Will Slagle, Susan Slagle, James Lote, Melinda Lote, Sue Lancaster, Charles Lancaster, Magen Elenz, James McCarley, Kevin McCulloch, Rhonda VandenBout, May DeLeon, Daniel DeLeon, Darrell Wimberley, Paul Cotey, Judy Kathol, Doug Kathol and Steven Lang want to change their status from Intervenor to Protesters. If the ALJs determine that the Letter/Attachment is a pleading filed by the Law Offices of Shannon K. McClendon as legal representative of the individuals named, then Staff has no opposition to changing their status from Intervenor to Protesters. If the ALJs determine that the Letter/Attachment is not a pleading filed by the individuals named above or their representatives, then Staff requests the ALJs order the Intervenor to file a response to Staff's objections.

C. Justiciable Interest

The Attachment included explanations relating to the standing of Robert Cloud, Jack Harrell, Misti Harrell, Kimberly Truelove, Leanne Brett, Denise Cope, Charles David Klose, Melba Klose McCulloch, Cheryl McMurray, Gina Robinson, Dorothy Morrison, Eun Ju Martin, Johnny Martin, Jacob Martin, Jimmy martin, Tonya Martin, Hodges Martin, Christopher Ryan Manley, Jane Martin Manley, Ida Joe Holley, Amy Hopkins, U. Suzanne Snow, Paul Shuman, Mark Shuman, Lynette J. Lawson, Bill Terry and Genna Terry. If the ALJs determine that the Letter/Attachment is a pleading filed by the Law Offices of Shannon K. McClendon as legal representative of the individuals named, Staff has no objection to these individuals as Intervenor. If the ALJ's find that the Letter/Attachment is not a pleading filed by the individuals named above or their representatives, then Staff requests the ALJs order the Intervenor to file a response to Staff's objections.

D. No Justiciable Interest

1. Nancy and Chris Elenz

In the Attachment, it is represented that Nancy and Chris Elenz own property *adjacent* to property that may be traversed by a transmission line and that if they will not be traversed, they change their position to Protesters. Being *adjacent* to a transmission line does create a justiciable interest, therefore, Staff requests that its objection to Nancy and Chris Elenz's intervention be sustained and that their status be changed to Protesters.

2. Eddie and Stephanie Barron and Ben and Maria Barron

In the Attachment, it is represented that Eddie and Stephanie Barron and Ben and Maria Barron (collectively the Barrons) purchased property "between Hilton Hopson's (tract #1013) and Thomas and Billy C. Terry's (tract #1017) properties about one year ago." It is also represented that "the proposed preferred route will be located along the side of the property and immediately adjacent to the Barron's livestock barn." This representation still does not provide sufficient facts to establish a justiciable interest in this proceeding. The Barrons' description does not reflect that their property will be traversed by a proposed transmission line route or that it is within 500 feet of a habitable structure. Staff requests that its objection to the Barrons' interventions be sustained.

E. Objection Withdrawn

Terry Harris-Laughlin responded directly by filing a letter clarifying her name and that she is on Oncor's notice list. Staff has verified this information based upon her independent response and withdraws its objection to Ms. Harris-Laughlin's intervention.

F. Relief Requested

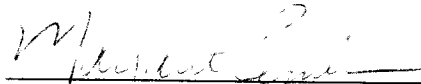
Staff requests that the ALJs either rule that the Law Offices of Shannon K. McClendon, by filing the Letter, is the legal representative of each of the individual intervenors named in the letter and rule on Staff's objections accordingly or, that the ALJs rule that the Letter does not constitute a response to any of Staff's objections.

DATE: November 20, 2009

Respectfully Submitted,

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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 20th day of November, 2009 in accordance with P.U.C. Procedural Rule 22.74.



Margaret Uhlig Pemberton