



Control Number: 38230



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SOAH DOCKET NO. 473-10-4398
DOCKET NO. 38230

APPLICATION OF LONE
STAR TRANSMISSION, LLC
FOR A CERTIFICATE OF
CONVENIENCE AND NECESSITY
FOR THE CENTRAL A TO CENTRAL
C TO SAM SWITCH/NAVARRO
PROPOSED CREZ TRANSMISSION
LINE

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BEFORE THE STATE OFFICE OF
ADMINISTRATIVE HEARINGS

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FILING CLERK

LONE STAR TRANSMISSION LLC'S
OBJECTION AND MOTION TO STRIKE
DIRECT TESTIMONY OF NANCY TARPLEY

TO THE HONORABLE LILO POMERLEAU AND PRATIBHA SHENOY,
ADMINISTRATIVE LAW JUDGES:

Lone Star Transmission, LLC ("Lone Star") respectfully submits its Objection and Motion to Strike Direct Testimony of Nancy Tarpley ("Objections"). This pleading is filed within five days of Lone Star's receipt of Ms. Tarpley's testimony and is therefore timely.

To avoid overburdening the record, Lone Star adopts and incorporates herein the analysis and arguments made in its Objections and Motion to Strike the Direct Testimony of Folsom Bell, Darrell Best, Butch Fraser, David Cullum Jeffries, David W. Jeffries, and R. Mike Ward, filed August 20, 2010.

Lone Star requests that the ALJs strike this testimony in its entirety due to its late filing and the fact that the ALJs have dismissed Ms. Tarpley as a party.

I. OBJECTION

As noted in the previous set of Objections referenced above, Order No. 5 very clearly established the deadline for filing direct testimony as August 16, 2010.¹ It expressly provided that: "**On or before August 16, 2010**, you must file either a statement of position or testimony. If you do not file either a statement of position or testimony,

¹ Order No. 5 at 1.

you will be dismissed from this case. Either a statement of position or testimony must be properly filed with the Commission or PUC filing clerk.”² Order No. 5 emphatically restated the requirement that parties file testimony on a timely basis: “**Any intervening party that fails to file written direct testimony or a statement of position by August 16, 2010, is subject to dismissal from the case.**”³ This requirement applies to every party, whether represented by counsel or not: “The procedures regarding filing are specified in Subchapter E of the Commission’s procedural rules and apply in this proceeding. Parties are expected to know those procedures and comply with them fully.”⁴

The ALJs have already dismissed Ms. Tarpley as a party due to the fact that she did not timely file testimony or a statement of position.⁵ Ms. Tarpley’s testimony, which was not served on the undersigned, was filed August 20, 2010 at 9:44 a.m. and was therefore four days late.

As noted in Lone Star’s previous objections, this case has extremely accelerated deadlines that allow little time between events for parties to analyze and respond to filings of any kind. Late filing of testimony highly prejudices Lone Star and all the other intervenors who have an extremely limited time to file objections to such testimony and prepare rebuttal and cross-rebuttal to same. No basis exists to excuse this late filing. The ALJs should strike the testimony in its entirety.

II. CONCLUSION

The foregoing Objection is made without prejudice to Lone Star’s right to challenge the accuracy of the testimony to which it has objected should such objection not be sustained. Lone Star respectfully urges that the ALJs sustain this objection and grant its Motion to Strike.

² *Id.* at 2 (emphasis original).

³ *Id.* at 4 (emphasis original).

⁴ *Id.*

⁵ Order No. 8 at 2.

Respectfully Submitted,



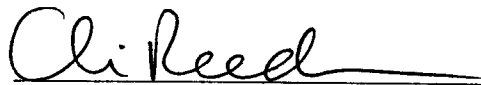
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ATTORNEYS FOR LONE STAR
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CERTIFICATE OF SERVICE

It is hereby certified that notice of the filing of the foregoing has been sent to dkt38230@soah.state.tx.us on this 23rd day of August, 2010, consistent with Order No. 5.



Chris Reeder