



Control Number: 38230



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**SOAH DOCKET NO. 473-10-4398
PUC 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	§ § § § § § §	BEFORE THE STATE OFFICE OF ADMINISTRATIVE HEARINGS
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**SOAH ORDER NO. 5
ADOPTING PROCEDURAL SCHEDULE; NOTICE OF HEARING AND
SETTLEMENT CONFERENCES;
INTERVENTION RULINGS AND REQUIREMENTS;
CHANGE IN SERVICE REQUIREMENTS**

On July 9, 2010, the undersigned Administrative Law Judge (ALJ) held a prehearing conference in this matter in Austin, Texas. Lone Star Transmission, LLC (Applicant) and the Staff of the Public Utility Commission of Texas (Commission) entered formal appearances. A large number of intervenors also attended.

I. PROCEDURAL SCHEDULE

The ALJ adopts the following procedural schedule:

Event	Deadline
Intervention, per P.U.C. PROC. R. 22.52(a)(1)(A)	June 23, 2010
Objections to Applicant's direct testimony	July 15
Settlement Conference (A-C) (Abilene)	July 19
Settlement Conference (C-Sam Switch)(Stephenville)	July 20
Settlement Conference (Sam Switch-Navarro)(Hillsboro)	July 21
Replies to objections to Applicant's direct testimony	July 22
Discovery on Applicant's direct case ends	August 16
Intervener direct testimony and/or statements of position	August 16
Challenge to route adequacy	August 16
Objections to intervener direct testimony	August 20

Event	Deadline
Responses to objections to Interveners direct testimony	August 26
Staff direct testimony	August 26
Objections to Staff direct testimony	August 30
Discovery on interveners' and Staff's direct cases ends	August 30
Applicant rebuttal testimony	August 31 by noon¹
Intervenor cross-rebuttal testimony	August 31 by 3 pm
Request for depositions on Applicant's rebuttal case	September 1 by noon
Discovery on Applicant's rebuttal case, limited to depositions ²	September 2
Responses to objections to Staff direct testimony	September 3
Objections to Applicant rebuttal testimony	September 3
Hearing on the Merits (the hearing begins Tuesday and may also convene on Saturday, September 11 if necessary)	September 7-14
Replies to objections to Applicant's rebuttal testimony	At hearing
Initial briefs	September 27
Reply briefs	October 5
Proposal for Decision (PFD)	At discretion of ALJ
Exceptions to PFD	8 days after PFD
Replies to exceptions	8 days after exceptions
Final order issued, per PURA § 39.203(e)	November 19, 2010 ³

In order to remain as an intervenor in this case, you must do more than fill out the initial form requesting intervention. **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, you will be dismissed from this case. Either a statement of position or testimony must be properly filed with

¹ The agreement of the parties is that as part of Applicant's rebuttal, Applicant is required to file all workpapers and other materials replied upon to prepare the testimony.

² Depositions must be requested no later than noon on September 1, 2010.

³ The 180th day is Saturday, November 20, 2010. The Commission must enter a final order on or before that date. Based on CREZ precedent, the parties expect the Commission would target Friday, November 19, 2010, as the final workday on which an order could be issued.

the Commission or PUC filing clerk.⁴ For testimony and statements of position, the Commission's rules require a party to file 13 copies of documents with the Commission's filing clerk.⁵ Both the PUC and SOAH docket number must be written at the top of the first page.⁶

II. NOTICE OF HEARING

The hearing on the merits in this matter will convene at **10:00 a.m. the first day, September 7, 2010, and 8:00 each day afterwards**, in Austin, Texas, and will continue day to day until concluded. The parties anticipate that the hearing will last at least seven days.⁷ The hearing will be held at:

**Bob Bullock Museum, 3rd floor, Austin Room
1800 N. Congress Ave., Austin, Texas, 78701**

The ALJ will not convene a separate prehearing conference—such matters will be addressed at the hearing before evidence is taken. The Applicant will put on its direct case, Intervenor will put on their cases according to the segment of the line, Staff will put on their case, and then Applicant will put on its rebuttal.

III. NOTICE OF SETTLEMENT CONFERENCES

**Abilene Location: July 19, 2010
MCM Eleganté Suites
4250 Ridgemont Drive
Abilene, Texas 79606
325.698.1234 (Stacey)**

⁴ At the prehearing, it appears that some intervenors are confusing the Commission Staff and the Applicant. Lone Star is the applicant in this matter. Staff consists of the Commission's attorneys and experts who represent the public interest in this case and appear as a separate party. Staff will consider the application and take their own position in this case.

⁵ See P.U.C. PROC. R. 22.71(c) at <http://www.puc.state.tx.us/rules/procrules/index.cfm>

⁶ At the prehearing conference, one attorney familiar with CREZ cases suggested that out-of-town parties may wish to hire an Austin-based courier service for the filing of testimony or a statement of position.

⁷ If needed, the hearing may go through Saturday, September 11, 2010.

Stephenville Location: July 20, 2010
Henderson Jr. High School
2798 W. Frey Street
Stephenville, Texas 76401
254.968.6967

Hillsboro Location: July 21, 2010
Hillsboro Historic City Hall
127 E. Franklin Street
Hillsboro, Texas 76645
254.582.5499 (Andrea)

IV. EVIDENCE AND EXHIBITS

A. Testimony or Statements of Position

Pursuant to P.U.C. PROC. R. 22.124(a) and as noted above, intervening parties must either file written direct testimony or a statement of position by **August 16, 2010**. A statement of position clarifies a party's position but is not evidence. Testimony is generally offered as evidence and must conform to the Texas Rules of Evidence. For example, if the witness is not an expert, the testimony must be based on the witness' personal knowledge. *See* TEX. R. EVID. 602, 701, and 702. **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.**

In this proceeding, Applicant has described multiple alternate routes that the proposed transmission line may ultimately follow. One of those routes has been designated by the Applicant as its "preferred route." Parties are cautioned that this designation carries no significance in the decision-making process. Applicant has stated that any one of the routes proposed would meet the statutory and regulatory criteria. It is the duty of the ALJ and, ultimately, the Commission to choose the route that best meets those criteria. Any proposed route, or any combination of properly noticed proposed routes, could be selected. It is the duty of the parties to provide the decision-makers, via written direct testimony or statements of position, the information needed to reach a just and reasonable decision as to the appropriate route.

B. Exhibits Offered into Evidence at the Hearing

Exhibits will be marked in advance *by the court reporter* and will have the correct number of copies for distribution. The party submitting the exhibits will have responsibility for complying with this order. The pages of any multi-page exhibit will be numbered consecutively. Please arrive early (no later than 9:30 a.m.) on the date of the hearing to allow time for the court reporter to prepare.

At the time a party offers *prefiled testimony* into evidence for its direct case, it will provide **two copies** to the court reporter and **two copies** to the ALJ. With respect to *exhibits* offered, the party will provide **two copies** to the court reporter and **three copies** to the ALJ. For all documents (exhibits) that are **not** prefiled, parties are also required to furnish a copy of such to other parties who are attending the hearing.⁸ Two of the copies provided to the ALJ will be used in preparing the administrative record in the event the Commission's final order in this case is the subject of judicial review. Therefore, the copies must conform with any changes or corrections that are made to the official exhibit.

Demonstrative exhibits that are used at the hearing and that are otherwise admissible in evidence will not be placed in the record if their admission would unduly burden the record. Parties instead may submit photographs that fairly and accurately represent such exhibits, for admission into evidence. Copies of photographs will be provided by the sponsoring party to all other parties participating in the hearing.

C. Information for Court Reporter

At the start of the hearing, each party will provide the court reporter with the following information:

1. A list of the party's witnesses with the correct spelling of the witnesses' names and a contact phone number for each witness.
2. The name and address of the representative for that party.
3. A glossary of technical terms and acronyms referenced in the party's testimony, if such has been prepared or is available.

⁸ Parties will have a better idea as to how many people are participating at the hearing after August 16, 2010.

D. Objections

Parties wishing to object to questions or answers during live examination should state concisely the grounds of the objection. Untimely objections will be overruled. Oral argument concerning discussion of an objection will be limited to the party or parties making the objection and the party or parties against whom the objection is directed, unless the ALJ extends a broader invitation for argument.

To clarify the record or assist in understanding the evidence and issues, the ALJ may ask questions of witnesses at the hearing. On occasion, counsel might be concerned that the phrasing of such a question might cause problems (such as ambiguity or inquiry into privileged information) of which the ALJ is unaware. Counsel should voice such concerns just as they would object to questions by other counsel.

V. INTERVENORS

At the prehearing conference, Lone Star had no objections to motions to intervene filed to date, except for the following:

Bonnie Smith
Barbara Moroney
Morrie Minshew
Louisa Fikes
Beth Price
Roberta M. Owens
Roberta M. Owens, Trustee for Emily Walker Owens and Robert Logan Owens
David H. Kincannon
G. Darrell & Mary A. Best
Earl W. O'Neil III
Robert Buntin
Shin Oak Ranch LLC.
Cynthia Inman
Walker Larry Pullin
William Ronald Coleman, Vista Canyon Home Owners Association

On or before July 21, 2010, Intervenor on the above list shall file a statement indicating how the proposed transmission line will affect their property. For example, if an intervenor

received notice of the transmission line, please indicate the number of your property tract on the notice. Additionally, Ray Jenkins III, Randy Pack, and Steven Adams Titcomb have withdrawn as Intervenor.

Except for the intervenors listed above and those who have withdrawn, all intervenors who have filed a request to intervene on or before July 9, 2010, are admitted as parties. Attached is a current service list. If there are any errors, please contact the ALJ's assistant at norma.lopez@soah.state.tx.us or 512-936-0712.

VI. SERVICE OF PLEADINGS

The Commission's rules and previous orders in this case required all parties to "serve" (provide a copy of) that document to other parties by either email, fax, or mail, once a document was filed. However, in this matter, we have over 150 parties. Although the ALJ has requested all parties to furnish an email address to Ms. Norma Lopez at norma.lopez@soah.state.tx.us, approximately one hundred parties have not complied with this request. Given the large number of parties, the high cost of serving documents to all parties who have not provided email, and the accessibility of all documents via the internet on the Commission's interchange, **the ALJ no longer requires direct service of documents.** (This ruling does not apply to documents sent and received in discovery.)

Instead, after a document has been filed with the Commission, a party need only send a notification via email to dk38230@soah.state.tx.us that a filing has been made.⁹ It is the responsibility of each party to check the Interchange daily for filings in this matter and adhering to any deadlines placed upon them by such filings. No later than July 21, 2010, parties who have not yet done so, must provide their email address to Ms. Norma Lopez at the email address stated above. If a party cannot access the internet or does not have an email address, they must notify Ms. Lopez via letter or phone at 512-936-0712, by that same date, July 21, 2010.¹⁰

⁹ After the hearing is held, the ALJ requests that all briefs also be sent via email to the ALJ's assistant at norma.lopez@soah.state.tx.us.

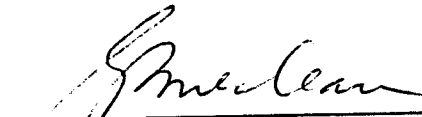
¹⁰ After the deadline for filing either a statement of position or testimony has passed, an order will issue dismissing parties and listing any parties who are granted a hardship exception, and the service list will be updated and provided.

To retrieve a document from the internet: go to the Commission's website at <http://interchange.puc.state.tx.us>. Once there, click "login" and type in the control number 38230 and press "enter." A list of documents filed in this docket will appear and you may access those documents by clicking on the document number.

For discovery, all documents must be filed with the Commission and served as set out in Order No. 1: discovery requests shall be served only on the party to whom the request is directed and discovery responses shall be served only on the party making the request. Service can be effectuated by email, fax, or mail.

All orders and the proposal for decision will continue to be emailed, faxed, or mailed by regular mail to the parties.

SIGNED July 12, 2010.



LILLO D. POMERLEAU
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS

STATE OFFICE OF ADMINISTRATIVE HEARINGS
WILLIAM P. CLEMENTS BUILDING
300 West Fifteenth Street
Austin, Texas 78701
Phone (512) 475-4993
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SERVICE LIST

AGENCY: PUBLIC UTILITY COMMISSION OF TEXAS

**STYLE/CASE: 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**

SOAH DOCKET NUMBER: 473-10-4398

PUC DOCKET NUMBER: 38230

STATE OFFICE OF ADMINISTRATIVE HEARINGS	LILO D. POMERLEAU ADMINISTRATIVE LAW JUDGE
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SERVICE LIST

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