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

**GREEN RANCHES AND BENTON RUTLEDGE'S
OBJECTIONS TO LST'S PREFILED TESTIMONY**

Green Ranches Limited Partnership and Benton Rutledge (collectively "GRLP"), make the following objections to the direct testimony of Applicant Lone Star Transmission, LLC ("LST"):

A. OBJECTIONS TO TESTIMONY OF DAN MAYERS

Generally, GRLP objects to the testimony of Mr. Mayers on the following grounds:

GRLP objects to the prefiled direct testimony of Dan Mayers, pp. 18, 1.4 through p.19, 1.10. Mr. Mayer's qualifications do not appear to include the necessary expertise through training or experience in transmission line routing, particularly under the factors required under Texas law, to offer any opinions about facilities location in this case. Further, the methodology used by him to justify the location of the Central C substation, a critical determinative factor driving the routing of certain portions of all alternative routes in this case, does not comply with and is in fact contrary to the Texas statute and Commission Rule governing this case.

The manner in which Lone Star has structured this application, renders the location of the Central C Station a critical determinative factor driving the routing of certain portions of all alternative routes in this case. Faulty or otherwise improper siting of the proposed location of

that substation necessarily will cause faulty or improper routing of the proposed routes for the transmission line in this case. The methodology of mandating a location for the Central C substation before a valid routing study is completed, especially when that location was picked based on factors contrary to the applicable law and rule for transmission line routing, is necessarily flawed. Such testimony purporting to fix the location of the Central C substation as a limitation on routing of the line in this case, has no foundation to be admitted as an expert opinion.

Further Mr. Mayers has not offered or provided the necessary prerequisites for a logical consideration of the factors applicable to substation location and transmission line routing. To the contrary, his testimony shows he considered factors not relevant under the applicable statute and Commission Rule, which necessarily causes a flawed and improper routing of the line in the case. It is an improper circumvention of the statute and rule to locate intermediate points for the line in this case in contravention of the required routing criteria, and then mandate line routing using those arbitrarily and improperly selected intermediate points.

An expert's opinion is unreliable if his or her facts are wrong. *Merrell Dow Pharm., Inc. v. Havner*, 953 S.W.2d 707, 714 (Tex. 1997). If a judge determines that the expert is relying on unreliable foundational data, then any opinion drawn from that data must be excluded. *Helena Chemical Co.*, 47 S.W.3d at 499. Moreover, even if the underlying data is sound, the expert's testimony is unreliable and must be excluded if the expert's methodology is flawed. *Merrell Dow Pharmaceuticals, Inc. v. Havner*, 953 S.W.2d 706, 714 (Tex. 1997), *cert. denied*, 523 U.S. 1119 (1998). *See Tarrant Regional Water Dist. v. Gragg*, 43 S.W.3d 609, 616 (Tex. App. – Waco 2001, *pet. denied*) (“A flaw in the expert's reasoning from the data may render reliance on a study unreasonable and render the inferences drawn therefrom dubious.”).

In other words, a judge “may conclude that there is simply too great an analytical gap between the data and the opinion offered.” *Gammill*, 972 S.W.2d at 726.

The proposed location of the Central C substation is materially different from the location contemplated by the Commission in selecting and approving CREZ facilities. It is not proper for purposes of this case to peremptorily eliminate the routing contained in the CTO study and the Commission orders and seek approval of a completely different routing scenario using a new fixed intermediate point without consideration of and compliance with the routing factors contained in the statute and rule.

It appears that Lone Star is claiming it has flexibility in locating the Central C substation. Indeed, it has radically relocated that substation from the location approved by the Commission. However, eliminating any and all flexibility to consider other locations for that substation before the routing study was conducted, is not required by the CREZ CTO study or this Commission’s final Orders in Docket Nos. 33672 and 35665. LST wants to have its cake and eat it too: it wants to move the Central C location around when it meets its needs, but it also wants to present the location as a fixed point that cannot be moved when presenting routes to affected and potentially affected landowners. The unilateral decision to arbitrarily eliminate flexibility as to Central C in this case violates both the letter and spirit of the routing statute and rule and the CREZ application requirements that a full and complete range of routing alternatives be presented.

With the inadmissibility of the testimony of Mr. Mayer, all portions of Lone Star’s application and the other documents related to the location of the Central C substation are hearsay and otherwise inadmissible. Additionally, because of the foundational flaw of the

Central C substation location, the testimony of Mark A. Van Dyne at pp. 18, 1.20 through p. 19, 1. 6 is fatally flawed and should be excluded for the reasons stated above.

GRLP also objects, generally, to Mr. Mayers' testimony to the extent it he purports to testify about statements made by ERCOT, including Exhibit DM-3. This testimony is all hearsay without an exception.

GRLP also makes the following specific objections to Mr. Mayers' testimony:

Excerpt	Objection
p. 6 lines 4-5 (sentence starting "First, the CTO")	Mis-states the CTO Study, which did not designate Central C as a "substation"
p. 6 lines 17-18 (sentence starting "Lone Star has requested")	Hearsay without an exception to the extent it purports to set out a statement of ERCOT
p 14 lines 22-23	Mis-states the CTO Study. The CTO Study did not provide a cost estimate for Central C.
p. 15, line 22 to p. 16, line 11	Lack of foundation, outside the record. LST did not put any actual information or data or study materials from ECI in the record. Also hearsay.
p. 18, lines 11-13	Hearsay, lack of foundation. Mr. Mayers would testify about statements from ERCOT. This testimony is hearsay. Also, even if DM-3 were admissible, it is completely without foundation in that LST never put its change request to ERCOT in the record – DM-3 is hearsay within hearsay, as it is impossible to evaluate DM-3 without knowing what LST sent to ERCOT to evaluate in the first place.
p. 18, lines 11-13	No foundation, facts not in evidence. The evidence will show that GRLP and other landowners in close proximity to Central C were not invited to these two meetings, and they were clearly interested parties.
p. 19, lines 3-5	Hearsay without an exception to the extent it purports to set out a statement of ERCOT
p. 19, line 23 to p. 20, line 1	Mis-states the CTO Study, which did not provide a cost estimate for Central C
p. 21, lines 5-9	Hearsay without an exception to the extent it purports to set out a statement of Oncor

p. 21, lines 19-23	Conclusory, no foundation, merely <i>ipse dixit</i>
p. 22, lines 1-3	Conclusory, no foundation, merely <i>ipse dixit</i>
p. 22, lines 8-9	Mis-states the CTO Study, which did not designate Central C as a substation
p. 23, lines 3-8	Hearsay without an exception to the extent it purports to set out a statement of ERCOT
p. 23, lines 13-16	Hearsay without an exception to the extent it purports to set out a statement of ERCOT
p. 29, lines 5-9	Hearsay without an exception to the extent it purports to set out a statement of the Corps; hearsay within hearsay to the extent it discusses communications between the Corps and LST's consultant
p. 38, lines 14-18	Hearsay without an exception to the extent it purports to set out a statement of ERCOT or Mr. Lasher

B. OBJECTIONS TO TESTIMONY OF MARK A. VAN DYNE

Generally, GRLP objects to the Van Dyne testimony to the extent it is based on studies performed by third-parties, specifically Horizon Environmental Services, Inc., Electrical Consultants, Inc., JS Land Services, Inc. and Contract Land Staff LLC. Any such testimony is hearsay without an exception. Additionally, LST did not put these underlying studies or the underlying data from these firms into the record. LST also did not provide any evidence as to the purported qualifications, education or experience of any personnel with these firms. Accordingly, Van Dyne's testimony is based on other purported expert testimony, the reliability of which is not established on this record.

GRLP further objects to Mr. Van Dyne as an expert on anything other than permitting or management. The resume attached as Exhibit MAV-1 does not establish his educational background or that he has any experience in the substantive fields of land use, socioeconomics, geology/soils, hydrology, archeology, history or wetland resources. No resumes for any Burns & McDonnell professionals in these sub-specialties were put into the record. Accordingly, to

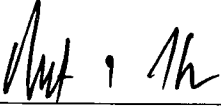
the extent Mr. Van Dyne attempts to testify about anything other than how to get a permit, GRLP objects on the basis that the record does not establish his qualifications, and that no evidence was submitted as to the purported qualifications of the persons listed in Page 8-1 of the Burns & McDonnell Environmental Assessment.

GRLP also makes the following specific objections to Mr. Van Dyne's testimony:

Excerpt	Objection
p. 5, lines 1-4	Assumes facts not in evidence, that the Central C location is a fixed point that cannot be moved
p. 7, lines 1-7	Conclusory, no foundation or detail as to how this process actually worked, specifically
p. 9, lines 9-15	Hearsay without an exception to the extent it purports to set out a statement of Whitney Lake USACE personnel
p. 10, lines 1-4	Hearsay without an exception to the extent it purports to set out a statement of the U.S. Air Force
p. 18, line 13 to p. 19, line 6	No foundation. There is no evidence in the record as to the expertise of the various Burns & McDonnell professionals, other than Mr. Van Dyne. Mr. Van Dyne does not purport to be an archeologist, an historian, etc. Also, even assuming there was some evidence that the people set out on Page 8-1 of the EA were experts, none of them even purports to have a background that would qualify her or him as an expert in "socioeconomics". Also conclusory and improper <i>ipse dixit</i> and even second-hand <i>ipse dixit</i> .

Respectfully submitted,

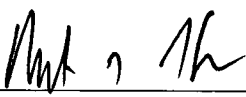
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**ATTORNEYS FOR GREEN RANCHES LIMITED
PARTNERSHIP AND BENTON RUTLEDGE**

CERTIFICATE OF SERVICE

I hereby certify that on this the 15th day of July, 2010, a true and correct copy of the foregoing document is being served pursuant to Order No. 5 in this docket.

By: 
Robert G. Hargrove