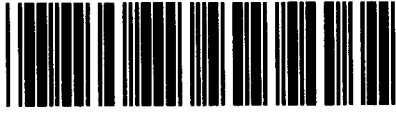




Control Number: 38825



Item Number: 16

Addendum StartPage: 0

SOAH DOCKET NO. 473-11-1266  
PUC DOCKET NO. 38825

APPLICATION OF WIND ENERGY  
TRANSMISSION TEXAS, LLC TO  
AMEND ITS CERTIFICATE OF  
CONVENIENCE AND NECESSITY FOR  
THE LONG DRAW TO SAND BLUFF,  
SAND BLUFF TO DIVIDE, AND SAND  
BLUFF TO BEARKAT 345-KV CREZ  
TRANSMISSION LINES IN BORDEN,  
COKE, GLASSCOCK, HOWARD,  
MITCHELL, AND STERLING  
COUNTIES

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BEFORE THE STATE OFFICE  
  
OF  
  
ADMINISTRATIVE HEARINGS

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PUBLIC UTILITY COMMISSION

SOAH ORDER NO. 1

CAUTION TO INTERESTED PARTIES  
AND MODIFICATION OF DISCOVERY AND OTHER DEADLINES

On November 10, 2010, Wind Energy Transmission Texas, LLC (Applicant or WETT) filed an application with the Public Utility Commission of Texas (PUC or Commission) to amend its certificate of convenience and necessity (CCN) for a proposed Competitive Renewable Energy Zone (CREZ) transmission line in Borden, Coke, Glasscock, Howard, Mitchell, and Sterling Counties. The project is identified as the Long Draw to Sand Bluff, Sand Bluff to Divide, and Sand Bluff to Bearkat Transmission Line Project (Project). The application proposes construction of three separate segments of a new single-circuit 345-kilovolt (kV) transmission line constructed on steel lattice towers. The first segment is approximately 62.8 miles from the proposed WETT Long Draw Switching Station to the proposed WETT Sand Bluff Switching Station. There are 21 proposed routes. The second segment is a proposed 33 mile line from the proposed WETT Sand Bluff Switching Station to LCRA Transmission Service Corporation's existing Divide Switching Station. This segment has 11 alternative routes. The third segment is a proposed 27.3 mile line from the proposed WETT Sand Bluff Switching Station to the proposed WETT Bearkat Switching Station. This third segment has 14 proposed routes.

The new lines are to be built as a CREZ CCN for a transmission line awarded to WETT pursuant to the Order in PUC Docket No. 37902.<sup>1</sup>

## **I. ORDER OF REFERRAL, PRELIMINARY ORDER, JURISDICTION, AND DEADLINE FOR DECISION**

On November 12, 2010, the Commission issued its Order of Referral and Preliminary Order (Preliminary Order), referring this matter to the State Office of Administrative Hearings (SOAH), requesting the assignment of a SOAH Administrative Law Judge (ALJ) to conduct a hearing and issue a proposal for decision, if necessary. In the Preliminary Order, the Commission also set forth the issues to be addressed and issues not to be addressed in this proceeding.

The Commission has jurisdiction and authority over this matter pursuant to the Public Utility Regulatory Act (PURA), TEX. UTIL. CODE ANN §§32.001, 37.053, 37.056, and 37.057, and P.U.C. SUBST. R. 25.101. SOAH has jurisdiction, pursuant to TEX. GOV'T CODE ANN §2003.049 and PURA §14.053, over all matters relating to the conduct of a hearing in this matter.

Pursuant to PURA §39.203(e), the Commission must issue a final order in this docket before the 181<sup>st</sup> day after the date the application was filed with the Commission. The 180<sup>th</sup> day after the date the application was filed, and therefore, the deadline for Commission action, is May 9, 2011.

## **II. NOTICE**

Applicant shall give notice of its intent to secure a CCN as required by P.U.C. PROC. R. 22.52(a). In accordance with P.U.C. PROC. R. 22.52(a)(1)(A), the notice shall state the date established for the deadline for intervention in the proceeding (30 days after the date the formal

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<sup>1</sup> See Remand of Docket No 35665 (Commission Staff's Petition for Selection of Entities Responsible for Transmission Improvements Necessary to Deliver Renewable Energy from Competitive Renewable Energy Zones, Docket No. 37902 (Mar. 30, 2010)).

application was filed with the Commission). **In this proceeding the intervention deadline is December 10, 2010.**

Shortly following the intervention deadline, the ALJ will issue an order notifying the parties of the time, date, and place of the first prehearing conference.

Applicant shall file proof of publication in the form of a publisher's affidavit submitted to the Commission, stating with specificity each county in which the newspaper is of general circulation. Applicant shall file proof of notice by mail by filing an affidavit setting forth the names and addresses of the entities notified by mail and the date the notice was mailed to these entities. A copy of the letter and map sent to the entities shall be included. Applicant shall file its proof of publication and proof of notice by mail by December 1, 2010. Staff shall, and any other party may, file comments regarding the compliance of Applicant's notice with the requirements set forth in this order and a proposed procedural schedule no later than December 3, 2010. The Applicant shall have until December 13, 2010, to file its reply to any notice concerns.

***Recommendation as to Deficiencies.*** Pursuant to P.U.C. PROC. R. 22.75(d)(4), if material deficiencies exist in an application, the presiding officer shall issue a written order within 28 days of the application's filing, which is December 8, 2010. If material deficiencies exist in an application, a pleading detailing those deficiencies shall be filed on or before November 24, 2010. Commission Staff shall review the application and notify the ALJ through written pleadings of any deficiencies in the application. Any other party may file recommendations on this issue subject to the same deadline. The Applicant shall have until December 1, 2010, to file its reply to any alleged deficiencies.

### III. CAUTION TO INTERESTED PARTIES

WETT has described a number of routes that the proposed transmission lines may ultimately follow. One of those routes in each Project segment has been designated by the Applicant as its "preferred route." WETT 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 (not just the “preferred route”) or any combination of properly noticed proposed routes, could be selected.** It is the duty of interested parties to intervene and provide the decision-makers the information needed to reach a just and reasonable decision.

#### IV. FILING AND SERVICE PROCEDURES

##### A. Filing

Parties are expected to know how to file documents. The rules setting out how to file documents are found in Subchapter E of the Commission’s procedural rules. Pleadings and other documents shall be deemed filed when the proper number of legible copies are presented to the PUC filing clerk for filing. **All pleadings must contain both the SOAH and PUC docket numbers to allow for efficient processing.**

For intervenors who may not be familiar with the PUC processes, all PUC filings are available for viewing and downloading from the Commission’s website at <http://interchange.puc.state.tx.us>. Once there, click “login” and type in the control number 38750 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. The PUC’s procedural rules are also available at the PUC website ([www.puc.state.tx.us](http://www.puc.state.tx.us)).

##### B. Service

A copy of any document filed with the Commission must also be served on (given to) all parties as provided by P.U.C. PROC. R. 22.74(a). Any document that requires immediate attention must be filed and either hand-delivered to the ALJ at the William P. Clements Building, Room 504, 300 West 15th Street, Austin, Texas, or faxed to the ALJ at 512-475-4994.

All parties shall provide their current telephone and facsimile number, if available, and email address, if available, to all other parties. Each party is responsible for providing the Commission and all parties with any change in this information. Parties are responsible for

updating their own service lists to reflect changed information and the addition of other parties, if any.

Only one address per party will be included on the official service list maintained by SOAH. This service list is attached to this order, for the parties' convenience. Corrections to the service list should be directed to Ms. Liz Slick at [liz.slick@soah.state.tx.us](mailto:liz.slick@soah.state.tx.us) or (512) 475-3363.

**C. Filing Deadline Procedures**

Filings at the Commission shall occur by 3:00 p.m. on the date in question unless otherwise specified.

**D. Responses to Motions and Other Pleadings**

Unless otherwise specified, responses to any motion or other pleading shall be filed within three working days from receipt of the pleading to which the response is made. Failure to file a timely response will be considered acquiescence to the relief requested.

**V. DISCOVERY**

Because this case is proceeding on an expedited basis, the ALJ finds that it is preferable to have the discovery deadlines shortened. Accordingly, discovery shall be governed by the Commission's procedural rules at Subchapter H, except that:

- responses to requests for information and requests for admission shall be provided within ten calendar days of receipt;
- objections to discovery shall be made within five working days of receipt;
- motions to compel shall be filed within two working days of receipt;
- and responses to motions to compel shall be filed within two working days of receipt.

If a motion to compel is filed, the ALJ requires that party filing the objection to file a response, even if the dispute is settled.

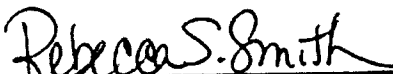
Service of discovery requests and responses is governed by P.U.C. PROC. R. 22.144(b) except as follows. The ALJ finds good cause exists pursuant to P.U.C. PROC. R. 22.5(b) to limit the service of discovery request and responses as follows: **discovery requests shall be served only on the party to whom the request is directed and discovery responses shall be served only on the party making the request.** All discovery requests and responses shall be filed with the PUC in accordance with Subchapter E of the Commission's procedural rules. Because of the advent of the PUC Interchange, requests to receive copies of discovery requests or responses from other parties will not be considered by the ALJ, and parties will be expected to access those documents through the PUC Interchange (<http://interchange.puc.state.tx.us>).

Depositions may be taken pursuant to P.U.C. PROC. R. 22.143 at a time and place agreed upon by the parties. Depositions taken pursuant to agreement of the parties will be admissible at hearing as if a commission had been issued. Introduction of depositions at the hearing, other than during cross-examination or redirect examination, will be governed by the deadlines for pre-filing of evidence established in this order.

## VI. POSITION STATEMENTS

Parties must either file written testimony or a statement of position. A due date for the filing of either a statement of position or testimony will be set in another order, issued after the prehearing conference. 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 party that does not timely file either written testimony or a position statement will be dismissed from this proceeding in accordance with P.U.C. PROC. R. 22.124 and 22.161.

**SIGNED November 16, 2010.**

  
REBECCA S. SMITH  
ADMINISTRATIVE LAW JUDGE  
STATE OFFICE OF ADMINISTRATIVE HEARINGS