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SOAH DOCKET NO. 473-11-5978
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APPLICATION OF SOUTHWESTERN § BEFORE THE STATE OFFICE
PUBLIC SERVICE (SPS) COMPANY TO §
AMEND A CERTIFICATE OF §
CONVENIENCE AND NECESSITY (CCN) §
FOR A PROPOSED TUCO TO § OF
TEXAS/OKLAHOMA INTERCONNECTION §
345-KV TRANSMISSION LINE WITHIN §
HALE, FLOYD, MOTLEY, COTTLE, §
BRISCOE, HALL, CHILDRESS, DONLEY, §
COLLINGSWORTH AND WHEELER §
COUNTIES § ADMINISTRATIVE HEARINGS

**MOTION FOR RECONSIDERATION OF SOAH ORDER NO. 3 DENYING MOTION
TO REINSTATE NANCY D. HENDERSON AS AN INTERVENOR**

TO THE HONORABLE ADMINISTRATIVE LAW JUDGE:

Nancy D. Henderson ("Nancy Henderson") files this Motion for Reconsideration requesting to be reinstated as an intervenor in this proceeding based on additional evidence.

Procedural Background

1. Nancy Henderson timely filed a motion to intervene prior to the intervention deadline in this case. See Document No. 167. Her motion to intervene was filed pro se. On June 3, 2011, Southwestern Public Service Company ("SPS") filed an objection to Nancy Henderson's intervention. See Document No. 179. The ALJs ruled at the pre-conference hearing of June 10, 2011, to strike Nancy Henderson's intervention. See SOAH Order #2.

2. Nancy Henderson now has retained counsel and has requested that she be reinstated in this proceeding to represent her ownership interest in the home located on the property along Segment DA and the property she owns along Segment DD.

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3. Nancy Henderson filed her Motion to Reinstate Nancy Henderson as an Intervenor on June 30, 2011. See Document No. 205. SPS filed its Response to Motion to Reinstate Nancy Henderson as an Intervenor on July 8, 2011. See Document No. 254.

4. In SOAH Order No. 3, the ALJs denied Nancy Henderson's Motion to Reinstate. See Document No. 268.

Facts and Argument

5. Nancy Henderson has an ownership interest in the house on Donald Henderson's ½ section of land (northern half of Section 8) along Link DA. See Exhibits 2 and 8 to Direct Testimony of Randy Henderson. Nancy Henderson, along with her brothers, Donald Henderson and Randy Henderson, owns the house located along the southeastern edge of the property just west of Highway 207 and 1.5 miles south of County Road 30. The house is approximately one mile east of the proposed Link DA. The house is a wood-frame, three bedroom/two bath structure built in the 1960s. An easement along this ½ section of property would be required adversely impacting the property as whole, including the value of home on the property. A copy of the Correction Warranty Deed was unavailable at the time SPS filed its Response to Motion to Reinstate Nancy Henderson as an Intervenor. The Correction Deed filed August 18, 2011, establishes that Nancy Henderson has an ownership interest in the home on that property and has a justiciable interest in property that may be adversely affected by the outcome in this proceeding. See P.U.C. Proc. R. 22.103(b)(2).

6. Nancy Henderson also owns the western half of Section 82 which is located at the northeast corner of County Road 162 and County Road 131. See Exhibit 3 to Direct Testimony of Randy Henderson. Segment DD, if selected, will run along County Road 131 across the road from Nancy Henderson's property. This property also has a house of historical value located

approximately 1000 feet east of County Road 131. Although an easement along this property would not be required, Nancy Henderson has a justiciable interest in this proceeding. See P.U.C. Proc. R. 22.103(b)(2). Nancy Henderson has another ½ section (about 333 acres) northwest of the intersection of County Road 72 and County Road 129. The eastern edge of this property appears to be about 3 miles from Link DD. See Exhibit 3 to Direct Testimony of Randy Henderson.

7. Nancy Henderson has a number of concerns that warrant her recognition in this proceeding as an intervenor. First, a power line of this size on the property with the home in which she has an ownership interest and also paralleling Nancy Henderson's property, also with a house, for a mile across the road from the western boundary would affect the property values of both properties. Second, Nancy Henderson's property is farmland for cotton and wheat. Nancy Henderson's brother, Randy Henderson, who is an intervenor in this proceeding, rents the property and farms it. The power line raises issues with respect to the ability to farm this land, including concerns about the impact of the line on aerial spraying and the impact of construction on the growth of cotton, which is sensitive in its early stages to blowing dirt. Third, Nancy Henderson's property has been the subject of discussions regarding a proposed wind farm. Nancy Henderson would like to be reinstated as an intervenor in this proceeding so that her properties are fully represented in discussions and decisions that could have a direct impact on the current and possible future uses of her properties.

8. A second brother, Donald Henderson, not only owns the property with the home in which she has an ownership interest but also other property in the area. He, along with Randy, is an intervenor in this proceeding. Nancy Henderson would like to join with her brothers in representing the family's interest in the area with respect to the proposed line.

9. Reinstating Nancy Henderson would not cause undue burden or delay in the proceedings. The Hendersons responded to Commission Staff's Requests for Information and Requests for Admission and included information pertaining to Nancy Henderson's properties. Randy Henderson filed Direct Testimony and included information pertaining to Nancy Henderson's properties and habitable structures.

10. On July 8, 2011, counsel for SPS indicated SPS may reconsider its previous opposition to Nancy Henderson's request for reinstatement based on this new ownership information. This information has now been provided. SPS's previous objection equated Nancy Henderson to a member of the general public because her land will not take an easement and does not have a habitable structure within 500 feet of the proposed line. However, Nancy Henderson is not the same as a member of the general public. She has an ownership interest in the home located on property that is directly affected by the proposed transmission line along Segment DA. She is also a landowner of property across a narrow county road from the proposed Segment DD. She is concerned about the impact of the line on the home and property values and existing and future uses. She would like to participate in this proceeding as an intervenor to represent her land.

11. For these reasons, Nancy D. Henderson requests that her interest in this proceeding be recognized and her intervention be reinstated and her Motion for Reconsideration be granted.


Respectfully submitted,

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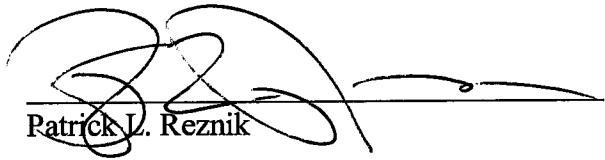
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Cassie Gresham
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ATTORNEYS FOR NANCY D. HENDERSON

CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on this the 28th day of October, 2011, in accordance with Public Utility Commission Procedural Rule 22.74.


Patrick L. Reznik