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December 11, 2012 PUBLIC UTILITY COMMISSION
FILING CLERK

Chairman Donna L. Nelson
Commissioner Kenneth W. Anderson
Commissioner Rolando Pablos
Public Utility Commission of Texas
1701 N. Congress Avenue
Austin, TX 78701

Re: PUC Docket No. 40020; SOAH Docket No. 473-12-4133, *Application of Lone Star Transmission, LLC for Authority to Establish Interim and Final Rates and Tariffs*

Dear Commissioners:

Lone Star Transmission, LLC ("Lone Star" or the "Company") respectfully files this letter in response to the letter filed yesterday in this docket by the Public Utility Commission Staff ("Staff") to announce that the parties in Docket No. 40606, the rate case of Wind Energy Transmission Texas, LLC, ("WETT"), have filed a settlement agreement with the Commission. The WETT settlement and the similar recently announced settlement in Docket No. 40604 involving Cross Texas Transmission, LLC ("CTT") are developments that Lone Star has had no opportunity to address because they are not part of the record in this case and occurred after motions for rehearing were filed. Despite these facts, both Staff and the Office of Public Counsel ("OPUC") argue in their replies to Lone Star's Motion for Rehearing that these settlements provide a basis on which to deny Lone Star's Motion for Rehearing.¹

Relying on the WETT and CTT settlement agreements as justification to deny Lone Star's Motion for Rehearing is inappropriate. An order that applies evidence from other dockets and cases is subject to reversal on appeal.² The settlements referenced by Staff and OPUC are also not final as their terms have not been reviewed and approved by the Commission. Moreover, settlements, in any event, have limited precedential value. Substantively, the WETT and CTT settlement agreements actually *bolster* Lone Star's Motion for Rehearing because they illustrate that the Final Order would place Lone Star at a distinct disadvantage even compared to other new entrant utilities:

- The Commission's Order in this docket establishes an overall rate of return for Lone Star of 6.56%. The settlement agreements for WETT and CTT establish overall rates of return of 7.21% and 7.03%, respectively.
- The Commission's Order in this docket authorized recovery of only 46% of Lone Star's requested operations and maintenance ("O&M") and administrative and general ("A&G") expense.³ The settlement agreements for WETT and CTT authorize recovery of 89% and 69% of the WETT and CTT requested O&M and A&G expense, respectively.

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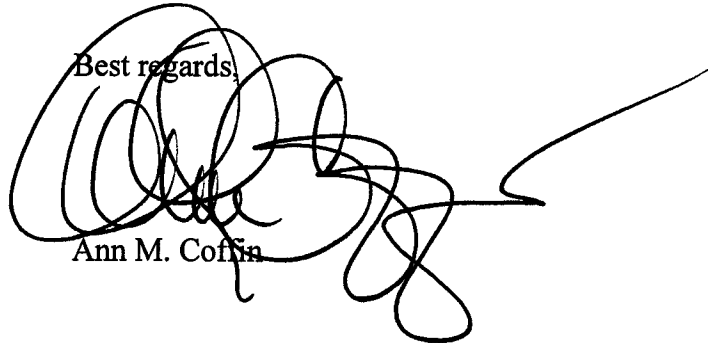
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In conclusion, Lone Star respectfully requests that the Commission grant Lone Star's motion for rehearing.

Best regards,

Ann M. Coffin

AMC:ltr

cc: Stephen Journeay
All Parties of Record

¹ Staff Reply to Motion for Rehearing at 7; OPUC Reply to Motion for Rehearing at 9. Lone Star also notes that the Texas Industrial Electric Customers ("TIEC") similarly reference evidence outside of the record in its reply to Lone Star's Motion for Rehearing. See TIEC Reply to Motion for Rehearing at 1. Notably, the comments referenced by TIEC in its Reply to Lone Star's Motion for Rehearing related to the earnings of NextEra Energy, Inc., not Lone Star.

² See *Office of Public Utility Counsel v. Public Utility Comm'n of Texas*, 185 S.W.3d 555, 571-2 (Tex. App.—Austin 2006, pet. denied) (affirming the district court's reversal of Commission order where Commission applied evidence from other dockets and cases and was not engaged in *ad hoc* rulemaking.).

³ Additionally, as noted in Lone Star's Motion for Rehearing, the O&M and A&G expense authorized in the Final Order is 65% below Lone Star's actual test year costs. See Lone Star Motion for Rehearing at 5.