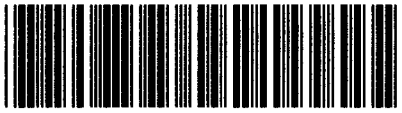

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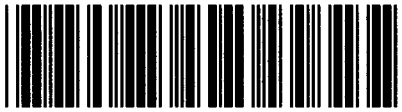

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Addendum StartPage: 0

LCRA TRANSMISSION SERVICES CORPORATION



April 19, 2013

ALJ Joanne Summerhays
ALJ Beth Bierman
State Office of Administrative Hearings
William Clements Office Building
300 W. 15th Street
Austin, Texas 78701

Re: SOAH Docket No. 473-13-0821, PUC Docket No. 40684; *Application of LCRA TSC to Amend its Certificate of Convenience and Necessity for the Proposed EC Mornhinweg to Parkway 138-kV Transmission Line in Comal and Guadalupe Counties* – Unanimous Stipulation and Proposed Order

Dear Judges Summerhays and Bierman:

Attached for your review and approval are the executed Unanimous Stipulation and Proposed Order (with FOFs, COLs, and Ordering Paragraphs) in the above referenced docket. Contemporaneously with this filing we will transmit to your paralegal, Rhonda Faught, these same documents in Word format for your review and use.

The parties appreciate your assistance in this docket and look forward to having this docket returned to the Commission with your recommendation. Please let me know if you have any questions or if there is any additional information we or the parties can provide. Thank you for your consideration.

Sincerely yours,

Fernando Rodriguez
Associate General Counsel
Lower Colorado River Authority

cc: Shelah Cisneros
Michael Anderson
All parties (Via PUC Interchange)

387

**SOAH DOCKET NO. 473-13-0821**
**PUC DOCKET NO. 40684**

| | | |
|---|---|---|
| **APPLICATION OF LCRA TRANSMISSION SERVICES CORPORATION TO AMEND ITS CERTIFICATE OF CONVENIENCE AND NECESSITY FOR THE PROPOSED EC MORNHINWEG TO PARKWAY 138-KV TRANSMISSION LINE IN COMAL AND GUADALUPE COUNTIES** | § | **BEFORE THE STATE OFFICE** |
| | § | **OF** |
| | § | **ADMINISTRATIVE HEARINGS** |

## UNANIMOUS STIPULATION

On September 7, 2012, LCRA Transmission Services Corporation (LCRA TSC) filed its Application to Amend its CCN for the Proposed EC Mornhinweg to Parkway 138-kV Transmission Line in Comal and Guadalupe Counties (Application). On October 25, 2012, the Commission referred the matter to the State Office of Administrative Hearings (SOAH) for assignment of an administrative law judge (ALJ) to conduct a hearing and issue a proposal for decision, and issued its Preliminary Order outlining the issues to be addressed in this docket. Following the filing of testimony and the passing of other deadlines, the parties convened for the Hearing on the Merits on April 2, 2013. This Stipulation sets forth the result of an agreement announced at that time.

The following entities are parties to this proceeding and announced ready at the Hearing on the Merits: LCRA TSC; Commission Staff (Staff); Joanne and James Harden, Mortellaro's Nursery, Ltd., and Acres, Agua, and Ag, Ltd.; Belmont Park Homeowners Association (Belmont Park HOA)[1]; San Antonio Partnerships (SAP); Salof Refrigeration, Inc. and Salof Properties II, LLC; Manco Structures, Ltd., and Bravo Investments, Ltd.; Schertz-Cibolo-Universal City Independent School District (SCUCISD); Babcock Road 165, Ltd.; Elgin Ott; Ernest A. Jasek; Joseph Tudyk; Ms. Sharlene Fey, pro se; and the Marbach Family Trust and Burnice Marbach. All the parties whose signatures appear below (Signatories), including parties who did not attend

[1] Belmont Park HOA is the authorized representative for eleven separate intervening parties. They are: Timothy and Gabrielle M. Beland; Brent A. Bolter; Filippo Cristiano Caratti and Lisa Bakewell; Joseph Gonzales; Douglas J. Jennings; Donimic G. and Karen A. Johnson; Jeffrey S. and Arlene R. Johnson; Peter R. Maupin; David J. and Nikko M. Peterson; John Ruddy; and Jeffrey R. Womack.

the Hearing on the Merits, were able to resolve all outstanding issues relating to LCRA TSC's Application.

**The Signatories agree and stipulate to the following:**

**I.**

The Signatories have entered into this Unanimous Stipulation (Stipulation) in order to settle amicably the issue of the appropriate route for LCRA TSC's proposed transmission line in this docket. The parties do so stipulate to avoid the substantial time, effort, and expense that would be required if these matters were resolved through a contested hearing on the merits. The Signatories agree that the entry of an order based on this Stipulation and the accompanying Findings of Fact, Conclusions of Law, and Ordering Paragraphs is appropriate and in the public interest.

**II.**

The Signatories have offered the following exhibits into evidence without objection, and following waiver of cross examination:

**LCRA TSC Exhibit Nos.:**

1. Application with attachments
1A. Errata and Second Errata
2. Direct Testimony of Christian Powell
3. Notice Materials
4. Direct Testimony of Gary Maddox, P.E.
5. Direct Testimony of Nathan Laughlin, P.E.
6. Direct Testimony of Brad Woods, P.E.
7. Direct Testimony of Rob R. Reid
8. Direct Testimony of J. Michael Silva, P.E.
9. Direct Testimony of Edward P. Gelmann, M.D.
10. Rebuttal Testimony of Christian Powell
11. Rebuttal Testimony of Nathan Laughlin, P.E.
12. Rebuttal Testimony of Brad Woods, P.E.
13. Rebuttal Testimony of Rob R. Reid
14. Rebuttal Testimony of J. Michael Silva, P.E.
15. Rebuttal Testimony of Edward P. Gelmann, M.D.
16. Intervenor Map

**Staff Exhibit No.:**

1. Direct Testimony of Mark Sullivan

**Joanne and James Harden, Mortellaro's Nursery, et al. Exhibit Nos.:**

1. Direct Testimony of Joanne M. Harden
2. Direct Testimony of James C. Harden
3. Cross-Rebuttal Testimony of Joanne M. Harden

**Belmont Park HOA Exhibit Nos.:**

1. Direct Testimony of Joseph Gonzales
2. Direct Testimony of Peter R. Maupin
3. Cross-Rebuttal Testimony of Peter R. Maupin

**SAP Exhibit Nos.:**

1. Direct Testimony of Charles A. Forbes
2. Direct Testimony of Larry Gurley

**Salof Refrigeration, Inc. and Salof Properties II, LLC Exhibit Nos.:**

1. Direct Testimony of Bob Luhrs

**Manco Structures, et al., Ltd. Exhibit Nos.:**

1. Direct Testimony of Carlos D. Cerna

**SCUCISD Exhibit No.:**

1. Direct Testimony of Dr. Greg Gibson

**Elgin Ott Exhibit No.:**

1. Direct Testimony of Elgin Ott

**Ernest A. Jasek Exhibit No.:**

1. Direct Testimony of Ernest A. Jasek

**Joseph Tudyk Exhibit No.:**

1. Direct Testimony of Joseph Tudyk

**Sharlene Fey, pro se, Exhibit No.:**

1. Direct Testimony of Sharlene Fey

**Marbach Family Trust and Burnice Marbach Exhibit No.:**

1. Direct Testimony of Joyce Marbach Jones.

In addition, although the following parties did not appear at the hearing, their testimonies were entered into the record without objection:

**Patricia R. Dodd Exhibit No.:**

1. Direct Testimony of Patricia R. Dodd

**Mark Friesenhahn Exhibit No.:**

1. Direct Testimony of Mark Friesenhahn

**Lori Swete and Debra Swete Ross Exhibit No.:**

1. Direct Testimony of Lori Swete and Debra Swete Ross

**Dorothy and Roy Wenzel Exhibit No.:**

1. Direct Testimony of Dorothy and Roy Wenzel.

**III.**

As part of this Stipulation, the Signatories agree to support the selection of Route 10, with a minor route modification requested by SCUCISD (described below), as the route to be approved by the Commission. The modification to Route 10 is that discussed in Exhibit NL-6cR of the Rebuttal Testimony of LCRA TSC witness Nathan Laughlin, and is generally described as moving the transmission line along Segment M to Old Weiderstein Road until it reaches the corner of SCUCISD property, at which point the line would be routed along SCUCISD property until it rejoins Segment N. After the SCUCISD route adjustment rejoins Segment N it continues along Segment N in the existing transmission corridor. This minor route adjustment and the resulting LCRA TSC right-of-way is entirely on SCUCISD property, does not affect non-noticed landowners, is conditioned on SCUCISD granting LCRA TSC an easement at no cost, and will be coordinated as appropriate with a potential widening of Old Weiderstein Road.

The stipulation of the parties to support the selection of Route 10, as modified, is conditioned upon the use of "prudent avoidance" measures along a portion of Segment S for approximately 3,000 feet as the transmission line traverses by the Sippel Elementary School, as described more fully in Mr. Laughlin's rebuttal testimony at page 23. Specifically, LCRA TSC agrees that it will:

- use monopole structures in this area and will space them to reduce the sag of the conductors
- optimally configure the vertical or delta conductor configurations on the monopole structures in this area in a manner that will result in the lowest EMF levels at the edge of the right-of-way
- increase the height of the monopole structures in this area 10 or more feet, which will result in lower EMF levels at the edge of the right-of-way

While the property owned by Edward and Dessa Anderson is not crossed by Route 10, it is adjacent to the existing right-of-way and the Andersons expressed concern for the trees immediately outside their back fence. To allay their concerns LCRA TSC commits to working with the Andersons to limit the number of trees that will have to be cut or trimmed for the construction of the line, with the proviso that LCRA TSC reserves the ultimate decision on the precise location of the transmission line, as well as on which trees would need to be cut to accommodate the safe construction and operation of the line. LCRA TSC has also assured the Andersons that any poles erected in the existing transmission corridor in the vicinity of their property would not be erected directly behind their home and would almost certainly be located as close as possible to the existing CPS Energy 138-kV lattice tower that is already in the right-of-way behind, and further down, from their home.

## IV.

The Signatories each reserve the right to withdraw from the Stipulation and demand a full public hearing at any time prior to the expiration of the period for filing motions for rehearing if the Commission enters a Final Order that deviates from the Stipulation. The Signatories each reserve the right to appeal in the event the Commission enters a Final Order that materially deviates from this Stipulation.

## V.

This Stipulation represents a compromise, settlement, and accommodation among the Signatories, and is agreed to solely for the purposes of facilitating the entry of a Final Order of the Commission in this Docket. The Stipulation is not to be regarded as a determination of the appropriateness or correctness of any assumptions, methodology, or legal or regulatory principles that may have been employed in reaching this Stipulation. In particular, the Signatories reserve the right to contest the Findings of Fact and Conclusions of Law adopted

pursuant to this Stipulation in any other proceeding before the Commission or any other governmental agency or court, except that the Signatories are bound by the Stipulation in any action regarding the enforcement of the terms and conditions of this Stipulation, or for judicial review of any decision of the Commission in this docket to the extent the Commission's decision is based on this Stipulation.

**VI.**

Each person executing this Stipulation warrants that he or she is authorized to sign this Stipulation on behalf of the Signatory represented. Facsimile copies of signatures are valid for purposes of evidencing such execution. The Signatories may sign individual signature pages to facilitate the circulation and filing of the original of this Stipulation.

**WHEREFORE,** the Signatories request that the Commission enter a Final Order amending LCRA TSC's CCN consistent with this Stipulation.

Executed as shown below:

Dated as of April 19, 2013

**LCRA Transmission Services Corporation**

By: Fernando Rodriguez

Printed Name: Fernando Rodriguez

**Mark Friesenhahn**

By: _____

Printed Name: _____

**Public Utility Commission of Texas Staff**

By: _____

Printed Name: _____

Dated as of April ____, 2013

**LCRA Transmission Services Corporation**

By: _____

Printed Name: _____

**Mark Friesenhahn**

By: _____

Printed Name: _____

**Public Utility Commission of Texas Staff**

By: Shelah Cisneros

Printed Name: SHELAH J. CISNEROS

**Joanne and James Harden, Mortellaro's Nursery, et al.**

By: _____

Printed Name: _____

**Belmont Park HOA**

By: _____

Printed Name: _____

Dated as of April 18th, 2013

**LCRA Transmission Services Corporation** **Mark Friesenhahn**

By: Mark Friesenhahn

Printed Name: Mark Friesenhahn

**Public Utility Commission of Texas Staff**

By: _____

Printed Name: _____

**Joanne and James Harden, Mortellaro's Nursery, et al.**

By: _____

Printed Name: _____

**Belmont Park HOA**

By: _____

Printed Name: _____

Dated as of April 16, 2013

**LCRA Transmission Services Corporation**

By: _____

Printed Name: _____

**Mark Friesenhahn**

By: _____

Printed Name: _____

**Public Utility Commission of Texas Staff**

By: _____

Printed Name: _____

**Joanne and James Harden, Mortellaro's Nursery, et al.**

By: Shannon K. McClendon

Printed Name: Shannon K. McClendon

**Belmont Park HOA**

By: _____

Printed Name: _____

Dated as of April ____, 2013

**LCRA Transmission Services Corporation**

By: _____

Printed Name: _____

**Mark Friesenhahn**

By: _____

Printed Name: _____

**Public Utility Commission of Texas Staff**

By: _____

Printed Name: _____

**Joanne and James Harden, Mortellaro's Nursery, et al.**

By: _____

Printed Name: _____

**Belmont Park HOA**

By: _____

Printed Name: Bradford W Bayliff

**Joanne and James Harden, Mortellaro's Nursery, et al.**

By: _____

Printed Name: _____

**Belmont Park HOA**

By: _____

Printed Name: _____

**San Antonio Limited Partners**

By: _____

Printed Name: _____

**Salof Refrigeration, Inc. and Salof Properties II, LLC**

By: Roger Wilson

Printed Name: ROGER WILSON

**Manco Structures, Ltd., and Bravo Investments, Ltd.**

By: Roger Wilson

Printed Name: ROGER WILSON

**San Antonio Partnerships**

By: Campbell McGinnis

Printed Name: Campbell McGinnis

**Salof Refrigeration, Salof Properties**

By: _____

Printed Name: _____

**Manco Structures, Ltd., and Bravo Investments, Ltd.**

By: _____

Printed Name: _____

**Schertz-Cibolo-Universal City ISD**

By: _____

Printed Name: _____

**Babcock Road 165, Ltd.**

By: _____

Printed Name: _____

**San Antonio Limited Partners**

By: _____

Printed Name: _____

**Salof Refrigeration, Salof Properties**

By: _____

Printed Name: _____

**Manco Structures, Ltd., and Bravo Investments, Ltd.**

By: _____

Printed Name: _____

**Schertz-Cibolo-Universal City ISD**

By: _____

Printed Name: GEORGE E. GRIMES, JR.

**Babcock Road 165, Ltd.**

By: _____

Printed Name: _____

**Schertz-Cibolo-Universal City ISD**

By: _____

Printed Name: _____

**Babcock Road 165, Ltd.**

By: _____

Printed Name: Grant M. Gaines
Attorney of Record for Babcock Road 165, Ltd.

**Elgin Ott**

By: _____

Printed Name: _____

**Ernest A. Jasek**

By: _____

Printed Name: _____

**Joseph Tudyk**

By: _____

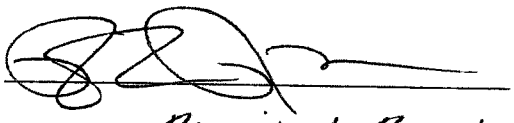
Printed Name: _____

**Elgin Ott**

By: 

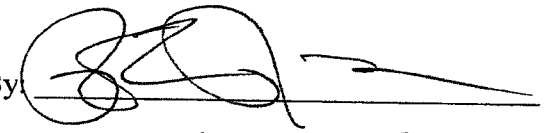
Printed Name: PATRICK L. Reznik
Attorney of Record, Elgin Ott

**Ernest A. Jasek**

By: 

Printed Name: PATRICK L. Reznik
Attorney of Record, Ernest A. Jasek

**Joseph Tudyk**

By: 

Printed Name: PATRICK L. Reznik
Attorney of Record, Joseph Tudyk

**Sharlene Fey**

By: _____

Printed Name: _____

**Marbach Family Trust and Burnice Marbach**

By: _____

Printed Name: _____

**Elgin Ott**

By: _____

Printed Name: _____

**Ernest A. Jasek**

By: _____

Printed Name: _____

**Joseph Tudyk**

By: _____

Printed Name: _____

**Sharlene Fey**

By: Sharlene Fey

Printed Name: SHARLENE FEY

**Marbach Family Trust and Burnice Marbach**

By: _____

Printed Name: _____

**Sharlene Fey**

By: _____

Printed Name: _____

**Marbach Family Trust and Burnice Marbach**

By: _____

Printed Name: Soledad M. Valenciano

**Edward and Dessa Anderson**

By: _____

Printed Name: _____

**Gail & David Caven**

By: _____

Printed Name: _____

**Roy & Dorothy Wenzel**

By: _____

Printed Name: _____

**Edward and Dessa Anderson**

Dessa A. Anderson

By: Edward M Anderson

Printed Name: Edward + Dessa Anderson

**Gail & David Caven**

By: _____

Printed Name: _____

**Roy & Dorothy Wenzel**

By: _____

Printed Name: _____

**Patricia Dodd**

By: _____

Printed Name: _____

**Lori Swete and Debra Swete Ross**

By: _____

Printed Name: _____

**Edward and Dessa Anderson**

By: _____

Printed Name: _____

**Gail & David Caven**

By: David Caven /David Caven

4/18/13

Printed Name: David Caven /Gail Caven

**Roy & Dorothy Wenzel**

By: _____

Printed Name: _____

**Patricia Dodd**

By: _____

Printed Name: _____

**Lori Swete and Debra Swete Ross**

By: _____

Printed Name: _____

**Edward and Dessa Anderson**

By: _____

Printed Name: _____

**Gail & David Caven**

By: _____

Printed Name: _____

**Roy & Dorothy Wenzel**

By: Roy Wenzel - Dorothy Wenzel

Printed Name: Roy WENZEL - DOROTHY WENZEL

**Patricia Dodd**

By: _____

Printed Name: _____

**Lori Swete and Debra Swete Ross**

By: _____

Printed Name: _____

**Edward and Dessa Anderson**

By: _____

Printed Name: _____

**Gail & David Caven**

By: _____

Printed Name: _____

**Roy & Dorothy Wenzel**

By: _____

Printed Name: _____

**Patricia Dodd**

By: Patricia Dodd

Printed Name: Patricia Dodd

**Lori Swete and Debra Swete Ross**

By: _____

Printed Name: _____

**Edward and Dessa Anderson**

By: _____

Printed Name: _____

**Gail & David Caven**

By: _____

Printed Name: _____

**Roy & Dorothy Wenzel**

By: _____

Printed Name: _____

**Patricia Dodd**

By: _____

Printed Name: _____

**Lori Swete and Debra Swete Ross**

By: Lori Swete

Printed Name: Lori Swete

**Patricia Dodd**

By: _____

Printed Name: _____

**Lori Swete and Debra Swete Ross**

By: Debra Swete Ross

Printed Name: Debra Swete Ross

**SOAH DOCKET NO. 473-13-0821**
**PUC DOCKET NO. 40684**

| | | |
|---|---|---|
| **APPLICATION OF LCRA TRANSMISSION SERVICES CORPORATION TO AMEND ITS CERTIFICATE OF CONVENIENCE AND NECESSITY FOR THE PROPOSED EC MORNHINWEG TO PARKWAY 138-KV TRANSMISSION LINE IN COMAL AND GUADALUPE COUNTIES** | § | **BEFORE THE STATE OFFICE** |
| | § | **OF** |
| | § | **ADMINISTRATIVE HEARINGS** |

# PROPOSED ORDER

This Order addresses the application of LCRA Transmission Services Corporation (LCRA TSC) to amend its certificate of convenience and necessity (CCN) for the proposed EC Mornhinweg to Parkway 138-kV transmission line in Comal and Guadalupe Counties. A unanimous stipulation was executed that resolves all of the issues in this docket. Consistent with the unanimous stipulation, LCRA TSC's Application is approved.

## I. Findings of Fact

### General Project Background

1. LCRA Transmission Services Corporation (LCRA TSC) is a non-profit corporation created by the Lower Colorado River Authority (LCRA) to comply with the unbundling requirements of SB 7. LCRA TSC provides transmission service under Certificate of Convenience and Necessity (CCN) No. 30110.

2. On September 7, 2012, LCRA TSC filed an application with the Public Utility Commission of Texas (Commission or PUC) to amend its Certificate of Convenience and Necessity (CCN) to construct a 138-kilovolt (kV) transmission line (the Proposed Project) in Comal and Guadalupe Counties, Texas.

3. LCRA TSC identified and compared in detail a total of 14 routes by combining in various configurations a total of 59 route segments. During the course of providing testimony, the Belmont Park Homeowners Association (Belmont Park HOA) identified an additional

route using a different combination of the 59 noticed segments formulated and provided by LCRA TSC and its consultants in the Application.

4. The main routing and construction issue involved in LCRA TSC's Application is the appropriate location to construct the 138-kV line in light of the area's current state of development, and rapidly changing land uses.

**Notice**

5. LCRA TSC published a public notice in the *Seguin Gazette Enterprise*, the *San Antonio Express-News*, the *New Braunfels Herald-Zeitung*, the *Comal County Beacon*, the *Bulverde Standard*, and the *Canyon Lake Week* the week after the application was filed with the PUC.

6. LCRA TSC mailed written direct notice by First-Class mail of the filing to each owner of land that would be directly affected by the proposed project. Landowners of record were determined by review of the Comal and Guadalupe County Appraisal Districts' databases. Following the return of multiple notices, LCRA TSC performed additional research and made attempts to resend notices. Some of the resent notices were returned after the second attempt at mailing.

7. Written notice was mailed upon filing the application to Comal County and Guadalupe County officials, and Cities of Garden Ridge, New Braunfels, Cibolo, Marion, Schertz, Santa Clara, Selma, Universal City, and San Antonio municipal authorities.

8. Written notice was provided to the following neighboring utilities providing electric utility service within five miles of the requested facility:

**Electric Cooperatives:** Guadalupe Valley Electric Cooperative (GVEC)

**City Utilities:** New Braunfels Utilities (NBU), CPS Energy

9. Notification letters were also sent to state and federal representatives and senators in whose districts the project is located, various independent school districts, and other organizations.

10. LCRA TSC provided notice of the Open House meetings as required under P.U.C. PROC. R. § 22.52(a)(4).

11. LCRA TSC provided written direct notice to the Office of Public Utility Counsel (OPUC) and a copy of the Environmental Assessment (Attachment 1 to the Application) was provided to the Texas Parks and Wildlife Department.

12. Notice of filing of the Application was published in the *Texas Register* on September 28, 2012 and October 5, 2012 (corrected).

**Procedural History**

13. LCRA TSC filed its Application on September 7, 2012. PURA § 37.057[1] directs the Commission to act on such applications within one year, or by September 7, 2013. In Order No. 1 (September 12, 2012), the Commission's Director of Docket Management acknowledged this deadline and established an intervention deadline of October 22, 2012. Order No. 1 also established deadlines for filing proof of notice and certain other information with the Commission, along with deadlines for material deficiency review, comment, and response. Order Nos. 2 (September 24, 2012) and 3 (September 25, 2012) corrected certain cost information discussed in Order No. 1. Subsequent to certain filings, Order No. 5 (October 10, 2012) addressed application sufficiency and notice and established a procedural schedule requiring a request for hearing (if any) by October 29, 2012.

14. Order Nos. 4 (October 9, 2012), 6 (October 17, 2012) and 7 (October 24, 2012) by the Commission's administrative law judge (ALJ) granted the interventions of 61 parties. Requests for hearing were filed by three intervenors. The Commission issued on Order of Referral on October 25, 2012.

15. On November 14, 2012, State Office of Administrative Hearings (SOAH) ALJs JoAnne Summerhays and Beth Bierman conducted a prehearing conference in this matter pursuant to notice issued in SOAH Order No. 1. The parties proposed a procedural schedule that was modified and adopted by the ALJ in SOAH Order No. 2 (November 19, 2012). This schedule included deadlines for route adequacy challenges. Thirty-two (32) additional intervenors were admitted at the November 14 prehearing. The hearing on the merits was scheduled to convene on April 2, 2013.

[1] Public Utility Regulatory Act, TEX. UTIL. CODE §§ 11.001 – 66.016 (Vernon 2007 & Supp. 2011) (PURA).

16. Pursuant to the procedural schedule, LCRA TSC filed the direct testimony of seven witnesses in support of the Application on December 7, 2012. An informal technical conference and settlement discussion was held in Austin on December 17, 2012. Discovery on LCRA TSC's direct case concluded January 14, 2013 and intervenor direct and cross-testimony/statements of position were filed on or before February 4, 2013, and March 1, 2013, respectively. A total of fifteen (15) intervenors filed the testimony of eighteen (18) witnesses as direct testimony and two intervenors filed testimony of two witnesses as cross testimony. Three intervenors filed statements of position. Although a date of March 8, 2013 had been reserved for a second settlement conference, no party requested that one be held. PUC Staff filed the testimony of one witness on March 15, 2013 and LCRA TSC filed the rebuttal testimony of six witnesses on March 22, 2013.

17. SOAH Order No. 5 (December 27, 2012) and 6 (January 8, 2013) addressed LCRA TSC's objections to certain late interventions. In those orders, the ALJs denied the late filed interventions of seven intervenors and granted the late filed interventions of six intervenors for reasons explained in the orders.

18. SOAH Order No. 7 determined that the issue of route adequacy did not need to be addressed by preliminary hearing since no party had raised any issues related to route adequacy by the established deadline. Order No. 7 also granted LCRA TSC's Motion to Compel responses to certain basic requests for information from intervenors.

19. SOAH Order No. 8 (February 27, 2013) dismissed 76 intervenors for the failure to file testimony or a statement of position pursuant to the requirements of SOAH Order No. 2 and/or failure to comply with the order to compel in Order No. 7.

20. In SOAH Order No 9 (March 26, 2013), the ALJs addressed additional procedural matters and LCRA TSC's Motion to Strike portions of certain intervenor testimony.

21. The Hearing on the Merits was held on April 2, 2013. Parties who were present waived cross examination of all witnesses. The parties announced they had reached a non-unanimous settlement to recommend the use of LCRA TSC's proposed Route 10. The party not joining the settlement at the time was not present at the hearing. However, that party subsequently joined the settlement. Following this remaining party's announcement, PUC Staff joined in the settlement. The unanimous settlement was submitted to

the SOAH ALJ's on April 19, 2013, and the ALJs subsequently returned the matter to the Commission for action.

**Project Description**

22. The new circuit will connect the existing GVEC-owned Parkway Substation (Parkway) located just west of Schertz Parkway (south of Wiederstein Road) in Guadalupe County to the new NBU ECM Substation under construction in the vicinity of FM 482 (east of Schwab Road and north of IH-35) in Comal County.

23. The design voltage rating for this project is 138 kV, and the operating voltage is also 138 kV. The entire project utilizing Route 10 will be approximately 8 miles in length. LCRA TSC will install new equipment at both the new NBU ECM Substation and the existing Parkway Substation. In addition, a portion of Route 10 (specifically Route Segments L1, N1, O1, and C1) between the ECM Substation and the existing right-of-way (ROW) will be approved and certificated as double-circuit capable to accommodate a second 138-kV circuit to be added as needed in the future.

24. For the Proposed Project utilizing Route 10, new transmission facilities will be constructed mainly within existing easements for approximately 86% of its right-of-way ROW. The new transmission facilities are estimated to require typical 80 to 100 feet wide easements, varying from an estimated minimum of 60 feet, to an estimated maximum of 130 feet, depending on span length and constraints. LCRA TSC will design the proposed transmission line to meet or exceed nationally recognized guidelines and specifications for operating the proposed transmission line in a safe and reliable manner, and to meet or exceed the requirements of the applicable version of the National Electric Safety Code (NESC). The transmission line will also comply with all applicable state and federal statutes and regulations as well as LCRA TSC's Transmission Line Engineering Standards.

25. LCRA TSC selected steel and/or concrete single poles as the preferred structure type for this project. The single pole transmission facilities will require new, typical 80-feet wide easements, utilizing typical spans that range from approximately 600 to 1,000 feet. Vertical configuration steel poles will be utilized in and near more densely developed areas. As addressed in the Application, if ordered otherwise by the Commission, or in constrained areas such as, but not limited to, line crossings and in proximity to airports,

LCRA TSC could use alternative structure types including H-frames and lattice towers. The alternative structure types, H-frames and lattice towers, if used, will require new, typical 100-foot wide easements, utilizing slightly longer spans than the single-pole structures. In some areas, spans could be more or less than the typical spans, depending on terrain and other engineering constraints with easement widths varying to address similar concerns. The easement widths are estimated and actual widths will be determined during the detailed design phase of the project. Access easements and/or temporary construction easements may be needed in some areas. These general design parameters will be subject to the specific sections of the Unanimous Stipulation entered into the record by the parties in this docket.

26. Typical heights of pole structures will range between 65 and 125 feet above ground line. In certain locations, heights of pole structures will be increased in order to address "prudent avoidance" and engineering constraint considerations. These general design parameters will be subject to the specific sections of the Unanimous Stipulation entered into the record by the parties in this docket.

27. The existing Parkway Substation and the new ECM Substation will serve as termination points for this transmission line project. The proposed project includes the addition of one 138-kV circuit breaker with associated equipment and structures, at both the Parkway and ECM substations. The Parkway Substation is an existing transmission substation owned by GVEC and includes facilities owned and/or operated by LCRA TSC, CPS Energy, and GVEC. The new ECM Substation is under construction, is owned by NBU, and will include facilities owned and/or operated by both NBU and LCRA TSC. The designated route will pass through the existing LCRA TSC Weiderstein Substation, but the line will not be electrically connected at the Weiderstein Substation.

**Adequacy of the Application**

28. The Commission Staff reviewed LCRA TSC's Application and found it sufficient and complete as filed, and the Application was deemed sufficient and materially complete by the Commission's ALJ in Order No. 5 (October 10, 2012). Since no statements challenging route adequacy were filed by the established deadline for doing so, the SOAH ALJ declared in SOAH Order No. 7 that this issue need not be addressed. The evidence demonstrates that LCRA TSC filed an adequate number of routes.

**Need**

29. The LCRA TSC Proposed Project is necessary to provide reliable transmission service to a new load-serving substation (i.e., the EC Mornhinweg or ECM Substation) in southern New Braunfels. The ECM Substation is required to provide reliable service to the growing load (i.e. the increase in the number of customers requiring electric service and the increase in power demands from existing customers) served by NBU in this area. Additionally, the Proposed Project increases reliability by adding another transmission source to a broader area served by the NBU Loop 337, GPI, and ECM substations. The transmission line to be constructed between the ECM and Parkway substations will provide a 138-kV transmission corridor near the area of growing electrical load along IH-35 between New Braunfels and San Antonio. This new transmission line between the Parkway and ECM substations adds a transmission path to a historically transmission-congested area.

30. The City of New Braunfels is located between Austin and San Antonio in the high growth Comal and Guadalupe Counties. The NBU electric service area includes the city of New Braunfels and extends southwest along IH-35 towards San Antonio, northeast along IH-35 towards San Marcos and northwest along State Highway 46. LCRA TSC provides 138-kV transmission service to NBU at several load-serving substations. NBU customers in the southern part of New Braunfels are served by the distribution systems from the existing Loop 337, GPI, and Sheriff's Posse Substations. The NBU electric service area extending southwest ends at the IH-35 and Farm-to Market 1103 intersection; the distance between this NBU electric service boundary and the NBU Sheriff's Posse Substation is approximately 5.3 miles. The combined electric load served at the Loop 337, GPI and Sheriff's Posse Substations exceeded 102 MW in 2011 and this load includes electric service to a large rock quarry as well as recent development in the area. The new ECM Substation is to be located approximately halfway between the IH-35 / Farm-to-Market 1103 intersection and the NBU Sheriff's Posse Substation to serve existing and future load in this area. There are no 138-kV transmission sources southwest of New Braunfels and north of IH-35 near the location of the ECM Substation. LCRA

TSC's Proposed Project is necessary to provide reliable transmission service to the ECM Substation.

31. The Proposed Project increases reliability by adding another transmission source to a broader area served by the NBU Loop 337, GPI, and ECM substations. The new NBU ECM load-serving substation is required in this area to provide reliable service to NBU's growing load. However, when constructed the ECM Substation will require a transmission line (i.e., the Proposed Project) to provide the required transmission service. Providing a transmission source to the new NBU ECM Substation from the Parkway Substation (i.e., the Proposed Project) and from the GPI Substation (through a new transmission line that does not require certification) will provide the required looped transmission service to serve the new load-serving substation reliably and will eliminate the risk of extended power interruptions to the industrial, commercial and residential end-use customers supplied from this substation upon the loss of one of the transmission sources.

32. The transmission line connected between the ECM and Parkway substations will provide a 138-kV transmission corridor near the area of growing electrical load along IH-35 between New Braunfels and San Antonio. The transmission sources for the loads in this area are currently the Comal to Loop 337, and Marion to Sheriff's Posse transmission lines. During the unavailability of the Comal to Loop 337 transmission line, and the contingency loss of the Marion to Sheriff's Posse 138-kV transmission line during summer system peak loading conditions, it is anticipated that service to over 78 MW projected to be served out of Loop 337, GPI, and (the future) ECM substations in 2015 would be lost. This load level is approximately 25 percent of the total load served by NBU in 2015. This condition results if all the area load is served from the north, absent LCRA TSC's Proposed Project. The ECM to Parkway transmission line connection effectively eliminates this potential large loss of load condition by providing a necessary transmission source that loops the ECM Substation and provides a secondary transmission source.

33. Costs associated with electric facility outages vary with the duration and breadth of the outage. However, even momentary outages (i.e., less than one second) can be costly to end-users.

34. This new transmission line between the Parkway and ECM substations adds a transmission path to a historically transmission-congested area, and also provides the opportunity

to supply future substations between New Braunfels and San Antonio along IH-35 that can help serve the forecasted load growth. The closest existing 138-kV corridor to this area consists of the Marion to Cibolo to Schertz to Parkway 138-kV transmission line(s) and this corridor is approximately three miles south of IH-35.

35. In Central Texas there are over 4000 MWs of generating capacity that travels from the generating plants in Central Texas to the San Antonio area, mainly through 345-kV transmission lines. Two of the main 345-kV transmission circuits between the generation in Central Texas and the City of San Antonio are the Marion to Hill Country, and the Marion to Skyline transmission lines. The Marion Substation is located just south of New Braunfels and the Hill Country and Skyline substations are located in northeast San Antonio. These two 345-kV transmission circuits are located on common transmission line structures for approximately 1.7 miles (i.e., an ERCOT Category B Contingency), and upon the loss of these two 345-kV transmission circuits, power flowing through these 345-kV transmission circuits is redirected through other 345-kV and 138-kV lines. Presently the Parkway to Schertz to Cibolo to Marion 138-kV transmission line is connected to the 345-kV system at Marion through a 345/138-kV autotransformer, and this transmission line is the only 138-kV transmission path directly between San Antonio and the over 4000 MWs of generating capacity in Central Texas.

36. Transmission congestion has been experienced because generation had to be re-dispatched by ERCOT to prevent the Parkway to Schertz to Cibolo to Marion 138-kV transmission line from overloading during the loss of the Marion to Hill Country and Marion to Skyline 345-kV circuits. As a secondary benefit resulting from the LCRA TSC Proposed Project, the addition of the Parkway to ECM to GPI 138-kV transmission line results in a second 138-kV path that will reduce the loading on the Parkway to Schertz to Cibolo to Marion 138-kV transmission line, which will reduce transmission system congestion and increase transmission system reliability.

37. Load growth (i.e., the increase in the number of customers requiring electric service and the increase in power demands from existing customers) has been occurring and is anticipated to continue at a steady pace in NBU's service territory between New Braunfels and San Antonio, exceeding NBU's ability to address system reliability needs with existing distribution facilities. The load in the southwestern portion of NBU's electric service ar-

ea served by the Sheriff's Posse Substation has experienced a high level of growth over the past few years and is expected to experience significant residential, commercial and industrial load growth in the near future with the greatest potential for commercial and industrial load growth on the north side of IH-35 west of Sheriff's Posse. The proposed NBU ECM Substation will provide support in this part of NBU's service area, thereby alleviating capacity demands and improving reliability.

38. Based upon the most recent load forecast (completed by NBU in 2011) without the addition of the ECM Substation, the peak load served at the Sheriff's Posse Substation is projected to reach 59.1 MW in the winter of 2017, which is 99.9% of the substation's load-serving capacity, significantly reducing the substation's ability to provide back-up capacity during emergency conditions. This forecast includes industrial growth on the north side of IH-35 located approximately 2.9 miles west of the Sheriff's Posse Substation.

39. NBU is a direct connect transmission customer of LCRA TSC and, as such, adheres to reliability and planning criteria adopted by LCRA TSC and originally established by LCRA and the Association of Wholesale Customers (AWC). This project is required to comply with requirements set forth in the LCRA and AWC transmission system planning criteria.

40. The proposed project, including all transmission alternatives considered, has been reviewed by the ERCOT Regional Planning Group (ERCOT RPG). Assessments conducted by ERCOT did not reveal degradation of system reliability as a result of this proposed transmission project. ERCOT included the Proposed Project in its "Report on Existing and Potential Electric System Constraints and Needs," dated December 2011, as a project to meet growing demand in the greater metropolitan areas of San Antonio and Austin. ERCOT verified that the Proposed Project allows the removal of the special protection system currently installed to prevent congestion. These ERCOT considerations illustrate different aspects of the need and benefits of the project.

41. Because of limits presented by the available electric system facilities in the area and the location, amount, and type of future load growth, only a transmission solution will adequately and appropriately address electrical problems identified in the application. Distribution alternatives were considered but were determined not to be practical or feasible,

and thus were not pursued as solutions because they provided only minimal improvement and would not provide the long-term support provided by the proposed project.

42. Three transmission alternatives were considered. While all three alternatives provided acceptable reliability of transmission service to the ECM Substation through the addition of a looped transmission source, only the new 138-kV 795-ACSR transmission line between the Parkway and ECM substations:

    1) accommodates load growth and continual service reliability by providing the transmission system necessary to supply future load-serving substations;

    2) provides power flow reduction on the 138-kV system that has experienced congestion and, with continued load growth, continues to experience congestion; and

    3) increases reliability by adding another transmission source to a broader area served by the NBU Loop 337, GPI, and ECM substations.

43. This project will result in improved electric service to consumers because electric system adequacy and reliability in the Comal and Guadalupe Counties area will be strengthened as described in Findings of Fact ___ - ___ above. The resulting improved operating efficiencies (in the form of reduced electric line losses in distribution and transmission facilities) will eventually result in overall cost savings to the end-use consumers as well.

**Community Values**

44. The term "community values" is not formally defined by statute or in PUC rules. However, in several CCN dockets the Commission and Staff have recognized a working definition as "a shared appreciation of an area or other mutual resource by a national, regional, or local community."

45. LCRA TSC held two open house meetings for the ECM to Parkway transmission line project. The first open house meeting was held on September 16, 2010 from 5:00 p.m. to 8:00 p.m. at the Knights of Columbus Hall in Schertz, Texas. The second meeting was held on March 22, 2012 from 4:00 p.m. to 7:00 p.m. at the Knights of Columbus Hall in Schertz, Texas. The meetings had the following objectives:

- Promote a better understanding of the Proposed Project including the purpose, need, and potential benefits and impacts, and the PUC certification process;

- Inform the public with regard to the routing procedure, schedule; and route approval process; and
- Gather the values and concerns of the public and community leaders.

46. LCRA TSC solicited public input by mailing 2,262 individual written notices of the meeting to potentially affected landowners, mailing or delivering to various state/federal regulatory agencies individual written notice of the meeting, and placing notice in seven local newspapers, announcing the location, time, and purpose of the meeting. The meeting was intended to solicit comments from citizens, landowners, and public officials concerning the proposed project.

47. At the Open Houses a total of 220 citizens/landowners signed in as attending. All attendees were offered a questionnaire, a preliminary route segment map, a frequently asked questions sheet, and a structure design options sheet. A total of 199 questionnaires were received by LCRA TSC. Some citizens/landowners handed in questionnaires at the meeting (72) while others mailed, e-mailed, or faxed questionnaires to LCRA TSC. Among other things, the attendees were asked if they had a concern with any particular preliminary alternative route segment as they were presented at the open house meeting. Segment S (utilized in Route 10, along existing ROW owned by LCRA TSC) received the highest number of comments, with positive comments outweighing negative comments.

48. When asked on the questionnaire if the respondents had a preference for the type of transmission line structure that is being proposed for the project, the following responses were received at the first and second open houses, respectively:

- 75% & 67% preferred single pole
- 8% & 10% preferred H-frame
- 1% & 6% preferred lattice towers

49. Intervenors in the proceeding advocated the use of different routes depending on their perception of community values. Most intervenors west of the existing corridor advocated for the use of routes, especially Route 10, that maximized the use of existing ROW. Most intervenors along the existing ROW advocated for the use of areas to the west where fewer habitable structures exist at present.

50. Route 10 adequately considers community values. While it shares with four other routes the highest number of habitable structures within 300 feet of the centerline of the original 14 routes indentified by LCRA TSC, it has other favorable characteristics, such as the highest percentage of all routes of utilizing existing ROW and low estimated cost.

**Recreational and Park Areas**

51. Parks and recreational areas are defined by the PUC in its CCN Application form as areas owned by a governmental body or an organized group, club, or church.

52. The Applicant attempted to identify existing park areas that are:

- Dedicated as parkland or open space by a governmental body, an organized group, club, or church.
- Recognized as nationally or regionally significant preservation or recreation areas.
- Formally designated unique or undisturbed natural areas.

53. No state or national parks were identified within the study area. No county parks were identified within the study area. Six parks or recreational areas are located within 1,000 feet of the centerline of the primary alternative routes.

54. Route 10 crosses approximately .09 miles of parks/recreational areas. Route 10 does not directly cross any recreational areas except for those already crossed by the existing Sheriff's Posse – Parkway transmission corridor, such as Forest Ridge Park and Northcliffe Golf Course. There are four additional park/recreational areas located within 1,000 feet of Route 10.

55. The proposed transmission line will have no adverse impact on parks and recreational areas.

**Historical and Aesthetic Values**

56. Route 10 does not cross any National Register listed or determined – eligible historical or archeological sites, and there are no such sites within 1000 feet of the route. Route 10 does not cross any previously recorded historical or archeological sites. One recorded historic or pre-historic site is located within 1000 feet of the Route 10 ROW.

57. There are currently no formal guidelines provided for managing visual resources on private, state, or county owned lands located within the study area. For the purposes of this Application, the term "aesthetics" is appropriately defined to consider the subjective perception of natural beauty in a landscape and a measure of an area's scenic qualities.

58. Based on several aesthetic criteria, the study area exhibits a medium degree of aesthetic quality for the region, with most of the area having been commercially, industrially or residentially developed. The portions of the study area through which Route 10 traverses is characterized by extensive existing developed residential neighborhoods, associated schools, parks and golf courses, along with some very limited commercial development. The northern portions of Route 10 is characterized by open pasture and limited development.

59. Aesthetic impacts or impacts to visual resources exist when the ROW, lines, and/or structures of a transmission line system create an intrusion into, or substantially alter, the character of, the existing view. The significance of the impact is directly related to the quality of the view in natural scenic areas, the importance of the existing setting in the use and/or enjoyment of an area, and in valued community resources in recreational areas.

60. Since there exist no rare, unique, pristine, high quality landscapes, or landscapes protected by legislation or from most forms of development within the study area, potential visibility impacts were evaluated by tabulating the linear feet of each route that would potentially create a new or additional impact to potential sensitive viewers from publicly accessible areas. The length of each route within the foreground visual zone of parks/recreational areas (within one-half mile with unobstructed views), and the lengths within the foreground visual zone of FM roads, Interstate, State, and U.S. Highways (within one-half mile with unobstructed views) were tabulated.

61. When a transmission line is proposed to replace an existing transmission line and constructed within an existing ROW, the potential visual impact would not be considered new. When a new transmission line is parallel to an existing transmission line the resulting visual impact would not be considered new, but it may have a cumulative visual impact depending on the differences in structure size and shape, and line size between the existing and new transmission lines.

62. Construction of the proposed 138-kV transmission line could have both temporary and permanent aesthetic effects. Temporary impacts would include views of the actual assembly and erection of the structures. Where wooded areas are cleared, the brush and wood debris could have an additional negative temporary impact on the local visual environment. Permanent impacts from the project would involve the views of the structures and lines. New visual impacts would be minimized by constructing the new transmission line within existing transmission line ROW or parallel to existing transmission lines.

63. Route 10 has approximately 5.6 miles within the foreground visual zones of highways, and 4.0 miles within the foreground visual zones of parks/recreation areas. This route's combined visual foreground total is in the middle of all routes examined by LCRA TSC.

64. Aesthetic impacts of the proposed transmission line have been considered and minimized to the extent possible.

**Environmental Integrity**

65. The proposed project area includes numerous urban/residential areas, several parks and recreational areas, agricultural areas represented by pastureland and cropland, and industrial areas. Some of the recreation areas within the project area include Forest Ridge Home Owners Association (HOA) Park, Forest Ridge Park, Riata Terrace HOA Park, John A Sippel Elementary School playground, Northcliffe Country Club and Golf Course, and Community Center North. Project area pastures are used to support cattle, goats, and sheep operations and/or the production of hay. The primary crops grown within the project area include hay, corn, sorghum, wheat, and pecans. Industries within the project area include manufacturing, distribution centers, and oil and gas production. The project area is situated within the Blackland Prairies physiographic region of Texas, near the transition zone with the Edwards Plateau physiographic region. The northwestern portion of the study area (along Dry Comal Creek) where limestone outcrops are exposed has characteristics of the Edwards Plateau physiographic region. The region's topography is described as gently rolling hills. Elevations increase northward and westward and range from approximately 680-850 feet above mean sea level.

66. LCRA TSC's consultant, POWER Engineers (POWER), used a Project Team, with expertise in different disciplines (geology/soils, hydrology, terrestrial ecology, wetland

ecology, land use/aesthetics, socioeconomics, and cultural resources [archaeological and historical]) to delineate and evaluate potential alternative routes for the proposed project based upon environmental and land use conditions present along each potential route, reconnaissance surveys, and the public involvement program.

67. All of the alternative routes provided in the Application comply with the routing requirements of PURA § 37.056(c)(4)(A)-(D), P.U.C. SUBST. R. 25.101, and LCRA TSC routing practices.

68. No significant impact to existing land use, socioeconomic, geological, hydrological, or wetland resources and no adverse effects to historical or archeological resources are anticipated as a result of construction of Route 10 as amended by the Unanimous Stipulation.

69. LCRA TSC's consultant POWER engaged in an extensive multi-step process to determine potential environmental impacts, and used the information gathered to engage in substantial mitigation of potential impacts through that process.

70. In order to create a manageable analysis appropriate for the size of the project, POWER and LCRA TSC used an interactive process to identify a total of 14 primary alternative routes for comparison. Each alternative route was examined from publicly accessible locations in the field and from 2008, 2009, 2010, and 2011 aerial photography. They were evaluated considering a variety of environmental/land use criteria. The evaluation of each route involved inventorying and tabulating the number or quantity of each criterion along each route. This process produced an acceptable number of alternatives, any one of which would be acceptable for use under the Commission's routing criteria.

71. With respect to overall environmental integrity, the project will cause only short term impacts to soil, water, and ecological resources. The project is not anticipated to adversely impact populations of any federally-listed endangered or threatened species. Prior to construction, a natural resources assessment will be conducted which will consider threatened and endangered wildlife and plant species along the approved route.

**Engineering Constraints**

72. On Route 10, LCRA TSC owns a combination of property and easements, within which LCRA TSC could operate and maintain the proposed transmission line. A substantial portion of route segments comprising Route 10 reside within what LCRA TSC has referred to in its application as an "existing transmission corridor." The existing transmission corridor consists of land within which LCRA TSC owns property in fee, defined width easements, and "blanket" easements, and that runs from the Parkway Substation to the Sheriff's Posse Substation. The Sheriff's Posse Substation is located approximately 2.7 miles northeast of the point where Segment C1 turns toward the EC Mornhinweg Substation located on the opposite side of IH-35 from the existing transmission corridor. LCRA TSC acquired the existing transmission corridor and its contents from NBU in 1995, and installed a communication line through the corridor from the Parkway Substation to the vicinity of Sheriff's Posse Substation. LCRA TSC currently owns and operates this communication line. The facilities LCRA TSC currently owns in this existing transmission corridor consist of a wood-pole line carrying a single communication line from the Parkway Substation to, and through, the vicinity of the Weiderstein Substation. The communication line then continues on toward, and past, the Sheriff's Posse Substation. In addition, LCRA TSC owns a de-energized 138-kV transmission line on wood H-frame structures located between the Weiderstein Substation up to the area in the immediate vicinity of the Sheriff's Posse Substation. A map depicting the existing transmission corridor and transmission infrastructure is attached to the Direct Testimony of Nathan Laughlin, Exhibit NL-2.

73. In or near more densely developed areas, where limited space is available for the transmission line, LCRA TSC will construct the line with a vertical conductor configuration. Steel poles can be delivered in short sections to be pieced together during construction while concrete poles can typically only be delivered and installed as one long piece.

74. A portion of Route 10, (using Route Segments L1, N1 O1, and C1, which is a direct path across IH-35 from the ECM Substation to the existing LCRA TSC transmission ROW) should be certificated for a second 138-kV circuit to be added as needed in the future. LCRA TSC will construct these particular segments using double-circuit-capable pole

structures, which can be constructed within the same ROW width as single-circuit delta configuration poles.

75. Two FAA-registered private airstrips, Kitty Hawk Flying Field and Fox Airport, were identified within 10,000 feet of Route 10. One FAA-registered private airport, Randolph Air Force Base, was identified within 20,000 feet of Route 10. One non FAA-registered private airstrip, Lazy Springs Airport was identified within 10,000 feet of Routes 10. However, this is an inactive airstrip. There are no FAA-registered heliports located within 5,000 feet of any of the primary alternative routes.

76. No known AM radio transmitters were identified within 10,000 feet of the centerline of Route 10. There are three communication facilities (FM radio transmitters, microwave towers and other electronic communications towers) located within 2,000 feet of Route 10.

**PURA §39.904(a)**

77. Because the proposed project is required for local transmission reliability in light of the circumstances described in Findings of Fact __ - __ above, the goals of renewable energy found in PURA 39.904 are not implicated by this project.

**Costs**

78. Route 10 is the lowest cost route analyzed by LCRA TSC, at approximately $10,130,000 for the 8.06 mile route utilizing 6.9 miles of existing ROW. As shown in LCRA TSC's Second Errata, total project costs are estimated at $11,560,000 to include substation facilities. Changes in market conditions, including construction labor and/or the cost of metals and other natural resources, as well as changes in land use, could increase or decrease costs above or below the estimates contained in the application. Over time, these and other factors could change, resulting in increased or decreased costs.

**Moderation of Impact**

79. LCRA TSC incorporated a number of techniques to moderate impact in its route identification and selection process. LCRA TSC proposed various alternative routes that use or parallel existing transmission line ROW, parallel existing compatible ROW (roads, existing compatible easements etc.), and followed parcel lines where reasonable. Additional-

ly, LCRA TSC made routing adjustments based on public input where reasonable and practical prior to comparison of final routing alternatives. Where possible, these adjustments avoid specific land uses or activities brought to LCRA TSC's attention by affected landowners. The revisions reduce the impact to property by minimizing the perceived impacts to the landowners' use of their property.

80. LCRA TSC's Route 10 moderates impact. Route 10's benefits include:

- Utilizes a large amount of existing transmission line ROW (86%).
- Utilizes approximately 94% of existing compatible ROW or is parallel to property lines or existing compatible ROW.
- The shortest of the alternative routes – 8.06 miles.
- Has a high number of habitable structures located within 300 feet of the centerline, but the established ROW will require no change in land uses.
- Among lowest environmental impact routes based on studied criteria.
- Route with the lowest estimated cost

81. It is appropriate for LCRA TSC to work with landowners on routing modifications during the period of time after Commission approval and before LCRA TSC engineers set the alignment for the approved route (normally, 60-90 days). However, certain conditions for doing so have been typically included in prior LCRA TSC CCN orders. LCRA TSC will only implement technically feasible, minor route modifications or alternative line configurations that will not add significant cost to the project, that will not lengthen the project schedule, and that will not introduce or directly affect (as defined by the Commission's notice rules) landowners not previously noticed in this CCN proceeding who have not otherwise agreed to a waiver of notice.

82. Despite the fact that the property owned by Edward and Dessa Anderson is not crossed by Route 10, it is appropriate for LCRA TSC to work with Mr. and Mrs. Anderson to limit the number of trees that will need to be cut in the existing transmission corridor behind their home, and to locate any transmission monopole structures in the vicinity of their home close to the existing CPS Energy 138-kV lattice tower currently located in the existing transmission corridor, as more fully described in the Unanimous Stipulation filed by the parties in this docket.

**PUCT SUBST. R. §25.101(b)(3)(B)(i) –(iii) criteria**

83. Ten of the 14 routes utilize the existing Sheriff's Posse – Parkway transmission line ROW, from a distance of less than a mile to nearly seven miles. Route 10 has the highest percentage of use of existing transmission line ROW – 86%.

84. Paralleling property lines is a favorable routing criteria and may minimize the potential for disruption to agricultural activities and may create less of a constraint for future development of a tract of land. This opportunity extends to fence lines as well. As a result, routes were developed to parallel parcel lines where feasible, while also considering other important factors such as engineering constraints and costs. Route 10 parallels a high percentage of apparent property lines in those areas where it does not utilize the existing transmission line corridor.

**Prudent Avoidance**

85. P.U.C. SUBST. R. 25.101 defines prudent avoidance as "the limiting of exposures to electric and magnetic fields that can be avoided with reasonable investments of money and effort." This does not mean that a proposed transmission line must avoid habitable structures at all costs, but that reasonable alternatives must be considered.

86. The routes considered in the Application conform to the Commission's policy of prudent avoidance in that they reflect reasonable investments of money and effort in order to limit exposure to electric and magnetic fields. Prudent avoidance also takes into account what can be done in different settings, such as rural versus urban areas, where routing options and the opportunities to make routing adjustments differ.

87. Useful to understanding the exercise of prudent avoidance is the level of electric and magnetic fields (EMF) anticipated by this project. The calculated EMF levels are comparable to other lines of this type, including several 138-kV lines in the general vicinity of the proposed project.

88. There is nothing unusual about the EMF levels from the Proposed Project. The EMF levels are within the range of the fields that people experience every day in their normal living and working environments, including school classrooms, they are generally lower than the field levels encountered in everyday locations in Schertz, and they are substantially below the magnetic field exposure limits adopted by international organizations

such as the Institute of Electronic and Electrical Engineers (IEEE). 138-kV transmission lines have been in service in the United States for almost 100 years and there are about 300,000 miles of transmission lines rated at 138 kV or higher in operation across the country.

89. There is no reliable scientific basis to conclude that exposure to power frequency EMF from the ECM to Parkway 138-kV transmission line will cause or contribute to the development of cancer in children or adults along the route of the proposed transmission line.

90. There are 511 habitable structures within 300 feet of the Route 10 centerline.

91. Several practical design measures may be considered as "prudent avoidance." Constructing the line with either the vertical or delta single pole configuration would result in magnetic field levels that are approximately 20-40% lower than they would be if the line were constructed in an H-frame configuration similar to the line that currently resides in the existing corridor. LCRA TSC can increase the distance from the wires to the ground by increasing structure heights at a very reasonable cost per structure. By increasing the height of the structures, EMF levels would be decreased markedly in that area. These mitigative measures would increase the cost of the transmission line by a very reasonable amount - between approximately $12,000 and $32,000 for increasing the height of 6-8 tangent structures approximately 10 feet. Several mitigative measures proposed to be implemented by LCRA TSC in the area around Sippel Elementary School, and described more fully in the Unanimous Stipulation, are reasonable and should be implemented as being in conformance with the polity of prudent avoidance.

92. Route 10 has been routed in accordance with the Commission's policy of prudent avoidance.

**Alternative Routes/Configurations**

93. In connection with the use of Route 10 (among others), LCRA TSC evaluated a route modification requested by the Schertz-Cibolo-Universal City Independent School District (SCUCISD) along Segment "M." The minor route modification would result in an estimated cost increase of approximately $300,000 and an estimated length increase of 0.04 miles to Route 10. This cost estimate assumes that SCUCISD would grant an easement

to LCRA TSC on the modified route at no cost, and the granting of such an easement at no cost is a necessary precondition to the construction of this routing adjustment. Segment "M" currently follows LCRA TSC's existing easement across the property. This routing adjustment made for SCUCISD would move the segment to the boundary of the property, which would add to the habitable structure count seven (7) newly affected habitable structures (single-family residences) within 300 feet of the centerline of Segment M. Segment M's habitable structure count would increase from 111 to 118. The total number of habitable structures on Route 10 would increase to 511. All of the habitable structures affected by the routing adjustment proposed by the SCUCISD were noticed in this proceeding, so there are no notice issues involved with making the routing adjustment requested by the SCUCISD. A map depicting the modification requested by SCUCISD is attached to the Rebuttal Testimony of Nathan Laughlin, Exhibit NL-6cR.

94. With respect to modifications made prior to LCRA TSC's filing and as a result of landowner suggestions at the open house, those adjustments do not result in any impact to electrical efficiency or reliability when considered from the perspective of electrical system planning. Since the SCUCISD adjustment is similar in configuration and scope to some of the types of adjustments incorporated by LCRA TSC previously in its route links, it appears that no impact on efficiency/reliability would occur as a result of that adjustment.

**Texas Parks and Wildlife Department Recommendations**

95. TPWD made recommendations and informal comments regarding the project and potential impacts on sensitive fish/wildlife resources, habitats or other sensitive natural resources. The TPWD letter only considers limited issues. Overall, the response includes the typical concerns, comments and recommendations that are often provided by TPWD with regard to proposed transmission line projects. LCRA TSC and its consultants have attempted to utilize many, if not all of the recommendations in its study, and have already taken into consideration several of the recommendations offered by the TPWD. LCRA TSC and its consultants have also examined these recommendations in light of its understanding of LCRA TSC's construction practices, and mitigation and permitting activities.

96. TPWD recognizes that Route 10 is one of the shortest routes and utilizes the most existing transmission line ROW. TPWD asserts this would reduce the potential impacts to native vegetation and minimize habitat fragmentation. Overall, Route 10 would have less impact on natural resources compared to the northern routes. However, this is not based solely on the fact that Route 10 utilizes existing transmission line ROW and that it is a shorter route, but instead it is based on the natural resources that are located along Route 10.

97. With respect to TPWD's recommendations and analysis, it is not appropriate to "modify" the project proposed by LCRA TSC in the Application because, with respect to marking overhead ground wire with markers, LCRA TSC will comply with the Migratory Bird Treaty Act. If necessary, LCRA TSC will consult with the US Fish and Wildlife Service (USFWS) post-order to determine locations for any line markers.

98. Through its CCN process the Commission has always considered reasonable and proportional conditions and mitigation measures appropriate to a particular project area. The Commission expects transmission providers such as LCRA TSC to carefully examine and propose appropriate design, construction, cleanup, and maintenance techniques to avoid undue environmental and land use impacts, and LCRA TSC has done so in this Application. The PUC Staff considers those proposals both in light of: (1) a balancing of PURA and PUC Substantive Rule requirements, and (2) supervision of multiple transmission service providers in all areas of the state. As a result, the Commission has before it (by virtue of LCRA TSC's and Staffs recommendations) a set of reasonable, proportionate, and useful conditions and mitigation measures.

99. TPWD's recommendations are in excess of those necessary to properly balance the PURA and PUC Substantive Rule criteria in this study area.

100. It is inappropriate to require the type of "survey" advocated by TPWD before the Commission selects a route. LCRA TSC does not have access to private properties to conduct this type of survey nor is it necessary to conduct a survey of an unknown scope. The Commission has recognized in prior cases that utilities do not have access to private property until after a route is approved by the Commission. Once a route is approved by the Commission, LCRA TSC will have access to private property and will perform a natural resources assessment which will consider listed threatened and endangered wildlife

and plant species and their habitat along the approved route. This is a long-standing industry practice approved through many LCRA TSC CCN proceedings. With respect to state-listed species or non-listed "rare" species, there is currently no requirement to survey.

101. LCRA TSC will revegetate the new ROW as necessary and according to LCRA TSC's vegetation management practices, the Storm Water Pollution Prevention Plan (SWPPP) developed for construction of the project, and in many instances landowner preferences or requests.

102. LCRA TSC's standard vegetation removal, construction, and maintenance practices adequately mitigate concerns expressed by TPWD. LCRA TSC complies with applicable state and federal laws and regulations. Use of the SWPPP implements appropriate strategies to deal with erosion and soil stability. Vegetation removal is limited to necessary removals to establish appropriate access and clearances. Unnecessary tree/vegetation clearing along stream and river banks is avoided and herbicide use is restricted. Revegetation is appropriately performed with concern to landowner and operations interest. Avoidance and mitigation procedures are used to comply with laws protecting federally listed species.

103. It is inappropriate to require a "mitigation plan" in conjunction with this project of a type recommended by TPWD. It is premature and may not be proportional to any impacts ultimately identified. If construction could impact federally listed species or their habitats or impact jurisdictional waters of the United States, LCRA TSC would coordinate with USFWS and United States Army Corps of Engineers (USACE), the only agencies with jurisdiction in this regard, respectively, to coordinate permitting and any required mitigation.

## II. Conclusions of Law

1. LCRA TSC is an electric utility as defined in the Public Utility Regulatory Act (PURA), TEX. UTIL. CODE §§ 11.004 and 31.002(6).

2. The Commission has jurisdiction to adjudicate this case pursuant to PURA §§ 14.001, 32.001, 37.001, 37.051, 37.053, 37.054, 37.056, 37.057, and PUC SUBST. R. §§ 25.101.

3. SOAH has jurisdiction to conduct a hearing on the merits and to prepare a proposal for decision pursuant to PURA § 14.053 and certain portions of the Administrative Procedure Act, TEX. GOV'T CODE §§ 2003.021(b)(2) and 2003.049.

4. Proper notice of the application was provided in compliance with PURA § 37.054 and P.U.C. PROC. R. § 22.52(a).

5. Proper notice of the hearing on the application was provided in accordance with the Administrative Procedure Act, TEX. GOV'T CODE § 2001.051.

6. LCRA TSC's Application is sufficient and complete as filed.

7. LCRA TSC's 14 routes as presented in this Application contain an adequate number of routes to conduct a proper evaluation.

8. P.U.C. SUBST. R. § 25.101 does not require that habitable structures be avoided in deciding prudent avoidance issues but does require the limiting of exposures to electric and magnetic fields that can be avoided with reasonable investments of money and effort.

9. The routes proposed by LCRA TSC in its Application, and Route 10, as modified by the Unanimous Stipulation and filed in this docket, conform with all aspects of PURA § 37.056 and P.U.C. SUBST. R. 25.101, including the Commission's policy on prudent avoidance.

10. The Application does not raise an issue under P.U.C. SUBST. R. § 25.102 (the Coastal Management Program).

11. The proposed transmission line is necessary for the service, accommodation, convenience, or safety of the public within the meaning of PURA § 37.056, taking into consideration the factors set out in PURA §37.056(c).

12. LCRA TSC is entitled to approval of the Application as described in the findings of fact, having demonstrated that the proposed project takes into consideration the factors set out in PURA § 37.056(c)(4)(A)-(D) and (F) as well as P.U.C. SUBST. R. § 25.101(b)(3)(B).

13. LCRA TSC's Application complies with P.U.C. SUBST. R. § 25.101, and the requested certificate of convenience and necessity should be issued.

14. With regard to the Application's proposed routes, LCRA TSC's Route 10 best conforms to the Commission's routing criteria.