



Control Number: 41718



Item Number: 32

Addendum StartPage: 0

APPLICATION OF ENTERGY TEXAS, INC. §
TO AMEND ITS CERTIFICATE OF §
CONVENIENCE AND NECESSITY FOR A §
PROPOSED 230 KV TRANSMISSION LINE §
IN GRIMES AND MONTGOMERY §
COUNTIES §

BEFORE THE
PUBLIC UTILITY COMMISSION OF
TEXAS

2013 SEP -3 PM 2:46

ENTERGY TEXAS, INC.'S OBJECTION TO THE INTERVENTION
OF PEGGY SELDEN

Entergy Texas, Inc. (ETI or the Company), files this objection to the intervention of Peggy Selden filed on August 26, 2013. ETI was not served the Request to Intervene Ms. Selden filed with the Public Utility Commission of Texas' (Commission), however the Company timely files this objection.

I. Introduction

In conducting its research to determine possible landowners who may be affected by the proposed transmission line that is the subject of this application, real property identified as being owned by Ms. Peggy Jones was discovered. Ms. Jones' property would be affected by Segment Y1 of the Company's proposed transmission line project. In that regard, ETI further discovered that Ms. Peggy Jones was a signatory to an easement for real property along Segment Y1. There is no habitable structure on this real property within 300 feet of the centerline of the proposed transmission line.

The easement of Ms. Jones was recorded in the real property records of the Montgomery County Appraisal District. ETI is not aware as to whether Ms. Peggy Selden is also Ms. Peggy Jones, but notes the following: (1) the address of Ms. Peggy Jones (as recorded on the Montgomery County Appraisal District) is the same address of Ms. Peggy Selden; (2), the notice of ETI's application was sent to the record holder of the real property, Peggy Jones; and (3) Ms. Peggy Selden, and not Ms. Peggy Jones, has moved to intervene in this case. In addition, Ms. Selden, in her Motion to Intervene, mentions that a transmission line already exists on her property. ETI further notes that to the extent Ms. Peggy Selden, and not Ms. Peggy Jones, owns the real property at issue, Ms. Selden received notice as is evident by her Motion to Intervene,

and the easement in question is applicable to the owner of this real property (if that happens to be Ms. Selden) because easements run with the land.¹ Ms. Selden's interest in the instant proceeding is obviated due to the easement granted ETI under the terms of this easement.

II. Easement

The easement signed by Peggy Jones with ETI (then, Gulf States Utilities Company) provides for the construction, maintenance, operation of one or more lines, for one or more circuits, "of any other type of material or materials at any time."² The easement in question is attached as Appendix A.

The Company submits that the real property of Ms. Peggy Selden is subject to the easement attached as Appendix A. Appendix B to this pleading is the affidavit of Ms. Roseline Dawson who attests that she provided notice to the owner of real property that would be traversed by a proposed transmission line, if approved by the Commission, along segment Y1. The owner of the property in question has been shown to be Ms. Peggy Jones. The real property which has been shown to be owned by Ms. Peggy Jones (or Ms. Peggy Selden), is the same real property that is described in the easement attached as Appendix A. As described above, this easement provides that ETI has the legal authority to construct transmission lines within the right-of-way granted under the terms of this easement.

The Company's proposed transmission line along Segment Y1 would be located within the right-of-way covered by the above easement. Appendix C to this pleading contains the affidavit of Branch Davis, an engineer with ETI, who attests that the location of a proposed transmission line along segment Y1, if approved by the Commission, would be located within the right-of-way of the easement provided in Appendix A.


¹ In Texas, a covenant, or easement, "runs with the land when it touches and concerns the land; relates to a thing in existence or specifically binds the parties and their assigns; is intended by the original parties to run with the land; and when the successor to the burden has notice." *Westland Oil Devel. Corp. v. Gulf Oil Corp.*, 637 S.w.2d 903, 910-911 (Tex. 1982). Notice can be actual or constructive once it is recorded with the county. *Watson v. Chalk*, 11 Tex. 89 (1853).

² Doc. No. 8029672, County of Montgomery, Aug. 30, 1980 (Granting "privilege and easement to enter upon and to construct, maintain, operate, inspect, patrol, replace, repair, and remove one or more lines of structures, for one or more circuits, composed of wood, metal or other type or types of material...erected simultaneously or at different future times...at any time.").

Based upon the fact that ETI has an easement to construct transmission lines within the easement granted to it as reflected in Appendix A, and as further attested to in the affidavits of Ms. Roseline Dawson and Mr. Branch Davis, as reflected in Appendices B and C, respectively, ETI requests that the Commission deny Ms. Selden's intervention in this docket based upon the lack of justiciable interest and for such other relief to which it has shown itself entitled.

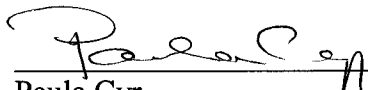
Respectfully submitted,

Paula Cyr
Entergy Services, Inc.
919 Congress Avenue, Suite 840
Austin, Texas 78701
(512) 487-3957 telephone
(512) 487-3958 facsimile

By: 
Paula Cyr
State Bar No. 16385200

Certificate of Service

The undersigned certifies that a copy of the foregoing document has been served by facsimile, e-mail, U.S. mail, overnight delivery or hand-delivered to the parties of record on this 3rd day of September, 2013.


Paula Cyr

033-01-0616

8029672

REAL PROPERTY RECORDS

E A S E M E N T

STATE OF TEXAS X
COUNTY OF MONTGOMERY X KNOW ALL MEN BY THESE PRESENTS:
X

THAT Pat McMurrough, Carol G. Fontenot
Roger O. Gary Jr., Charles S. McMurrough, Terance

H. McMurrough, Marg Kay McMurrough, Peggy G. Jones, Mary A. Klein
hereinafter called Grantor, for and in consideration of
Ten dollars and other valuable consideration Dollars in hand paid by
Gulf States Utilities Company (hereinafter sometimes called
GSU) and Houston Lighting & Power Company, (hereinafter
sometimes called HL&P), the receipt of which is hereby
acknowledged, has granted and by these presents does grant
unto said Gulf States Utilities and Houston Lighting & Power
Company, hereinafter called Grantee, each of said companies
being duly incorporated and existing under the laws of the
State of Texas, the RIGHT, PRIVILEGE AND EASEMENT to enter
upon and to construct, maintain, operate, inspect, patrol,
replace, repair and remove one or more lines of structures,
for one or more circuits, composed of wood, metal or other
type or types of material with lines of wires, crossarms,
guy wires, stubs, foundations, anchors and other usual
fixtures for the transmission of electricity and communi-
cations, said facilities to be erected simultaneously or at
different future times, with the right to replace structures
or fixtures composed of one type of material or materials
with structures or fixtures of any other type of material or
materials at any time and from time to time without further
payment, upon, over and across that certain tract or parcel
of land owned by Grantor, situated in the Jacob Shannon
Abstract 35 Survey, in Montgomery County, Texas, fully
described in Volume 1020, Page 246, Deed Records of Montgomery
County, Texas, to which reference is hereby made for descrip-
tion, said facilities to be located within the easement

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TRACT 30M
EASEMENT 534.49

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strip, except that at angle point, if any, Grantee may place guy wires, stubs and anchors, as may be necessary, outside said easement strip in sufficient number so as to adequately brace its structures at any place where said easement strip makes an angle, which easement strip and continuations or projections thereof, insofar as same may be embraced within said tract, shall extend 120.5 feet on the westerly side and 126.5 feet on the easterly side of the following described line.

Beginning in the south line of the above described property, same being the centerline of Rocky Creek, at a point 880 feet easterly along meandering Rock Creek from the northwest corner of the Waddie Hill and Peter W. Davis Jr., tract of land.

THENCE N 07° 19' 55" W, a distance of 584.40 feet, to a point of exit in the north line, located 1858.87 feet westerly from the northeast corner of said property.

See plat or sketch attached hereto and made a part hereof.

GRANTOR grants unto Grantee the right at any time, and from time to time (a) to trim, cut or remove all trees, underbrush and other obstructions located upon said easement strip, without further payment, and (b) to trim, cut or remove from the land outside of said easement strip any and all trees which in falling could come within ten feet of the electric lines of Grantee, upon payment of reasonable market value of such trees.

GRANTOR retains the right to use for Grantor's own purposes the land covered by said easement as long as such use does not interfere with the easement and rights herein granted. However, Grantor shall not erect, locate or permit the erection or location of any structure or object of any type whatever within the easement strip described above, but Grantor may fence any or all of said property. Grantee shall have ingress and egress at any time to, from and along the land covered by this easement.

033-01-0618

GRANTEE shall pay Grantor for damages to Grantor's buildings, other structures and trees where located outside said easement strip; and to Grantor's growing annual crops, roads, bridges and fences caused by the construction, operation and maintenance of said electric lines.

GRANTEE shall have the right to transfer and assign the respective rights granted to them hereunder either in whole or in part.

It being understood and agreed that the facilities of GSU are to be located in the most easterly 112.5 feet of the hereinabove described easement strip granted to GSU and the facilities of HL&P are to be located in the most westerly 134.5 feet of the hereinabove described easement strip granted to HL&P.

TO HAVE AND TO HOLD the above granted rights, easement and right of way unto the said Grantee, its successors and assigns, until the use of said easement by Grantee is commenced, and so long thereafter as the same shall be useful for the above named purposes.

GRANTOR, hereby covenants with Grantee, that Grantor has title to said land, and has the right to grant the privileges herein contained.

ALL THE AGREEMENTS and stipulation herein contained, and all of the obligations herein assumed, shall inure to the benefit of and be binding upon the heirs, successors and assigns of the respective parties hereto. Whenever the word "Grantor" is used herein it shall be construed to include "Grantors" and whenever the word "Grantee" is used herein it shall be construed to include "Grantees".

<u>Reginald S. Jones</u> Reginald S. Jones	<u>Reginald S. Jones</u> Reginald S. Jones
<u>Patricia S. Jones</u> Patricia S. Jones	<u>Charles S. Jones</u> Charles S. Jones
<u>Carol S. Jones</u> Carol S. Jones	<u>Lawrence S. Jones</u> Lawrence S. Jones
<u>Mary S. Jones</u> Mary S. Jones	<u>Mary S. Jones</u> Mary S. Jones

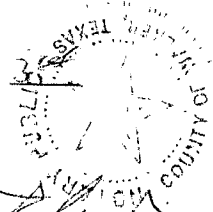
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033-01-0619

STATE OF TEXAS X
 X
COUNTY OF Montgomery X

BEFORE ME, the undersigned authority in and for
said State and County, on this day personally appeared
Roger O. Garg Jr., known
to me to be the person whose name subscribed to the
above and foregoing instrument, and acknowledged to me that
he executed the same for the purposes and consideration
therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this
day of August, A.D., 19 80.


[Signature]
Notary Public in and for
Walker County, Texas

OSU1232-11-62

033-01-0620

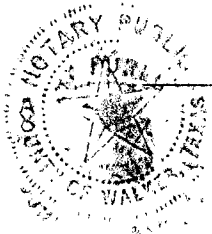
STATE OF TEXAS

ORIGINAL DIM

COUNTY OF Montgomery

BEFORE ME, the undersigned authority in and for said State and County, on this day personally appeared _____

Charles S. McMurrough
known to me to be the person whose name _____ subscribed to the above and foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.



GIVEN UNDER MY HAND and seal of office this 4th day of August, A.D., 1980.

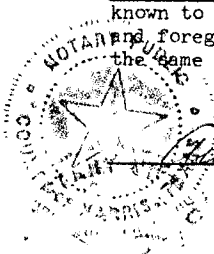
Philip P. McDonald
Notary Public in and for WALKER County, Texas

STATE OF TEXAS

COUNTY OF Harris

BEFORE ME, the undersigned authority in and for said State and County, on this day personally appeared _____

Mary Kay McMurrough
known to me to be the person whose name _____ subscribed to the above and foregoing instrument, and acknowledged to me that she executed the same for the purposes and consideration therein expressed.



GIVEN UNDER MY HAND and seal of office this 13th day of August, A.D., 1980.

Freda P. Blansky
Notary Public in and for Harris County, Texas

STATE OF TEXAS

COUNTY OF Montgomery

BEFORE ME, the undersigned authority in and for said State and County, on this day personally appeared _____

Terence H. McMurrough
known to me to be the person whose name _____ subscribed to the above and foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.



GIVEN UNDER MY HAND and seal of office this 12th day of August, A.D., 1980.

Philip P. McDonald
Notary Public in and for WALKER County, Texas

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STATE OF TEXAS

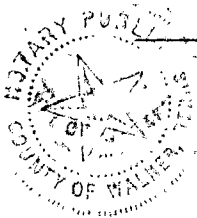
COUNTY OF Travis

ORIGINAL DIM

BEFORE ME, the undersigned authority in and for said State and County, on this day personally appeared _____

Peggy Jones
known to me to be the person whose name _____ subscribed to the above and foregoing instrument, and acknowledged to me that she executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND and seal of office this 18th day of Aug, A.D., 1980.



Philip J. McDaniel
Notary Public in and for Walker
County, Texas

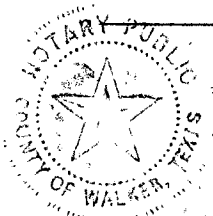
STATE OF TEXAS

COUNTY OF Montgomery

BEFORE ME, the undersigned authority in and for said State and County, on this day personally appeared _____

Pat McMarough
known to me to be the person whose name _____ subscribed to the above and foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND and seal of office this 19th day of Aug, A.D., 1980.



Philip J. McDaniel
Notary Public in and for Walker
County, Texas

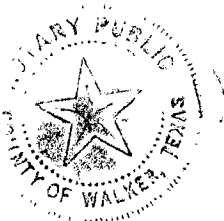
STATE OF TEXAS

COUNTY OF Harris

BEFORE ME, the undersigned authority in and for said State and County, on this day personally appeared _____

Carol G. Fontenot
known to me to be the person whose name _____ subscribed to the above and foregoing instrument, and acknowledged to me that she executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND and seal of office this 21st day of Aug, A.D., 1980.



Philip J. McDaniel
Notary Public in and for Walker
County, Texas

OSU1232-11-62

STATE OF TEXAS

ORIGINAL DIM

033-01-0622

COUNTY OF Brewer

BEFORE ME, the undersigned authority in and for said State and County, on this day personally appeared _____

Mary A. Klein
known to me to be the person whose name _____ subscribed to the above and foregoing instrument, and acknowledged to me that she executed the same for the purposes and consideration therein expressed.



GIVEN UNDER MY HAND and seal of office this 27 day of Aug, A.D., 19 80.

[Signature]
Notary Public in and for Walker County, Texas

STATE OF TEXAS

COUNTY OF _____

BEFORE ME, the undersigned authority in and for said State and County, on this day personally appeared _____

known to me to be the person whose name _____ subscribed to the above and foregoing instrument, and acknowledged to me that _____ executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND and seal of office this _____ day of _____, A.D., 19____.

Notary Public in and for _____ County, Texas

STATE OF TEXAS

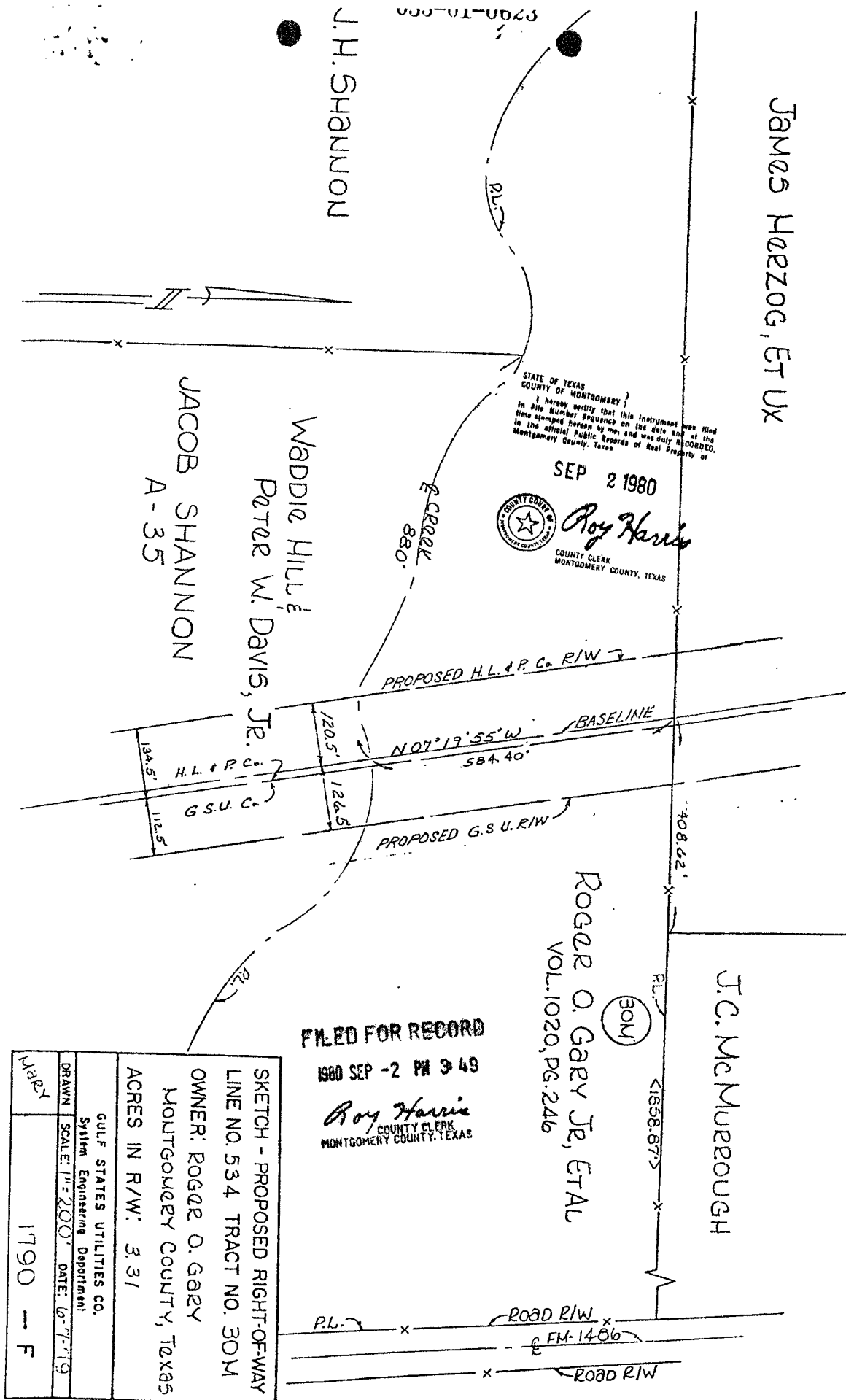
COUNTY OF _____

BEFORE ME, the undersigned authority in and for said State and County, on this day personally appeared _____

known to me to be the person whose name _____ subscribed to the above and foregoing instrument, and acknowledged to me that _____ executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND and seal of office this _____ day of _____, A.D., 19____.

Notary Public in and for _____ County, Texas



AFFIDAVIT

STATE OF TEXAS

§
§
§

COUNTY OF FORT BEND

BEFORE ME, the undersigned authority, on this day personally appeared Roseline E. Dawson, who, having been placed under oath by me, did depose as follows:

1. "My name is Roseline E. Dawson. I am of legal age and a resident of the State of Texas. I am the Senior Vice President of Title Services Contract Land Staff, Inc.
2. "On August 16, 2013, I caused to be mailed by first class mail, notice of Entergy Texas, Inc.'s Docket No. 41718 --*Application of Entergy Texas, Inc. to Amend its Certificate of Convenience and Necessity for a Proposed 230 kV Transmission Line in Grimes and Montgomery Counties*. I used the most recent tax rolls of the Grimes and Montgomery County Tax Appraisal Districts to obtain the list of the directly affected landowners for the notice that I mailed.
3. "I provided the notice in Docket No. 41718 to Ms. Peggy Jones, at 2206 W. Mistletoe, San Antonio, TX 78201, whose real property located in Montgomery County would be affected by Segment Y1 of Entergy Texas, Inc.'s proposed transmission line in PUCT Docket No. 41718.
4. "On August 26, 2013, Ms. Peggy Selden requested to intervene in PUC Docket No. 41718, and provided an address of 2206 W. Mistletoe, San Antonio, TX 78201.
5. "I identified the address provided by Ms. Peggy Selden as the same address as Ms. Peggy Jones, who owns the property described in the August 1980 easement, Document Number 8029672 and attached as Appendix A to ETI's objection to the Intervention of Peggy Selden, which easement had been signed by Peggy Jones.
6. "Attached as Exhibit 1 to this affidavit is an image of the property at issue in the August 1980 easement.

Roseline E. Dawson
Roseline E. Dawson

SUBSCRIBED AND SWORN TO BEFORE ME, by the said Roseline E. Dawson this 3rd day of September, 2013.



Kathy T. Robson
Notary Public in and for the State of Texas

AFFIDAVIT OF BRANCH DAVIS

THE STATE OF LOUISIANA §

PARISH OF JEFFERSON §

BEFORE ME, the undersigned authority, on this day personally appeared Branch Davis, who, having been placed under oath by me, did depose as follows:

1. "My name is Branch Davis. I am of legal age and a resident of the State of Louisiana. I am of sound mind, capable of making this affidavit, and personally acquainted with the facts stated herein.
2. "I am Supervisor, Transmission Line Design for Entergy Services, Inc.
3. "I am design engineer for proposed 230 kV Transmission Line in Grimes and Ponderosa Counties in Docket No. 41718. I am familiar with right-of-way acquired by the August 1980 easement signed by Ms. Peggy Jones, Document Number 8029672. I am also familiar with where the line will be going in relation to the right-of-way.
4. "ETI's proposed Transmission line along Segment Y1 filed in Docket No. 41718 would be located within the right-of-way acquired by the August 1980 easement."
5. "Attached as Exhibit 1 to this affidavit is an image of the property at issue in the August 1980 easement.

Branch Davis
Branch Davis

SUBSCRIBED AND SWORN TO BEFORE ME by the said Branch Davis
this 29th day of August, 2013.

INSTRUMENT NOT PREPARED
BY THIS NOTARY PUBLIC,
ATTESTING TO SIGNATURES ONLY

Kevin J. Daley
Notary Public in and for the State of Louisiana
KEVIN J. DALEY #1822

