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SOAH DOCKET NO. 473-16-2751  
PUC DOCKET NO. 45624

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APPLICATION OF THE CITY OF § BEFORE THE STATE OFFICE  
GARLAND TO AMEND A §  
CERTIFICATE OF CONVENIENCE §  
AND NECESSITY FOR THE RUSK TO § OF  
PANOLA DOUBLE-CIRCUIT 345-KV §  
TRANSMISSION LINE IN RUSK AND §  
PANOLA COUNTIES § ADMINISTRATIVE HEARINGS

SOAH ORDER NO. 2  
MEMORIALIZING PREHEARING CONFERENCE;  
RULING ON MOTIONS TO INTERVENE;  
SETTING DEADLINES; APPROVING AND ADOPTING  
PROTECTIVE ORDER; AND NOTICE OF HEARING

On March 9, 2016, Administrative Law Judge (ALJ) Casey A. Bell convened a prehearing conference in this case. The following parties and parties seeking intervention made appearances at the prehearing conference: City of Garland (Garland), the staff (Staff) of the Public Utility Commission of Texas (Commission), Centerpoint Energy Houston Electric, LLC (Centerpoint), Southern Cross Transmission LLC (Southern Cross), Electric Reliability Council of Texas, Inc. (ERCOT), Texas Industrial Energy Consumers (TIEC), Jeb James, and Luminant Generation Company, LLC and Luminant Energy Company, LLC (collectively, Luminant).

**This order includes important information and should be kept for future reference.**

**II. RULING ON MOTIONS TO INTERVENE**

Prior to the prehearing conference, motions or request to intervene as parties to this case were filed by, among others: Centerpoint, ERCOT, Southern Cross, TIEC, Jeb James, and Terry Hooper. There being no objection to these motions to intervene, Centerpoint, ERCOT, Southern Cross, TIEC, Jeb James, and Terry Hooper are admitted as parties, and their names have been added to the ALJs' service list, which is attached to this Order. All other motions to intervene will be considered after the deadline for responding to same pursuant to 16 Texas Administrative Code § 22.78(a).

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### III. PROCEDURAL SCHEDULE AND NOTICE OF HEARING

The day preceding the prehearing conference, Staff filed its proposed procedural schedule and discovery requirements. The ALJ discussed the proposed schedule with the parties at the prehearing conference. All parties except Jeb James either agreed to, or did not object to, Staff's proposal. Counsel for Mr. James expressed concern regarding the proposed dates for the hearing on the merits, and informed the ALJ of a previously planned engagement the week prior to the proposed hearing dates. Although appreciating Mr. James' position, the ALJ again recognizes the statutory 185-day deadline for the Commission to approve the Application, which Garland has not yet agreed to extend. Therefore, at this time, the following procedural schedule is adopted and shall apply to this proceeding, subject to further order from the ALJ:

<b>Applicant/Southern Cross Supplemental Direct Testimony and/or Statement of Position on Preliminary Order Issues</b>	<b>March 28, 2016</b>
Objections to Applicant's Direct Testimony	April 18, 2016
Replies to Objections to Applicant's Direct Testimony	April 21, 2016
<b>Deadline to File Motions/Request to Intervene</b>	<b>March 28, 2016</b>
<b>Deadline to File Statement on Route Adequacy and Request for Route Adequacy Hearing (if necessary)</b>	<b>April 8, 2016</b>
Replies to Statement on Route Adequacy	April 14, 2016
Hearing on Route Adequacy (if necessary)	April 18, 2016
<b>Settlement and/or Technical Conference</b>	<b>April 20, 2016</b>
<b>Discovery Deadline for Applicant's Direct Testimony</b>	<b>April 27, 2016</b>
<b>Intervenor Direct Testimony (or Statement of Position)</b>	<b>April 27, 2016</b>
Objections to Intervenor Direct Testimony	May 4, 2016
Responses to Objections to Intervenor Direct Testimony	May 11, 2016
<b>Staff Direct Testimony</b>	<b>May 11, 2016</b>
Objections to Staff Direct Testimony	May 18, 2016
Responses to Objections to Staff Direct Testimony	May 27, 2016
<b>Discovery Deadline on Intervenor and Staff Direct Testimony</b>	<b>May 18, 2016</b>

<b>Intervenor Cross-Rebuttal Testimony</b>	<b>May 24, 2016</b>
Objections to Intervenor Cross-Rebuttal Testimony	May 27, 2016
Responses to Objections to Intervenor Cross-Rebuttal Testimony	live at hearing
<b>Applicant Rebuttal Testimony</b>	<b>May 24, 2016</b>
Objections to Applicant Rebuttal Testimony	May 27, 2016
Response to Objections to Applicant Rebuttal Testimony	live at hearing
Deadline to Request Depositions on Applicant's Rebuttal and Intervenor Cross-Rebuttal Testimony	May 25, 2016
Discovery on Applicant Rebuttal Testimony and Intervenor Cross-Rebuttal (limited to depositions)	May 26-27, 2016
<b>Hearing on the Merits</b>	<b>May 31-June 3, 2016</b>
<b>Initial Briefs Due (With Proposed Findings of Fact and Conclusions of Law)</b>	<b>June 10, 2016</b>
<b>Reply Briefs Due</b>	<b>June 17, 2016</b>

The location of the settlement conference on April 20, 2016, will be determined by Garland in consultation with Staff. Once decided, Garland shall provide proper notice to all parties.

In the event a settlement is not reached between the parties, the hearing on the merits in this matter will convene on **Tuesday, May 31, 2016, at 9:00 a.m.**, at the **State Office of Administrative Hearings (SOAH) hearing facilities** located at the **William P. Clements Office Building, 300 West 15th Street, Fourth Floor, Austin, Texas**. Those attending the hearing are advised that they must check in with building security personnel in the lobby of the William P. Clements Building and be issued visitor badges before proceeding to the hearing room. The parties should allow sufficient time for the check-in procedure.

Parties submitting testimony and/or exhibits, and particularly parties intending to participate in cross-examination of witnesses, should arrive early to the hearing to allow the court reporter to mark exhibits for the record and obtain contact information (business cards are helpful). Parties shall bring four copies of all pre-filed exhibits, two for the court reporter and

the record and two for appeals. If a party intends to introduce an exhibit through cross-examination that has not been pre-filed, six copies are required (one additional copy for the ALJ), plus the number of copies needed to provide a copy for all other parties.

#### IV. FILING AND SERVICE PROCEDURES

The filing procedures set forth in SOAH Order No. 1 continue to apply to this case. All filings must be **filed** by submitting the proper number of legible copies to the PUC filing clerk, and every document filed in this case must include the SOAH docket number (473-16-1403) and the PUC docket number (45170) at the top of the first page. The PUC's filing procedures are set forth in subchapter E of the Commission's procedural rules, which can be found on the Commission's website ([www.puc.texas.gov](http://www.puc.texas.gov)).

All filings made in this case by any party or by the ALJs can be viewed and downloaded on the PUC Interchange (Interchange) website found at <http://interchange.puc.texas.gov>. From the Interchange website, parties can click on "Filings Search" and type in the **control number 45624** and press "enter." This will lead to a screen that lists all of the documents filed in this case. The documents can be viewed and downloaded by clicking on the document number.

Interested parties can also sign up with the PUC's Filing Notification System to automatically receive email notifications of all filings that are made in this case. Parties are **strongly encouraged** to use the Filing Notification System to monitor this case and receive prompt notice of all filings and orders. A party can sign up for the Filing Notification System by (1) going to the PUC's website ([www.puc.texas.gov](http://www.puc.texas.gov)), (2) clicking on the tab that says "Filings," (3) clicking on the link that says "Filings Notification System," and then (4) following the instructions provided to register with the system.

Whenever a party files a document with the PUC, that party is required to serve (or provide) a copy of that document to every other party. Attached to this order is a service list for the parties' convenience. As discussed at the prehearing conference, service can be affected via email. Only one address per party will be included on the official service list maintained by

SOAH. The service list will be updated as necessary. Corrections to the service list should be directed to Michael Martinez, who may be contacted by email at [michael.martinez@soah.texas.gov](mailto:michael.martinez@soah.texas.gov) or by telephone at (512) 475-1515.

Sending orders by email is the preferred method for SOAH to send orders. Parties should provide an email address for the service list by going to SOAH's website at <http://soah.state.tx.us>, clicking on the "Request Service by Email" link in the top right hand corner of the home page, and then following the instructions.

## V. DISCOVERY

Discovery shall be governed by the Commission's procedural rules at Subchapter H.<sup>1</sup> All discovery requests and responses shall be filed with the PUC in accordance with the Commission's procedural rules. Because of the availability of the documents on the PUC Interchange, requests to receive copies of discovery requests or responses from other parties will not be considered by the ALJ, and parties will be expected to access those documents through the PUC Interchange.

Responses to requests for information are due within **10 calendar days of receipt**. Any objections to a discovery request shall be filed within **5 working days**; a motion to compel discovery shall be filed within **2 working days of receipt of objection**; and a response to a motion to compel shall be filed within **2 working days of receipt of the motion**. The ALJ will assume that the dispute has settled if a motion to compel is filed and a response to the motion is not filed. In any motion to compel, the movant shall propose a response date if the motion is granted; a reply should address such request.

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<sup>1</sup> See <http://www.puc.texas.gov/agency/rulesnlaws/procrules>.

## VI. APPROVING AND ADOPTING PROTECTIVE ORDER

On March 10, 2016, Garland filed a motion to adopt a revised proposed protective order in accordance with ERCOT's request, made at the prehearing conference, for authority to review highly-sensitive material. No party raised any objection to ERCOT's request, which was granted. The revised proposed order includes ERCOT as a party entitled to view Highly Sensitive Protected Material. Therefore, the ALJ adopts the Protective Order filed by Garland on March 10, 2016, and this Protective Order will govern this proceeding.

## VII. INTERVENORS' TESTIMONY OR POSITION STATEMENTS

As noted in the Procedural Schedule in Section II, above, **by April 27, 2016**, intervenors must either file written testimony or a statement of position. This deadline is one of the most important deadlines for intervenors because **if an intervenor fails to file either testimony or a statement of position by the deadline, the intervenor will be dismissed as a party to this case and prohibited from further participation.**<sup>2</sup>

**What is pre-filed direct testimony?** In a traditional trial, a party offers its evidence through direct witness testimony, followed by a round of cross-examination by other parties. In this proceeding, however, parties will pre-file their direct testimony in writing and then be subject to cross-examination at the trial. Pre-filing direct testimony makes the hearing on the merits move much faster. For instance, because all parties will have the direct testimony of each witness before the hearing on the merits, any party or party representative that intends to cross-examine a witness must have all of their questions for each witness prepared before the hearing on the merits begins. For examples of pre-filed direct testimony, the parties are directed to PUC Docket Nos. 43878 and 44837 (you can look at the filings in these cases via the Commission's Interchange website).

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<sup>2</sup> A handout covering the processes typically encountered in PUC transmission line certification cases is attached to this order as Attachment A.

Intervenors may opt to file a statement of position instead of testimony. A statement of position is simply an intervenor's position in this case in support of, or in opposition to, a particular link and/or route. A statement of position is not sworn to, is not considered evidence, and is not subject to cross-examination. However, as long as an intervenor timely files a statement of position, that party will be permitted to participate at the hearing on the merits, cross-examine witnesses, and file post-hearing briefing, if the party wishes. **Any intervenor who does not file with the Commission a statement of position or pre-filed direct testimony by April 27, 2016, will be dismissed from the case and not allowed to participate further.**

Intervenors must understand that **the initial comment or letter you sent in to intervene is not a statement of position or testimony.** You may wish to use the same information again; however, you must file it and label the information as either a statement of position or testimony. Again, procedural questions about this (or other matters) can be directed to the Commission Staff attorneys, Ms. Christina R. Switzer and Mr. Landon J. Lill at (512) 936-7216. Commission Staff represent the public interest and cannot provide legal advice or represent landowners or intervenors, but they can answer questions about the process and direct you to other examples of similar cases for reference.

Testimony and statements should address the Commission's rule, 16 Texas Administrative Code § 25.101, and law, Public Utility Regulatory Act § 37.056, which the ALJ will consider in this case. The rules and applicable law are found at the Commission's website, [www.puc.texas.gov](http://www.puc.texas.gov).



In previous cases the PUC has allowed utilities to make minor adjustments to the route of a proposed transmission line to accommodate a landowner. In rare cases the PUC has granted a major adjustment after consideration of specific facts and weighing any increase in costs. However, the ALJ strongly encourages a landowner to consult with Garland and/or Commission Staff to eliminate any confusion between what is found to be a major and minor adjustment. The ALJ also strongly encourages landowners to conduct discovery and file testimony if they are requesting any type of adjustment because evidence will be needed for the ALJ to make any extraordinary recommendation.

**SIGNED March 15, 2016.**



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CASEY A. BELL  
ADMINISTRATIVE LAW JUDGE  
STATE OFFICE OF ADMINISTRATIVE HEARINGS

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**AGENCY:** **Public Utility Commission of Texas (PUC)**

**STYLE/CASE:** **CITY OF GARLAND**

**SOAH DOCKET NUMBER:** **473-16-2751**

**REFERRING AGENCY CASE:** **45624**

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**STATE OFFICE OF ADMINISTRATIVE  
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**ADMINISTRATIVE LAW JUDGE**  
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