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APPLICATION OF LCRA §
TRANSMISSION SERVICES §
CORPORATION TO AMEND ITS §
CERTIFICATE OF CONVENIENCE §
AND NECESSITY FOR THE §
PROPOSED LEANDER TO ROUND §
ROCK 138-KV TRANSMISSION LINE §
PROJECT IN WILLIAMSON COUNTY, §
TEXAS §

BEFORE THE STATE OFFICE
OF
ADMINISTRATIVE HEARINGS

LCRA TRANSMISSION SERVICES CORPORATION'S REPLY TO THE RESPONSE OF REAGAN & FM 2243, LTD., NEC REAGAN & FM 2243, LP, AND BEASLEY TRACT, LP TO OBJECTIONS TO AND MOTION TO STRIKE PORTIONS OF THE DIRECT TESTIMONY OF HAROLD HUGHES, JR.

TO THE HONORABLE ADMINISTRATIVE LAW JUDGES HARVEL AND BIERMAN:

COMES NOW LCRA Transmission Services Corporation (LCRA TSC) and files this Reply to the Response of Reagan & FM 2243, LTD., NEC Reagan & FM 2243, LP, and Beasley Tract, LP (collectively, "Riverside Resources") to LCRA TSC's Objections to the Direct Testimony of Harold Hughes, Jr. In accordance with PUC Procedural Rule 22.78(a), this Reply is timely filed.

I. DISCUSSION

Riverside Resources does not dispute that the testimony LCRA TSC moves to strike is hearsay, nor has it identified a hearsay exception under which the statements of Mr. Hughes can be admitted as evidence in this proceeding. Rather, Riverside Resources maintains that, as an expert witness, Mr. Hughes is entitled to review and rely on inadmissible hearsay in formulating his expert opinion.

Although Texas Rule of Evidence 703 allows Mr. Hughes to rely on inadmissible facts or data in formulating his expert opinion if experts in the particular field would reasonably rely on those kinds of facts or data, the rule does not permit Mr. Hughes to adopt inadmissible hearsay and reproduce it as his testimony to be cited for the truth of the matters asserted.

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As an initial matter, the Atmos rulemaking comments do not constitute “facts or data.” Moreover, there is no basis for Your Honors to determine that professional engineers with expertise in transmission line routing would *reasonably* rely on comments filed by a non-engineer in a rulemaking proceeding before the PUC (which did not ultimately endorse or accept the Atmos comments in its final order in that project) in formulating opinions about the routing of transmission lines.

More importantly, Rule 703 does not authorize the admission of hearsay. Instead, it provides that, if experts in the particular field would reasonably rely on certain facts or data in forming an opinion on the subject, those facts and data “need not be admissible *for the opinion* to be admitted.”¹

Because the comments filed by Atmos in a rulemaking project are not admissible, even if Mr. Hughes relied on those comments in forming his opinions in this case, they cannot be reproduced in his testimony in this proceeding and cited for the truth of any matters asserted in those comments. For the foregoing reasons, LCRA TSC restates its objection to the portion of Mr. Hughes’ direct testimony from page 10, line 17 through page 11, line 14, as inadmissible hearsay and requests that such testimony be stricken.

II. CONCLUSION AND PRAYER

LCRA TSC respectfully requests that its objections be sustained, that the portions of Mr. Hughes’ testimony that constitute inadmissible hearsay be stricken, and for such other and further relief to which it may be justly entitled.

¹ TEX. R. EVID. 703; see *In re Christus Spohn Hosp. Kleburg*, 222 S.W.3d 434, 440 (Tex. 2007) (citing TEX. R. EVID. 703).

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that a copy of this document was served on counsel for Riverside Resources via facsimile on this date, October 17, 2016, in accordance with SOAH Order No. 1 issued in this docket.

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