

Control Number: 48785



Item Number: 31

Addendum StartPage: 0

CONSOLIDATED SOAH DOCKET NO. 473-19-1265  
CONSOLIDATED PUC DOCKET NO. 48085

DEC 10 AM 9:05  
PUBLIC UTILITY COMMISSION  
FILING CLERK

JOINT APPLICATION OF ONCOR §  
ELECTRIC DELIVERY COMPANY LLC, §  
AEP TEXAS INC., AND LCRA §  
TRANSMISSION SERVICES §  
CORPORATION TO AMEND THEIR §  
CERTIFICATES OF CONVENIENCE §  
AND NECESSITY FOR 345-KV §  
TRANSMISSION LINES IN PECOS, §  
REEVES, AND WARD COUNTIES, §  
TEXAS (SAND LAKE TO SOLTICE AND §  
BAKERSFIELD TO SOLSTICE) §  
BEFORE THE STATE OFFICE  
OF  
ADMINISTRATIVE HEARINGS

**SOAH ORDER NO. 2**

**MEMORIALIZING PREHEARING CONFERENCE; RULING ON SUFFICIENCY OF APPLICATIONS AND NOTICE; RULING ON MOTIONS TO INTERVENE; ADOPTING PROCEDURAL SCHEDULE, INCLUDING EXTENSION OF THE JURISDICTIONAL DEADLINE; NOTICE OF HEARING ON THE MERITS; AND ADVISORY ON DOCUMENTS PROVIDED TO THE ALJs**

On November 27, 2018, a prehearing conference was held at which all parties participated. This order memorializes the actions taken at the prehearing conference and on motions or requests filed to date.

Subsequent to the prehearing conference, this case has been transferred from Administrative Law Judge (ALJ) Elizabeth Drews to ALJ Gabriel Soto. ALJ Steven Neinast remains assigned to this matter. Because prospective parties have been filing motions in the original dockets that now comprise this consolidated docket, a copy of the current service list that covers both original dockets is attached to this SOAH Order No. 2.

**I. RULING ON SUFFICIENCY OF APPLICATIONS TO PROCEED WITH REVIEW AND SUFFICIENCY OF NOTICES**

On November 26, 2018, Staff of the Public Utility Commission of Texas (Commission) filed its recommendation on sufficiency of applications, concluding that the applications filed in this

consolidated docket are sufficient to initiate review. Based on that recommendation, the ALJs deem the applications complete and sufficient to initiate review.

On December 6, 2018, Staff filed a recommendation on the sufficiency of notices in this consolidated docket. Staff recommends that the notice proposed by Oncor Electric Delivery Company LLC (Oncor) with regard to the Sand Lake to Solstice Line, and the notice proposed by LCRA Transmission Service Corporation (LCRA) with regard to the Bakersfield to Solstice Line be deemed sufficient. Based on Staff's recommendations, the ALJs approve those two notices. Staff also recommended that Oncor's proposed form of notice to be published in the *Texas Register* be deemed sufficient as filed, and that LCRA's proposed form of notice to be published in the *Texas Register* would be sufficient with certain relatively minor amendments. Based on those recommendations, the ALJs also approve Oncor's proposed *Texas Register* notice as filed and LCRA's proposed *Texas Register* notice with the modifications recommended by Staff.

## II. RULING ON MOTIONS TO INTERVENE

This docket is a consolidation of two related applications that were originally filed in separate dockets: PUC Dockets 48785 and 48787. Oncor, AEP Texas Inc. (AEP Texas), and LCRA (collectively Applicants) are deemed to be parties to this consolidated docket and, therefore, any motions to intervene that the three applicants filed in the other related docket (Nos. 48785 or 48787) are **GRANTED**. Motions to intervene have also been filed to date in either of these dockets by: Alan Zeman, the City of Garland, Oxy (comprised of Occidental Permian Ltd., Oxy Delaware Basin, LLC, Oxy USA Inc., Oxy USA WTP LP, Houndstooth Resources, LLC, and Occidental West Texas Overthrust, Inc.), Elizabeth Graybill, and Mary Graybill-Rees.<sup>1</sup> These motions to intervene are **GRANTED**. A copy of the current service list is attached. **As stated in Order No. 1, for a party to remain a party in this docket, the party must either file direct testimony or a statement of position when those pleadings are due in accordance with Commission rules and**

---

<sup>1</sup> Parties that are not represented by an attorney in this case are directed to the attached "Information for Unrepresented Parties" attached to this order.

**the following procedural schedule. Parties that do not do so will be removed from the service list and will no longer be parties to this proceeding.**

The ALJs also note that Catoico Resources Management LP (Catoico) filed a letter on November 16, 2018, in Docket No. 48787 with the Commission's filing clerk requesting additional or more detailed information about the proposed routes. Based on the docket number, the ALJs assume that Catoico is actually seeking information from LCRA. Although Catoico has not yet requested party status, the ALJs suggest that LCRA contact Catoico, if it has not already done so, to determine what Catoico might need.

### **III. PROCEDURAL SCHEDULE AND EXTENSION OF THE JURISDICTIONAL DEADLINE**

At the November 27, 2018 prehearing conference, the parties proposed a procedural schedule, discovery procedures, and agreed extension of the jurisdictional deadline, all of which are **ADOPTED AND APPROVED** with minor modifications and additions by this Order No. 2 as set out below:

<b>Date</b>	<b>Deadline</b>
November 7, 2018	Filing Date of Applications*
November 7, 2018	Applicants' Direct Testimony*
November 26, 2018	Staff Recommendations/Comments re: Deficiencies/Compliance
<b>November 27, 2018</b>	<b>Prehearing Conference</b>
November 30, 2018	Applicants' Affidavits Proving Mailed Notice and Publication Notice (no later than Nov. 30)
December 5, 2018	Staff Recommendation on Sufficiency of Notice
<b>December 27, 2018</b>	<b>Intervention Deadline<sup>2</sup></b>

<sup>2</sup> The Commission will be closed from December 24, 2018, through December 28, 2018. Pursuant to 16 Texas Administrative Code § 22.4(a), when the last day of a designated period is a day the Commission is not open for business, the designated period runs until the end of the next day on which the Commission is open for business. That date will be December 31, 2018, and interventions filed on that date will be considered to be timely filed.

<b>Date</b>	<b>Deadline</b>
December 31, 2018	Deadline for Parties to Request a Hearing
January 3, 2019	Objections to Applicants' Direct Testimony
January 3, 2019	<b>Deadline for Statement Challenging Adequacy of Routes and Request for Preliminary Hearing on Route Adequacy</b>
January 7, 2019	Responses to Objections to Applicants' Direct Testimony
January 7, 2019	Responses to Statements on Route Adequacy
<b>January 10, 2019</b>	<b>Intervenor Direct Testimony/Statement of Position** Intervenors that have not filed either Direct Testimony or Statements of Position by this date will be struck from the service list and will no longer be parties to this proceeding</b>
January 11, 2019	<b>Preliminary Hearing on Adequacy of Routes</b> (if requested by January 3, 2019).
January 14, 2019	Deadline for Sending Written Discovery on Application and Applicants' Direct Testimony*
January 18, 2019	Objections to Intervenor Direct Testimony
January 24, 2019	Responses to Objections to Intervenor Direct Testimony
<b>January 30, 2019</b>	<b>Staff Direct Testimony**</b>
February 4, 2019	Deadline for Sending Written Discovery on Staff and Intervenor Direct Testimony**
<b>February 4, 2019</b>	<b>Staff and Intervenor Cross-rebuttal Testimony</b>
February 4, 2019	Objections to Staff's Direct Testimony
<b>February 6, 2019</b>	<b>Applicants' Rebuttal Testimony**</b>
February 8, 2019	Objections to Cross-Rebuttal Testimony; Deadline for Sending Written Discovery on Cross-Rebuttal Testimony
February 11, 2019	Objections to Applicants' Rebuttal Testimony; Responses to Objections to Staff's Direct Testimony
February 11, 2019	Deadline for Sending Written Discovery on Applicants' Rebuttal Testimony**
February 12, 2019	Responses to Objections to Cross-Rebuttal Testimony
February 12, 2019	Applicants' Briefs on Uncontested Issues (including proposed findings of fact, conclusions of law, and ordering paragraphs on uncontested issues)

<b>Date</b>	<b>Deadline</b>
<b>February 15, 2019</b>	<b>Hearing on the Merits – Need;</b> Responses to Objections to Applicants’ Rebuttal Testimony
<b>February 19-22, 2019</b> Note – Feb. 18 is a Commission Holiday	<b>Hearing on Merits – Routing</b> (Feb. 19-20 for Bakersfield – Solstice routing; Feb. 21-22 for Sand Lake – Solstice routing)
March 5, 2019	Initial Briefs Due (including Applicants’ proposed findings of fact, conclusions of law, and ordering paragraphs on both contested and uncontested issues)
March 12, 2019	Reply Briefs Due (including proposed revisions to Applicants’ proposed findings of fact, conclusions of law, and ordering paragraphs)
April 23, 2019	Proposal for Decision (PFD)
~ <i>May 7, 2019</i>	Exceptions to PFD
~ <i>May 14, 2019</i>	Replies to Exceptions
<b>May 28, 2019</b>	<b>Commission Decision Deadline</b> (extended by three weeks; May 27, 2019 is a Commission holiday)

In the preceding schedule, regarding discovery on documents filed on dates marked with a single asterisk (\*):

- responses are due within 10 days of the discovery request;
- objections are due within five working days of the discovery request;
- motions to compel are due within three working days of objections; and
- responses to motions to compel are due within three working days of the motion to compel.

Any discovery responses that are due between December 24, 2018, and January 2, 2019, will be deemed due on January 3, 2019, to account for the holidays.

Regarding discovery on documents filed on dates marked with a double asterisk (\*\*):

- responses are due within seven days of the discovery request;
- objections are due within three working days of the discovery request;
- motions to compel are due within two working days of objections; and
- responses to motions to compel are due within two working days of the motion to compel.

In addition, the ALJs **GRANT** the parties' request that service by email is a valid form of service. The ALJs also **GRANT** the parties' request that drafts of testimony are not discoverable.

#### IV. NOTICE OF HEARINGS

The preliminary hearing on the adequacy of routes (if requested by January 3, 2019) will convene at **9 a.m. on Friday, January 11, 2019**, at the State Office of Administrative Hearings (SOAH) hearing rooms located at the William P. Clements Office Building, 300 West 15th, Fourth Floor, Austin, Texas, and will continue until concluded. If a preliminary hearing is not requested on or before January 3, 2019, this preliminary hearing is automatically cancelled.

The hearing on the merits in this matter will convene at **9:00 a.m. on Friday, February 15, 2019**, at the SOAH hearing rooms located at the William P. Clements Office Building, 300 West 15th, Fourth Floor, Austin, Texas, and will continue until concluded. The hearing will not be convened on Monday, February 18, 2019, because that is a holiday, but will reconvene on **Tuesday, February 19, 2019**, and continue until concluded. The hearing is currently scheduled to last for five working days.

#### V. FORMAT OF DOCUMENTS TO BE PROVIDED TO ALJs

Each party shall provide electronic copies of all testimony, initial and reply briefs, and proposed findings of fact, conclusions of law, and ordering paragraphs filed in this proceeding to

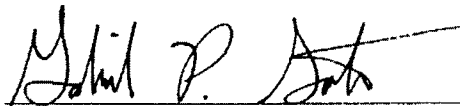
the ALJs in Microsoft Word format by emailing them to the ALJs' assistant Erin Hurley at [erin.hurley@soah.texas.gov](mailto:erin.hurley@soah.texas.gov).

**SIGNED December 7, 2018.**



---

STEVEN H. NEINAST  
ADMINISTRATIVE LAW JUDGE  
STATE OFFICE OF ADMINISTRATIVE HEARINGS



---

GABRIEL P. SOTO  
ADMINISTRATIVE LAW JUDGE  
STATE OFFICE OF ADMINISTRATIVE HEARINGS



## **INFORMATION FOR UNREPRESENTED PARTIES**

### **Overview of Contested Case Process**

- This contested case hearing will proceed like a trial – with witnesses testifying under oath, subject to cross-examination.
- The administrative law judge (ALJ) presides over this hearing process. The ALJ works for the State Office of Administrative Hearings (SOAH). SOAH is a state agency that provides impartial judges to preside over contested case hearings. SOAH is separate from all other state agencies, including the Public Utility Commission of Texas (PUC or Commission).
- At the end of the hearing process, the ALJ will make a written recommendation about the transmission line route. This is called a Proposal for Decision (PFD).
- The final decision maker will be the three-member Commission.
- The staff of the PUC (Staff) participates in the hearing as a party. Staff is distinct from the three-member Commission that will ultimately decide this case.

### **Prehearing Conference**

- At the prehearing conference, the judge will rule on motions to intervene and set the schedule for prehearing activities and the hearing itself.
- Following the prehearing conference, parties can remain to ask questions of Staff or the Applicants, exchange information, and engage in settlement talks.

### **The Prehearing Phase**

- Two primary things happen before hearing: (1) discovery, and (2) filing of direct testimony and/or position statements. Deadlines for these activities will be established either at the prehearing or shortly thereafter by an order from the ALJ.
- Discovery is the formalized exchange of information among parties.
- Unlike some trials in district court, every witness's direct testimony in this case will be in written form and filed prior to the hearing. At the hearing, each witness will take the stand and be sworn in, and the witness's direct testimony will be admitted if it complies with the rules of evidence. The witness will then be subject to cross-examination by the parties. (Sometimes, parties will waive cross-examination of a witness.)
- Every party in this case must file either testimony or a statement of position according to the schedule that will be established. Parties failing to do so will be dismissed and not allowed to participate further.
- Testimony is evidence and includes assertions of fact (for example, about the location of property, the history and use of property, etc.). A position statement is argument, not evidence. There will be no cross-examination at the hearing of a party who has only filed a position statement. Assertions of fact in a position statement cannot be considered by the ALJ unless they are in some other document or testimony admitted in evidence. A party filing a position statement may ask questions of testifying witnesses.

## The Hearing

- The hearing will be convened in Austin.
- All witnesses who prefiled testimony must appear at the hearing unless all parties waive cross examination.
- Prefiled testimony will be admitted (subject to objections based on the rules of evidence), and witnesses will be cross-examined. Testimony not admitted because the witness failed to appear will be treated as a statement of position.

## The Post-Hearing Phase

- After the hearing, parties will file written closing arguments (briefs) according to the deadlines that will be established in the schedule.
- The ALJ will issue the PFD recommending an outcome, including a route for the transmission line if the application is granted.
- The ALJ's analysis will be based on the facts (established through evidence introduced in the hearing) and the applicable law (involving a consideration of factors such as community values, number of habitable structures, recreational and park areas, historical and aesthetic values, environmental integrity, and use of compatible rights of way).
- The preferred route carries no special weight in the analysis. Any route consisting of identified links may be recommended and approved.
- Parties who disagree with the ALJ's proposal will be able to file written objections (exceptions) to the PFD.
- The Commission will make a decision at a meeting open to the public. The Commission can adopt or reject the ALJ's proposal. If the Commission rejects the ALJ's proposal, it will likely choose another route.
- The deadline for Commission action in this case is May 28, 2019.

## Filing and Serving Documents in the Case

- Whenever any party formally files any document in this case (such as a motion, request for discovery, response to discovery, testimony, or statement of position), it must file the document with the PUC.
- Filings at the Commission shall occur by 3:00 p.m. on the date in question unless otherwise specified.
- The procedures regarding filing are specified in Subchapter E of the Commission's procedural rules and apply in this proceeding. Parties are expected to know those procedures and comply with them fully. Pleadings and other filings shall be deemed filed when the proper numbers of legible copies are presented to the PUC filing clerk for filing. All pleadings must contain both the SOAH and PUC Docket numbers to allow for efficient processing. (See the top of the first page of this information sheet.)
- At the same time a party files a motion, testimony, or a statement of position with the PUC, **the party must also serve all other parties in the case by sending them a copy of the document.** The ALJ's SOAH Order No. 1 includes the service list, setting out each party and the party's address (and e-mail address, if available).
- Discovery requests and responses must be filed with the PUC, but only have to be served on the party to whom the request or response is directed.

- The PUC has an on-line document interchange that is a convenient way of keeping track of documents filed in a case. All PUC filings are available for viewing and downloading from the Commission's website at <http://interchange.puc.texas.gov>. Once there, type in the control number and press "enter." A list of documents filed in this case will appear and you may access those documents by clicking on the document number, provided that the document number is underlined and in blue font.

### **Receiving Documents from SOAH**

- Parties may elect to receive documents from the ALJ via email. To do so, access SOAH's webpage, [www.soah.texas.gov](http://www.soah.texas.gov), click on SOAH's "E-Services" link at the top of SOAH's webpage, follow the directions for "Email Service" and complete a short form.

**STATE OFFICE OF ADMINISTRATIVE HEARINGS**

**AUSTIN OFFICE**

**300 West 15th Street Suite 504**

**Austin, Texas 78701**

**Phone: (512) 475-4993**

**Fax: (512) 322-2061**

**SERVICE LIST**

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

**STYLE/CASE:** APPLICATION OF ONCOR ELECTRIC DELIVERY COMPANY, LLC AND AEP TEXAS INC. TO AMEND CERTIFICATES OF CONVENIENCE AND NECESSITY FOR A DOUBLE CIRCUIT 345-KV TRANSMISSION LINE IN PECOS, REEVES, AND WARD COUNTIES (SAND LAKE-OLSTICE CCN)

**SOAH DOCKET NUMBER:** 473-19-1265

**REFERRING AGENCY CASE:** 48785

---

**STATE OFFICE OF ADMINISTRATIVE  
HEARINGS**

**ADMINISTRATIVE LAW JUDGE  
ALJ STEVEN NEINAST**

---

**REPRESENTATIVE / ADDRESS**

**PARTIES**

PHILLIP OLDHAM  
THOMPSON & KNIGHT LLP  
98 SAN JACINTO BLVD., SUITE 1900  
AUSTIN, TX 78701  
(512) 469-6100 (PH)  
(512) 469-6180 (FAX)  
Kellie.Barahona@tklaw.com

OXY USA WTP, LP

---

JERRY N HUERTA  
AEP TEXAS, INC.  
400 W. 15TH ST., SUITE 1520  
AUSTIN, TX 78701  
(512) 481-3323 (PH)  
(512) 481-4587 (FAX)  
jnhuerta@aep.com

AEP TEXAS INC.

---

KIRK D. RASMUSSEN  
ATTORNEY  
ENOCH KEVER PLLC  
5918 W. COURTYARD DR, SUITE 500  
AUSTIN, TX 78730  
(512) 615-1203 (PH)  
(512) 615-1198 (FAX)  
krasmussen@enochkever.com

LCRA TRANSMISSION SERVICES CORP.

KERRY MCGRATH  
ATTORNEY  
DUGGINS WREN MANN & ROMERO, LLP  
600 CONGRESS AVENUE, SUITE 1900 P.O. BOX 1149  
AUSTIN, TX 78701  
(512) 744-9300 (PH)  
(512) 744-9399 (FAX)  
kmcgrath@dwmrlaw.com

AEP TEXAS INC.

---

PATRICK L. REZNIK  
BRAUN & GRESHAM, PLLC  
P. O. BOX 1148  
DRIPPING SPRINGS, TX 78620  
(512) 894-5426 (PH)  
(512) 894-3405 (FAX)  
preznik@braungresham.com

ALAN ZEMAN

---

MARY GRAYBILL-REES  
103 E. RESACA DRIVE  
LOS FRESNOS, TX 78566  
(956) 299-1105 (PH)  
(956) 542-0016 (FAX)

MARY GRAYBILL-REES

---

ELIZABETH CHRISTINE GRAYBILL  
P.O. BOX 1183  
OLMITO, TX 78575-1183  
(956) 459-8981 (PH)  
(956) 542-0016 (FAX)

ELIZABETH CHRISTINE GRAYBILL

---

WILLIAM "CODY" FAULK, III  
LLOYD GOSSELINK ROCHELLE & TOWNSEND, P.C.  
816 CONGRESS AVENUE, SUITE 1900  
AUSTIN, TX 78701-2478  
(512) 322-5830 (PH)  
(512) 472-0532 (FAX)  
cfaulk@lglawfirm.com

CITY OF GARLAND

KENNEDY R. MEIER  
ATTORNEY  
PUBLIC UTILITY COMMISSION OF TEXAS  
LEGAL DIVISION  
1701 N. CONGRESS AVE.  
AUSTIN, TX 78711-3326  
(512) 936-7265 (PH)  
(512) 936-7268 (FAX)  
kennedy.meier@puc.texas.gov

PUBLIC UTILITY COMMISSION OF TEXAS

---

WINSTON SKINNER  
VINSON & ELKINS  
2001 ROSS AVE., SUITE 3700  
DALLAS, TX 75201  
(214) 220-7754 (PH)  
(214) 220-7716 (FAX)  
wskinner@velaw.com

ONCOR ELECTRIC DELIVERY CO. LLC

---

---

**Note: ALSO SOAH DOCKET 473-19-1266 AND PUC DOCKET 48787**