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SOAH DOCKET NO. 473-21-0247
PUC DOCKET NO. 51023

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PUBLIC UTILITY COMMISSION
HEARING CLERK

APPLICATION OF THE CITY OF SAN ANTONIO TO AMEND ITS CERTIFICATE OF CONVENIENCE AND NECESSITY FOR THE SCENIC LOOP 138-KV TRANSMISSION LINE IN BEXAR COUNTY §
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BEFORE THE STATE OFFICE OF ADMINISTRATIVE HEARINGS

SOAH ORDER NO. 10
ADDRESSING OBJECTIONS TO TESTIMONY, MOTION TO PARTIALLY EXTEND SCHEDULE, AND MOTION FOR CERTIFIED ISSUES; DISMISSING INTERVENORS

Objections to Intervenor Testimony

Pursuant to the deadline in SOAH Order No. 8, Anaqua Springs Homeowners’ Association (Anaqua) and Brad Jauer/BVJ Properties, LLC (together, Anaqua/Jauer) and the City of San Antonio, acting by and through the City Public Service Board (Applicant) filed objections to intervenor testimony on March 8, 2021. Timely responses were filed.

Anaqua/Jauer moved to strike the testimony of all 22 witnesses on behalf of the Clearwater Ranch Property Owners’ Association (Clearwater) because the testimony is repetitive and many witnesses’ properties are not crossed by the proposed segments or do not have a habitable structure within 300 feet of a proposed segment, among other reasons. Anaqua/Jauer also ask that Clearwater be ordered to designate between one and three spokespeople to act on behalf of the organization and for those people to re-file their testimony. The Administrative Law Judges (ALJs) **DENY** the Anaqua/Jauer motion with respect to these requests. However, the ALJs **ORDER** Clearwater to file by **April 5, 2021**, evidence (in the form of meeting minutes, a resolution, or other document) that the 22 individuals who filed direct testimony on its behalf have authority to do so. Additionally, the ALJs note that only one representative on behalf of Clearwater will be allowed to speak at any given time during the hearing.

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Applicant objected to evidence regarding Route R1 modified from witnesses Mark Anderson, Sunil Dwivedi, Steve Cichowski, and Brad Jauer. Consistent with SOAH Order No. 9, the ALJs **SUSTAIN** the objections to evidence regarding Route R1 modified. The ALJs **ORDER** affected parties to file testimony conforming with this ruling filed by **April 5, 2021**.

Many objections from both Anaqua/Jauer and Applicant may be categorized into three broad areas: 1) electro-magnetic field (EMF) claims or concerns; 2) testimony concerning the effect of the proposed route on property value, and 3) testimony regarding the effect of the proposed route on future uses of the property.

1. EMF Claim/Concerns

Unless such testimony is specifically found to be relevant or offered by an expert, the ALJs will only regard it as a legitimate statement of concern by intervenors, but not as evidence upon which to base a recommendation to the PUC regarding placement of the line. Subject to this caveat, intervenor testimony on these topics will not be struck from the record, but rather will be considered under the category of community values. Documents referencing research or opinions on EMF attached to the testimony of intervenors, of which the intervenors are not the authors, will not be considered as evidence but may be used to cross-examine expert witnesses.

2. Property Valuation

Generally, the effect of the proposed route on the value of the adjoining property is not an issue to be considered by the ALJs in this hearing, according to the order of referral. The testimony will not be considered as evidence on which to base a recommendation to the PUC on where to place the proposed line. To the extent the testimony reflects community values or aesthetic considerations, it will be considered relevant. The ALJs will determine the proper weight to be given the testimony, if any, and it will not be struck from the record.

3. Future Use

Testimony regarding future use of the property will be considered relevant to the community values consideration. The ALJs will determine the weight to be given such testimony, if any, and it will not be struck from the record.

With respect to the remaining objections from Anaqua/Jauer and Applicant that are not specifically addressed above, the ALJs **OVERRULE** the objections. The movants may explore the specific testimony on cross examination and the ALJs will give the testimony the appropriate weight, if any.

Motion for Certified Issues

On March 10, 2021, Steve Cichowski filed a motion to refer two certified issues to the Public Utility Commission of Texas (Commission). The proposed issues concern agreements between a CCN applicant and a landowner and whether certain provisions should be void or voidable as a matter of public policy. The ALJs decline to certify the issues.

Joint Motion to Partially Extend Procedural Schedule

On March 19, 2021, Anaqua and Mr. Cichowski filed a joint motion requesting that the ALJs adopt deadlines for supplemental discovery and cross-rebuttal testimony regarding Route R1 modified if the Commission grants their appeal of SOAH Order No. 9. The ALJs recognize that changes to the schedule would be necessary if the Commission grants the appeal; however, the ALJs decline to do so until such a ruling by the Commission is made. Therefore, the joint motion to partially extend the procedural schedule is **DENIED** at this time.

Dismissing Intervenor

SOAH Order No. 8 required intervenors to file a statement of position or written testimony by February 26, 2021.¹ The following intervenors did not comply with SOAH Order No. 8 and are **DISMISSED** as intervenors in this case:

Adetona, Olytola	Olivarez, Eloy and Raquel
Arroyo, Francisco J. and Barbara M.	Parker, Thomas
Atluri, Anupama	Ralph, Robert
Baker, Denise	Reid, Bruce
Balli, Donna M.	Reyes, Evangelina
Barrella, Amanda	Ribalta, Gail
Barrera, Mark J.	Rocha, Cynthia
Billingham, Vincent	Royal, Ryan and Jennifer
Boazman, Doug	Sanchez, Adam C.
Broadwater, Dora	Sanchez, Roberto
Burdick-Anaqua Homes, LTD	Shacklett, Alfred and Janna
Cantu, Guillermo M.	Smith, Duaine and Joann
Clayton, Carrie	Standing Cloud, Joshua and Kristi-Marie
Comp, Joel and Cortney	Sweigart, Marlin
Comeau, Douglas	Swientek, Mike
Escriva, Joy and Michael	Taylor, John and Renee
Esparza, Monica	The Deitchle Family Trust
Espinoza, Lori	Timberlake, Tawana
Garcia, Raul and Katie	Valdez, Armando
Hansen, Linda	Vaughan, Vic
Hervol, Henry and Rosan	Vogt, Bernd
Hindash, Islam	Warner, Anne
Kroeger, Lawrence	Wilburn, Michael
Krzywonski, Andrew and Yvonne	Woods, Kristy
Lechner-Vogt, Inge	Zhang, Miao
Lee, Brian	Zimmer, Charlie
Leonard, Mike	
Mark, Kenneth	
McCray, Brandon	

¹ Intervenor Mr. Paul Craig was given until March 1, 2021, to file his direct testimony or statement of position.

The dismissed intervenors will be removed from the service list after issuance of this order. The ALJs also agree that Monica Gonzalez De La Garza filed comments, not a motion to intervene in this proceeding. Therefore, Ms. De La Garza is also removed from the service list.

SIGNED March 26, 2021.



**HOLLY VANDROVEC
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS**



**PRATIBHA J. SHENOY
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS**