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

2021 MAY 13 AM 10:05

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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PUBLIC UTILITY COMMISSION
OF TEXAS

ORDER

This Order addresses Steve and Catherine Cichowski’s appeal, filed on April 5, 2021, from a portion of State Office of Administrative Hearings (SOAH) Order No. 10, which denied a motion to certify issues to the Commission. For the reasons discussed in this Order, the Commission denies the appeal.

The Cichowskis requested that two issues be certified to the Commission.¹ The SOAH administrative law judges (ALJs) denied the request to certify those issues.² The Cichowskis then appealed the part of SOAH Order No. 10 that denied their request to certify issues to the Commission.³ The Cichowskis requested that the Commission overturn SOAH Order No. 10 and consider the certified issues.

The Commission’s procedural rules specify when an issue may be certified to the Commission.⁴ The presiding officer may certify “an issue that involves an ultimate finding of compliance with or satisfaction of a statutory standard the determination of which is committed to the discretion or judgment of the commission by law.”⁵ The Commission’s certified-issue rule further specifies the types of issues that are appropriate: (1) interpreting a Commission rule or

¹ Cichowskis’ Motion for Referral of Certified Issues (Mar. 10, 2021).

² SOAH Order No. 10 (Mar. 26, 2021).

³ Cichowskis’ Appeal of a Portion of SOAH Order No. 10 (Apr. 6, 2021).

⁴ 16 Tex. Admin. Code (TAC) § 22.127.

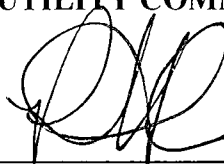
⁵ *Id.* § 22.127(a).

applicable statute; (2) determining which rules or statutes apply; or (3) establishing or clarifying a Commission policy as to a substantive or procedural issue of significance in the proceeding.⁶

The purpose of certified issues is for the Commission to assist the presiding officer on a particular issue allowed under the certified-issue rule. If the presiding officer decides that he or she does not need assistance, the Commission should not become involved in that decision except in extraordinary circumstances, which are not found here. Therefore, the Commission denies the Cichowskis' appeal of the ALJs' decision not to certify issues to the Commission.

Signed at Austin, Texas the 13th day of May 2021.

PUBLIC UTILITY COMMISSION OF TEXAS



PETER M. LAKE, CHAIRMAN



WILL MCADAMS, COMMISSIONER

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⁶ 16 TAC § 22.127(b).