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**BEFORE THE
STATE OFFICE OF ADMINISTRATIVE
HEARINGS**

**JOINT APPLICATION OF AEP TEXAS INC. AND SHARYLAND
UTILITIES L.L.C. TO AMEND CERTIFICATES OF
CONVENIENCE AND NECESSITY FOR THE LA PALMA-TO-
KINGFISHER DOUBLE-CIRCUIT 345-KV TRANSMISSION
LINE IN CAMERON COUNTY**

SOAH ORDER NO.1

**PROJECT DESCRIPTION; JURISDICTION AND DEADLINE FOR DECISION;
SETTING PREHEARING CONFERENCE; CAUTION TO INTERESTED PARTIES; AND
GENERAL PROCEDURAL REQUIREMENTS**

I. PROJECT DESCRIPTION

On June 29, 2022, AEP Texas Inc. and Sharyland Utilities, L.L.C (together, Joint Applicants) filed an application with the Public Utility Commission of Texas

(Commission or PUC) to amend their certificates of convenience and necessity (CCNs) for a new 345-kilovolt (kV) transmission line located in Cameron County.

The proposed transmission line would connect AEP Texas's La Palma 345-kV Station to the proposed Sharyland Kingfisher 345-kV Station. The total estimated cost for the routes ranges of approximately \$30,122,000 to \$56,238,000, not including substation costs of \$13,638,000 for AEP Texas's existing La Palma station and of \$43,709,000 to construct Sharyland's new Kingfisher station. The estimated length of the routes ranges from 4.35 to 10.91 miles. The Joint Applicants proposed 19 alternative routes for the transmission line.

II. JURISDICTION AND DEADLINE FOR DECISION

On July 11, 2022, the Commission issued its Order of Referral and Preliminary Order, referring this matter to SOAH, requesting the assignment of a SOAH Administrative Law Judge (ALJ) to conduct a hearing and issue a proposal for decision, if necessary. In the Preliminary Order, the Commission also set forth the issues to be addressed and issues not to be addressed in this proceeding.

The Commission has jurisdiction and authority over this matter pursuant to the Public Utility Regulatory Act (PURA)¹ §§ 32.001, 37.053, 37.056, and 37.057. SOAH has jurisdiction, pursuant to Texas Government Code § 2003.049 and PURA § 14.053, over all matters relating to the conduct of a hearing in this matter.

¹ Tex. Util. Code §§ 1.001-66.016.

The Commission has ordered that the proposed transmission facilities be built under PURA §§ 35.005(b) and 39.203(e). Under subsection 39.203(e), the Commission must issue a final order in this proceeding before the 181st day after the date the application is filed. Therefore, the Commission must issue a final order by **December 26, 2022**.

III. PREHEARING CONFERENCE

A prehearing conference will be convened at **10:00 a.m. on July 29, 2022, via Zoom videoconference**. To participate via Zoom, you will need: (1) a computer with a functional webcam and microphone (preferred method); or (2) any mobile or smart device, such as a cellphone, iPad, iPhone, or Android phone; and (3) to have the latest version of Zoom installed (free installation).

You may access the prehearing conference by going to <https://soah-texas.zoomgov.com/> or the Zoom application on your mobile device, selecting “Join a Meeting,” and entering the following information when prompted:

Meeting ID: 160 878 7886

Passcode: PUC583

If you do not have access to a device that would allow videoconferencing capabilities, you may join by telephone by calling either number below and entering the following Meeting ID and passcode. Note that the passcode to join by telephone is different than the passcode to join via a computer or smart device.

Phone: (669) 254-5252 or (646) 828-7666

Meeting ID: 160 878 7886

Passcode: 060350

You may access information for participating in a Zoom meeting at www.zoom.us under the “support” tab. If you experience technical difficulties with joining the prehearing conference, you may contact SOAH’s Docketing Division at (512) 475-4993.

The ALJs will address the following matters at the prehearing conference:

- (1) The file-sharing site to be used to exchange exhibits for the hearing on the merits in this proceeding;
- (2) Pending motions and other preliminary matters related to the proceeding;
- (3) A procedural schedule, including the scheduling of the hearing on the merits;
- (4) Procedures to be followed before and during the hearing; and
- (5) Any other matter that may assist in the disposition of this proceeding in a fair and efficient manner.

Where persons have similar interests, they are encouraged to designate a single representative or attorney to attend for the group.

The Joint Applicants are encouraged to hold one or more informal technical conferences to disseminate information to the parties about the application and answer their questions.

The prehearing conference may be canceled by submitting, **prior to July 28, 2022**, an agreed procedural schedule and requesting to cancel the prehearing conference.

IV. PROCEDURAL SCHEDULE GUIDELINES

In developing a proposed procedural schedule, the parties shall anticipate a record close date that ensures the ALJs will have at least seven weeks to write and issue the proposal for decision, with a preference for an eight-week writing period.

In addition, the parties must account for three weeks for exceptions and replies after the proposal for decision has been issued. The parties shall also endeavor to provide the Commission with time for two dates for open meetings to discuss the proposal for decision and seven calendar days after the last open meeting to issue an order. This can usually be achieved by allowing the Commission five weeks before the deadline for the Commission to issue an order.

V. INTERVENTION DEADLINE

Pursuant to Commission Order No. 1, the deadline for intervention is **August 15, 2022**. The ALJs will not grant motions to intervene filed after that date

unless they meet the standard for late intervention in 16 Texas Administrative Code § 22.104(d).

VI. CAUTION TO INTERESTED PARTIES

In this proceeding, the Joint Applicants described 19 alternative routes that the proposed transmission line may ultimately follow. It is the duty of the ALJs and, ultimately, the Commission, to choose the route that best meets the criteria described in the Commission's Preliminary Order. **Any proposed route, or any combination of properly noticed proposed links of routes, could be selected.** It is the duty of interested parties (such as landowners) to provide the decision-makers the information needed to reach a just and reasonable decision.

VII. PROCEDURES

Except as modified by the Commission or SOAH in response to COVID-19, the Commission's procedural rules will govern the conduct of this case, and the parties are expected to comply with those rules. The Commission's procedural rules are available on its website at: <https://www.puc.texas.gov/agency/rulesnlaws/procrules/Procedural.aspx>.

A. FILING DOCUMENTS

Due to COVID-19, the Commission is only accepting filings made online through the Commission's Interchange e-file system at <https://interchange.puc.texas.gov/filer>.² To make an online filing, the Commission's e-filing system requires you to enter the Commission's "control number" (i.e., docket number), which is 53727 for this case. **All filings must contain both the SOAH and Commission docket numbers.**

For intervenors who may not be familiar with the Commission's processes, all filings in this case are available for viewing and downloading from the Commission's website at www.puc.texas.gov. Once there, click at the top under "Filings." Then click on "Filings Search," type in control number 53727, and press "enter." A list of documents filed in this docket will appear and you may access those documents by clicking on the document number.

B. SERVICE OF FILED DOCUMENTS ON ALL PARTIES

When a party files a document with the Commission, that party is also required to serve (i.e., provide a copy of that document to) every other party. **At this time, due to COVID-19, service must be accomplished by e-mail.**³ Any party to this proceeding who has not previously provided an e-mail address

² See *Issues Related to the State of Disaster for the Coronavirus Disease 2019*, Docket No. 50664, Second Order Suspending Rules (July 16, 2020), available at: http://interchange.puc.texas.gov/Documents/50664_205_1075813.PDF.

³ See 16 Tex. Admin. Code § 22.74(c).

SHALL, no later than 7 days after the date of this order, file a notice informing the parties of the e-mail address to be used for service.

SOAH's orders must also be provided to, or served on, the parties. Parties will be served with SOAH's orders electronically at the e-mail address they provide.

Only one address per party will be included on the official service list maintained by SOAH pursuant to 16 Texas Administrative Code § 22.74(b). Corrections to the service list should be directed to the ALJs' assistant, Nadia Martinez, by email at nadia.martinez@soah.texas.gov.

C. MOTIONS AND RESPONSES TO MOTIONS AND OTHER PLEADINGS

Unless otherwise specified, responses to any motion or other pleading shall be filed within **five working days** from receipt of the pleading to which the response is made. Such responsive pleadings shall state the date of receipt of the pleading to which a response is made. Failure to file a timely response will be considered acquiescence to the relief requested.

D. DISCOVERY

Discovery shall be governed by the Commission's procedural rules at 16 Texas Administrative Code chapter 22, subchapter H. All discovery requests and responses shall be filed with the Commission.

VIII. RESPONSIBILITY OF JOINT APPLICANTS

Upon receipt of this order, the Joint Applicants must review the service list to ensure that all intervenors are on the service list. If the service list is not accurate, the Joint Applicants must immediately file a statement of which intervenors are not on the list and need to receive notice of the prehearing conference. The Joint Applicants must also review the service list prior to the filing of Commission Staff's direct testimony and file a written list of all intervenors who did not file testimony or a statement of position. The Joint Applicants (and any other party) may obtain the service list by requesting it from the ALJs' assistant at the email address listed above.

IX. STATEMENTS OF POSITION OR PREFILED TESTIMONY

Pursuant to 16 Texas Administrative Code § 22.124(a), parties will be required to file either written testimony or a statement of position in this case. **A request to intervene is not a statement of position.** A statement of position clarifies a party's position but is not sworn-to, is not evidence, and is not subject to cross-examination. Prefiled direct testimony, on the other hand, is sworn-to, is evidence, and is subject to cross examination.⁴ A due date for the filing of either a statement of position or testimony will be set in the procedural schedule. **Failure to timely file either written testimony or a position statement will result in dismissal as a party from this proceeding and prohibition from participating in**

⁴ An information sheet for unrepresented parties, which reviews the prehearing and hearing process in greater detail, is attached to this Order.

the hearing on the merits and briefing, in accordance with 16 Texas Administrative Code §§ 22.124 and 22.161.

SIGNED JULY 14, 2022.



Daniel Wiseman,
Administrative Law Judge



Sarah Starnes,
Administrative Law Judge

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 judges (ALJs) preside over this hearing process. The ALJs work 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 ALJs 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 five-member Commission.
- The staff of the PUC (Staff) participates in the hearing as a party. Staff is distinct from the five-member Commission that will ultimately decide this case.

Prehearing Conference

- At the prehearing conference, the ALJs will rule on any outstanding motions and set the schedule for prehearing activities and the hearing itself.

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 conference or shortly thereafter by an order from the ALJs.
- 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 ALJs 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 via Zoom videoconferencing and could last several days.
- 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 ALJs will issue the PFD recommending an outcome, including a route for the transmission line if the application is granted.
- The ALJs' 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 ALJs' 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 ALJs' proposal. If the Commission rejects the ALJs' proposal, it will likely choose another route.
- The deadline for Commission action in this case is December 26, 2022.

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.) As mentioned in Order No. 1, the parties should monitor the Commission website for changes in the filing procedures related to the COVID-19 pandemic.

- 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 service list, setting out each party and the party's address (and e-mail address, if available), is attached to Order No. 1.
- 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 maintains an online 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 53727 and press "enter." A list of documents filed in this docket 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.