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**BEFORE THE
STATE OFFICE OF ADMINISTRATIVE
HEARINGS**

**APPLICATION OF CENTERPOINT ENERGY HOUSTON
ELECTRIC, LLC TO AMEND A CERTIFICATE OF
CONVENIENCE AND NECESSITY FOR A 138-KV
TRANSMISSION LINE WITHIN CHAMBERS COUNTY**

**SOAH ORDER NO. 1
PROJECT DESCRIPTION; JURISDICTION; DEADLINES FOR
DECISION, COMMENTING ON SUFFICIENCY AND NOTICE, AND
INTERVENTION; SETTING PREHEARING CONFERENCE;
CAUTION TO INTERESTED PARTIES; AND GENERAL
PROCEDURES**

I. PROJECT DESCRIPTION

On August 30, 2023, CenterPoint Energy Houston Electric, LLC (Applicant) filed an application with the Public Utility Commission of Texas (Commission or PUC) to amend their certificates of convenience and necessity (CCNs) to construct

a 138-kilovolt (kV) transmission line in Chambers County. The proposed transmission line is designated as the 138-kV Kilgore substation project.¹

II. JURISDICTION, DEADLINE FOR DECISION

On August 31, 2023, the Commission issued its Order of Referral and Preliminary Order, referring this matter to the State Office of Administrative Hearings (SOAH), requesting the assignment of a SOAH Administrative Law Judge (ALJ) to conduct a hearing and issue a proposal for decision (PFD), if necessary. In the Preliminary Order, the Commission also set forth the issues to be addressed and the issues not to be addressed in this proceeding.²

Public Utility Regulatory Act (PURA) section 37.057 sets the deadline for CCN applications for new transmission facilities. The Commission must approve or deny the application not later than the 180th day after the application is filed. Therefore, the Commission must render a decision in this proceeding by **February 26, 2024**.³

¹ See Order of Referral and Application for more information.

² The Commission has jurisdiction and authority over this matter pursuant to the Public Utility Regulatory Act (PURA), Texas Utilities Code sections 32.001, 37.053, 37.056, and 37.057. SOAH has jurisdiction over all matters relating to the conduct of a hearing in this matter pursuant to Texas Government Code section 2003.049 and PURA section 14.053.

³ The calculation of this deadline assumes, without finding, that the application, as filed on August 30, is complete.

III. SETTING PREHEARING CONFERENCE

A prehearing conference will convene at **9:00 a.m. (CT) on September 19, 2023**, remotely via Zoom videoconference. The parties may attend the prehearing conference in one of these ways:

To join by computer or smart device, go to
<https://soah-texas.zoomgov.com> and enter:

Meeting ID: 160 137 1304

Video Passcode: PUC934

To join by telephone (audio only), call
+1 669 254 5252, and enter:

Meeting ID: 160 137 1304

Telephone Passcode: 896901

The purpose of the prehearing conference is to discuss the following matters:

- Pending motions and other preliminary matters related to the proceeding;
- A procedural schedule, including the scheduling of the hearing on the merits (see guidelines below);
- Procedures to be followed before and during the hearing; and
- Any other matter that may assist in the disposition of this proceeding in a fair and efficient manner.

The prehearing conference is open to the public. **Parties are strongly encouraged to attend to learn about the rules and procedures that will govern this case and to ask questions about the process.**

IV. PROCEDURAL SCHEDULE GUIDELINES

The parties shall develop a proposed procedural schedule that ensures the ALJ will have at least 60 days to write and issue the PFD after the record close date.⁴ The schedule shall also provide the Commission with at least five weeks after the issuance of the PFD to issue the final order.

V. COMMENTS ON SUFFICIENCY AND NOTICE

Absent an order finding the application materially deficient, the application shall be deemed sufficient within 35 days after filing the application, or October 4, 2023, under Rule 22.75(d)(2). Therefore, Commission staff (Staff) shall, and any other party may, file its comments on the sufficiency of Applicants' application for purposes of further review no later than **September 13, 2023**.

No later than **September 26, 2023**, Staff shall, and any other party may, file its comments on whether Applicants' notice complied with requirements.

⁴ The record close date is the date the final post-hearing briefs or proposed findings of fact, conclusions of law, and proposed ordering paragraphs are filed or due, whichever is later. 1 Tex. Admin. Code § 155.425(c).

VI. INTERVENTION DEADLINE

Pursuant to the Preliminary Order, the deadline for intervention is **September 29, 2023**.

VII. CAUTION TO INTERESTED PARTIES

In this proceeding, Applicants presented 20 alternative routes that the proposed transmission line may ultimately follow. It is the duty of the ALJ 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.

VIII. PROCEDURES

All Commission filings are available for viewing and downloading from the Commission's Interchange available at <http://interchange.puc.texas.gov/>, by entering the control number 55296 and selecting the "search" tab. A list of documents filed in this docket will appear, which can be accessed by clicking on the document number (with a few exceptions such as confidential documents, if any).

Except as modified by orders issued in this case or by the Commission or SOAH, the Commission's procedural rules govern this case and the parties are expected to comply with those rules. The parties should review the Commission and SOAH websites as needed for updates regarding any such modifications.

The Commission's procedural rules are available at:
<https://www.puc.texas.gov/agency/rulesnlaws/procrules/Procedural.aspx>.

Routine procedural and logistical questions may be directed to the ALJ's administrative assistant Mavis Chase at mavis.chase@soah.texas.gov. SOAH support personnel may not provide advice or interpret law or orders for the parties.

A. FILING AND SERVICE

Filing of pleadings is governed by Rule 22.71 and service is governed by Rule 22.74. All parties must file any pleading or document with the Commission solely through the Interchange on the Commission's website (<https://interchange.puc.texas.gov/filer>) and provide notice, by e-mail, to all other parties that the pleading or document has been filed with the Commission, unless otherwise ordered. It will be incumbent upon all other parties to obtain a copy of the pleading or document by accessing the Interchange.⁵ **Filings should not be made at SOAH. All filings must contain both the SOAH and PUC docket numbers.**

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, service must be accomplished by e-mail.**⁶ Any party to this proceeding who has not previously provided an e-mail address **SHALL, no**

⁵ One of the pending motions to be discussed at the August 28, 2023 prehearing conference is Des Ranch Investments, LLC's Motion to Suspend Service Requirements (with Exceptions), filed August 15, 2023.

⁶ See 16 TAC § 22.74(c).

later than seven days after the date of this Order, file a notice informing the parties of the e-mail address to be used for service.

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 TAC section 22.74(b). Corrections to the service list should be directed to the ALJ's legal secretary, Nadia Martinez, by email at Nadia.Martinez@soah.texas.gov.

B. MOTIONS

Motions for continuance are governed by Rule 22.79. If a continuance or extension of time is sought, the motion shall propose a range of new dates and state whether the other parties agree. The ALJ will not contact parties to ascertain their position or to negotiate dates. In the absence of a ruling by the ALJ, a contested motion for continuance or extension is not granted and the existing schedule remains in place.

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

C. DISCOVERY

Discovery may begin immediately. Copies of requests for information (RFIs) and objections and responses to RFIs will not be provided to the ALJ. If a party files a motion to compel responses to discovery, the motion shall include every RFI and objection to which the motion applies. Any affidavits supporting an objection, motion to compel, or response shall be attached to the relevant document. The ALJ will resolve discovery disputes based on the written documents, any sworn affidavits attached thereto, and materials, if any, provided for in camera inspection, unless the ALJ concludes that a prehearing conference on the discovery dispute should be held.

If a party seeks in camera review of documents in accordance with Rule 22.144(g), it must submit the documents to the ALJ at SOAH. Documents submitted for review should not be filed with the Commission filing clerk. If they are filed with the Commission filing clerk, even inadvertently, the documents may not be physically removed from the Commission. Further, any claim to privilege or exemption may be waived by the filing.

IX. RESPONSIBILITY OF APPLICANTS

Upon receipt of this order, Applicants must review the service list to ensure that all intervenors (including individuals/entities with pending motions to intervene) are on the service list. If the service list is not accurate, Applicants must immediately file a statement of which intervenors are not on the list and need to receive notice of the prehearing conference. Applicants must also review the service

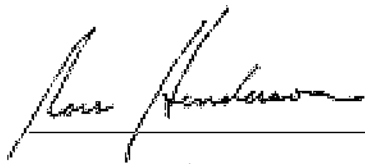
list prior to the filing of Staff's direct testimony, and file a written list of all intervenors who did not file testimony or a statement of position.

X. STATEMENTS OF POSITION OR PREFILED TESTIMONY

Pursuant to Rule 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. A deadline 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 the hearing on the merits and briefing,** in accordance with Rules 22.124 and 22.161.

Intervenors are encouraged to review the guidance document attached to this Order titled "Information for Unrepresented Parties" that provides an overview of the contested case process.

Signed September 1, 2023.



Ross Henderson
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 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 five-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 or through a videoconference application, such as Zoom.
- 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.

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 SOAH Order No. 1 and apply in this proceeding. Parties are expected to know those procedures and comply with them fully. 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.**
- 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, 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.