

**SOAH DOCKET NO. 473-18-5064
PUC DOCKET NO. 48358**

RECEIVED

**APPLICATION OF LCRA
TRANSMISSION SERVICES
CORPORATION TO AMEND A
CERTIFICATE OF CONVENIENCE AND
NECESSITY FOR THE COOKS POINT
138-KV TRANSMISSION LINE IN
BURLESON COUNTY**

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**BEFORE THE STATE OFFICE
OF
ADMINISTRATIVE HEARINGS**

2018 SEP 14 PM 3:11
PUBLIC UTILITY COMMISSION
FILING CLERK

**SOAH ORDER NO. 2
MEMORIALIZING PREHEARING CONFERENCE,
ADOPTING PROCEDURAL SCHEDULE,
NOTICE OF HEARING ON THE MERITS,
ADOPTING STANDARD PROTECTIVE ORDER,
CAUTION TO INTERESTED PARTIES,
GRANTING REQUESTS TO INTERVENE, AND
SUSPENSION OF TRADITIONAL SERVICE**

I. MEMORIALIZING PREHEARING CONFERENCE

On September 5, 2018, the undersigned Administrative Law Judges (ALJs) held an initial prehearing conference in this case at Wyndham Garden Austin, 1600 Woodward Street, Austin, Texas.

II. ADOPTING AGREED PROCEDURAL SCHEDULE

The parties moved to adopt an agreed proposed procedural schedule. The motion was granted, the proposed procedural schedule is adopted, and shall govern in this case as follows:

EVENT	DEADLINE IN 2018
Applicant's Direct Testimony	September 10
Objections to Applicant's Direct Testimony	September 17
Statement on Route Adequacy and Request for Hearing on Route Adequacy	September 21
Responses to Applicant's Direct Testimony	September 24
Replies to Statement on Route Adequacy	September 28
Hearing on Route Adequacy (if necessary)	October 4
Intervenors' Direct Testimony or Statement of Position	October 23

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EVENT	DEADLINE IN 2018
Objections to Intervenors' Direct Testimony	October 30
Response to Objections to Intervenors' Testimony	November 6
Deadline for Discovery on Applicant's Direct Case	November 12
Staff's Direct Testimony/ Intervenors' Cross-Rebuttal	November 16
Objections to Staff's Direct Testimony/ Intervenors' Cross-Rebuttal	November 26
Response to Objections to Staff's Direct Testimony/ Intervenors' Cross-Rebuttal	December 3
Deadline for sending Discovery on Staff's and Intervenors' Direct and Cross-Rebuttal Testimony,	December 7
Applicant Rebuttal	December 7
Objection to Applicant's Rebuttal	December 14
Responses to Objection to Applicant's Rebuttal	December 21
Prehearing Conference	January 8, 2019
Hearing on the Merits	January 8-10, 2019

III. NOTICE OF HEARING ON THE MERITS

The hearing on the merits is set to begin at **9:00 a.m., January 8, 2019**, following the prehearing conference, at the State Office of Administrative Hearings, 300 West 15th Street, 4th Floor, Austin, Texas. The hearing is expected to last three days.

IV. ADOPTING PROTECTIVE ORDER

At the prehearing, the Applicant requested entry of the Commission's standard protective order. No party objected to the motion, which was granted. The Commission's standard form of protective order is adopted and shall govern in this case.

V. CAUTION TO INTERESTED PARTIES

In this proceeding, Applicant has described 26 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

intervene and provide the decision-makers the information needed to reach a just and reasonable decision.

VI. GRANTING MOTIONS TO INTERVENE

At the hearing, Sylvia Ann Gold Stegent, Weldon Ginzel, Kimberly Martensen, Joel Wayne Pembleton, Robert Houlgrave, Christopher Chmelar and Christel Chmelar, Bryan and Patricia Coffman, Richard Neal, Robert Murray Alford, Loretta Beran Alford, Ronald H. Stern, Paline Koumonduros, Jane Collier, Gabe and Gail Broussard, Sarah Hronek, Suzanne Strong, Cirilo Zamora, Jr., Angie Zamora, Cierra Zamora, and Alexander Zamora had pending motions to intervene. No party objected to the motions and they are granted.

VII. IMPORTANCE OF DEADLINE FOR FILING WRITTEN TESTIMONY AND POSITION STATEMENTS

Pursuant to 16 Texas Administrative Code § 22.124(a), parties must either file written testimony or a statement of position. A statement of position clarifies a party's position but is not evidence. **A request to intervene is not a statement of position.** Testimony is generally offered as evidence and must conform to the Texas Rules of Evidence. For example, if the witness is not an expert, the testimony must be based on the witness's personal knowledge. *See* Tex. R. Evid. 602, 701, and 702. A due date for the filing of either a statement of position or testimony has been set in the procedural schedule contained in this written order. Each position statement or testimony shall include, at the beginning following the party's or witness's name, a statement indicating **which routes or links the witness or party opposes and/or supports.** *Any party or group of aligned parties that does not timely file either written testimony or a position statement will be dismissed from this proceeding and prohibited from participating in the hearing on the merits and post-hearing briefing* in accordance with 16 Texas Administrative Code §§ 22.124 and 22.161.

VIII. SERVICE AND FILING PROCEDURES

A. Filing

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 number 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.**

For intervenors who may not be familiar with the PUC processes, all PUC filings in this case are available for viewing and downloading from the Commission's website (www.puc.state.tx.us). Once there, click at the top under "Filings." Then go to Filings Search, click on "Filings Search" and type in control number (PUC Docket Number) 47192 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. The PUC's procedural rules are also available at the PUC website.

Normally, all documents filed in this case must also be delivered or "served" to other parties. **However**, this rule is being suspended in this case, as explained immediately below.

B. Suspension of Traditional Service

Due to the number of intervenors in this case, traditional service requirements will be modified as set forth below.

As explained above, all documents filed in this case must be filed at the PUC. Normally, when a party files a document with the PUC, that party is required to deliver or "serve" a copy of that document to every other party. This is known as "traditional service." **Traditional service, however, is no longer required in this case.** What that means is, when a party files a document at the PUC, they are not required to serve other parties – except for the exceptions described

below. **Filings that fall under an exception described below must still be served** by traditional service, such as mail or fax, at the address or number provided on the service list.

When a party files a document with the PUC in this case, it will be posted on the PUC's Interchange on its website. The PUC also has a Filing Notification System that allows a party to automatically receive email notifications of all filings and orders in this case. **The ALJs strongly recommend that parties with an email address sign up for the PUC's Filings Notification System to receive automatic notices of filings in this case.** A party can sign up for the PUC's Filing Notification System by: (1) going to the PUC's website (www.puc.texas.gov), (2) clicking on the tab "Filings," (3) clicking on the link "Filings Notification System," and (4) following the instructions provided to register on the system.

Because traditional service is suspended in this case, any party that does not sign up for the PUC's Filings Notification System is required to log onto the PUC's Interchange as often as possible to see what has been filed and respond, if necessary.¹

Exceptions to the suspension of traditional service:

1. A party that is not represented by counsel may file a "motion for good cause to use traditional service." Parties that do not have access to the internet **will** be granted a good cause exception. **Motions for an exception should be filed as soon as possible.**

If a motion to use traditional service is granted, that party's contact information will be retained on or added to the service list, which is a mailing list of all the parties who have been granted the right to use and be served by traditional service methods.

2. **Any discovery request, response to a discovery request, motion, or response to a motion must be served on the party or parties that are the target of the motion or response.** Service of these documents can be accomplished by email or under the traditional method of service if service by email has not been agreed to. However, if the emailing party is notified that there is a problem with an email

¹ For most intervenors, there are only two matters to be concerned with before the hearing on the merits: (1) sending out or responding to discovery requests; and (2) meeting the deadline to file testimony or a statement of position.

delivery, the emailing party will immediately provide the document (serve it) by standard mail.

3. For any party receiving service via the PUC's Interchange or email service, any confidential or highly sensitive protected materials must continue to be provided under the traditional method of service as set forth under 16 Texas Administrative Code § 22.74.

B. Request that Parties Sign Up for Service of SOAH-issued Orders by Email

SOAH's orders must still be served on the parties by traditional service. This means that when the ALJ issues an order in this case, SOAH must serve every party with that order by traditional service methods such as mailing. If, however, a party has signed up for service of SOAH's orders by email, then the order may be transmitted much more efficiently than by regular mail or other service methods. Service of SOAH orders by email saves a tremendous amount of SOAH's time and resources otherwise spent to mail or fax orders to the parties. As a result, **parties are strongly encouraged to provide an email address to SOAH, to be served with notice of SOAH's orders in this case by email.** To sign up to receive SOAH's orders by email, go to SOAH's website at 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. The service list will also be updated with the party's email address.

Only one address per party will be included on the official service list maintained by SOAH. Corrections to the service list should be directed to the ALJ's assistant, Diana Benitez, by email at diana.benitez@soah.texas.gov.

C. 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

Commission Order No. 1, issued on June 4, 2018, authorized the commencement of discovery on an informal basis. Discovery shall be governed by the Commission's procedural rules. All discovery requests and responses shall be filed with the PUC in accordance with the Commission's procedural rules.


IX. RESPONSIBILITY OF LCRA TSC

LCRA TSC must review the service list immediately upon receipt of this order to ensure that all intervenors are on the service list. If the service list is inaccurate, LCRA TSC must file a statement immediately, indicating which intervenors are not on the list and need to receive notice of the prehearing conference. LCRA TSC 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. LCRA TSC (and any other party) may obtain the service list by requesting it from the ALJ's assistant at the email address listed above.


X. APPLICANT'S WITNESSES PRESENTED AS A PANEL

At the hearing, the Applicant will offer its witnesses (direct witnesses and, after intervenor and Staff witnesses, rebuttal witnesses) for cross-examination in a panel, instead of one at a time. Any party attending the hearing that wishes to cross-examine Applicant's witnesses, as well as Staff's witness or witnesses, will be allowed to do so.

SIGNED September 14, 2018.



JOANNE SUMMERHAYS
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS



RUDY CALDERON
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS