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Addendum StartPage: 0
APPLICATION OF LCRA TRANSMISSION SERVICES CORPORATION TO AMEND ITS CERTIFICATE OF CONVENIENCE AND NECESSITY FOR THE PROPOSED COOKS POINT 138-KV TRANSMISSION LINE PROJECT IN BURLESON COUNTY, TEXAS

BEFORE THE STATE OFFICE OF ADMINISTRATIVE HEARINGS

DIRECT TESTIMONY AND EXHIBITS OF JUSTIN STRYKER ON BEHALF OF APPLICANT LCRA TRANSMISSION SERVICES CORPORATION

September 10, 2018
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EXHIBITS

Exhibit JAS-1: PURA § 37.056
Exhibit JAS-2: PUC Substantive Rule § 25.101
Exhibit JAS-3: PUC Procedural Rule § 22.52
Exhibit JAS-4: Overview of Application Sponsorship
Exhibit JAS-5: Letter from Department of Defense
I. INTRODUCTION

Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.
A. My name is Justin Stryker. My business address is: Lower Colorado River Authority, 3505 Montopolis Drive, Building D, Austin, Texas 78744.

Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?
A. I am employed by the Lower Colorado River Authority (LCRA) as a Regulatory Case Manager (RCM), and am providing testimony in this docket on behalf of LCRA Transmission Services Corporation (LCRA TSC).

Q. PLEASE DESCRIBE YOUR EDUCATIONAL AND PROFESSIONAL QUALIFICATIONS AND BUSINESS EXPERIENCE.
A. I earned a Bachelor of Science Degree in Communications from Texas Tech University. I began my career working as a Policy Analyst for the Texas House of Representatives, where I provided research and analysis on proposed legislation. In that position, I also worked with industry representatives, public agencies, and constituents to collaborate on and understand legislative and state government policy issues.

For the past eight years, I have been employed by LCRA in the Regulatory Affairs department. My work in the regulatory field has included monitoring and reporting on dockets and projects at the Public Utility Commission of Texas (PUC or Commission), preparing regulatory compliance filings, and managing various aspects of LCRA TSC’s Certificate of Convenience and Necessity (CCN) proceedings. Most recently, I managed the Fayette Power Project (FPP) Bus Tie project (Docket No. 47218). I also contributed to the Blumenthal, Zorn to Marion, and Leander to Round Rock projects, Docket Nos. 43599, 45601, and 45866, respectively. My role in these CCN projects included some or all of the following: managing the directly affected landowner identification and notification process; overseeing public involvement; monitoring intervention and discovery during the contested case phase; preparing the CCN application; reviewing testimony; and participating in the identification of transmission line segments and alternative routes.
Q. PLEASE DESCRIBE YOUR JOB RESPONSIBILITIES, PARTICULARLY AS THEY APPLY TO THIS PROJECT.

A. As the RCM for the proposed Cooks Point 138-kilovolt (kV) Transmission Line Project (Project), I am responsible for managing and coordinating the preparation of LCRA TSC’s Application to Amend its CCN (Application). My involvement in the Project includes:

- Managing the public involvement process, including coordinating the public open house meeting and other meetings with landowners, local officials, and representatives from Bluebonnet Electric Cooperative (BBEC) and Bryan Texas Utilities (BTU);
- Overseeing the preparation by URS of the *Cooks Point 138-kV Transmission Line Project Environmental Assessment and Alternative Route Analysis in Burleson County, Texas* (EA);
- Managing the overall preparation of the Application, including coordinating with specialists from LCRA and URS, and developing a suite of routes that address the applicable requirements of the Public Utility Regulatory Act (PURA) (see Exhibit JAS-1) and PUC Substantive Rules (see Exhibit JAS-2);
- Providing notice of the Application in accordance with all applicable PUC rules (see Exhibit JAS-3); and
- Providing testimony in support of the Application at the Commission.

Q. HAVE YOU TESTIFIED BEFORE THE COMMISSION PREVIOUSLY?

A. No. As the RCM for the Fayette Power Project (FPP) Bus Tie project (Docket No. 47218), testimony was not required as the CCN was administratively approved by the Commission.

II. PURPOSE OF TESTIMONY

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS DOCKET?

A. My testimony addresses the following:

- A description of LCRA TSC and an introduction of the witnesses providing testimony on behalf of LCRA TSC in this proceeding;
- LCRA TSC’s compliance with the PURA and the Commission’s rules, including compliance with requirements relating to the public participation process and the provision of notice; and
- The manner in which LCRA TSC identified and evaluated a number of geographically diverse alternative transmission line routes and alternative substation locations for the Project in compliance with the rules and policies of the Commission.
Q. PLEASE BRIEFLY DESCRIBE THE TESTIMONY OF THE OTHER WITNESSES WHO PROVIDE DIRECT TESTIFY ON BEHALF OF LCRA TSC IN THIS DOCKET.

A. Mr. Kristian Koellner, P.E., Vice President of Transmission Planning, testifies regarding the purpose and need for the Project. Ms. Jessica Melendez, P.E., Senior Engineer, Line and Structural Engineering, testifies regarding the schedule, cost, design and operation of the new proposed transmission line and substation facilities. Ms. Melinda Jensen, Program Manager for URS, sponsors the EA and testifies regarding the preparation of the EA. Each witness also sponsors portions of the Application that correspond to his or her respective discipline.

Q. WHAT PORTIONS OF LCRA TSC’S APPLICATION DO YOU SPONSOR?

A. I sponsor the responses to Questions 1, 3, 9, 10, 12, 25, and 30 of the Application. I co-sponsor the response to Question 2 of the Application with Mr. Koellner, the response to Question 4 with Mr. Koellner and Ms. Melendez, the response to Question 17 with Ms. Jensen and Ms. Melendez, and the responses to Questions 18, 19, and 29 with Ms. Jensen. I also co-sponsor with Ms. Melendez and Mr. Koellner Section 1 of the Environmental Assessment and Alternative Route Analysis for LCRA Transmission Services Corporation’s Proposed Cooks Point 138-kV Transmission Line Project in Burleson County, Texas (EA), prepared by URS, Inc. (URS), which is included as Attachment 1 to the Application. I sponsor Attachments 7, 8, 9, 10, 11, and 12 and co-sponsor with Ms. Jensen Attachment 6 to the Application. A complete list of sponsorship is attached to my testimony as Exhibit JAS-4.

Q. WERE YOUR TESTIMONY AND THE PORTIONS OF THE APPLICATION YOU SPONSOR PREPARED BY YOU OR BY KNOWLEDGEABLE PERSONS UPON WHOSE EXPERTISE, JUDGMENT, AND OPINIONS YOU RELY IN PERFORMING YOUR DUTIES?

A. Yes.
Q. IS THE INFORMATION CONTAINED IN YOUR TESTIMONY AND IN THE
PORTIONS OF THE APPLICATION YOU SPONSOR TRUE AND CORRECT TO
THE BEST OF YOUR KNOWLEDGE AND BELIEF?
A. Yes.

III. DESCRIPTION OF LCRA TSC AND THE PROJECT

Q. PLEASE DESCRIBE LCRA TSC.
A. LCRA TSC is a nonprofit corporation of LCRA, acting on its behalf and as its
instrumentality. It has the authority to carry out LCRA’s governmental functions and
contributes money to fund LCRA’s statutory obligations, including public safety, parks
management, water safety, and long-term water supply infrastructure. All of LCRA TSC’s
facilities are presently operated within the Electric Reliability Council of Texas (ERCOT).

LCRA TSC is a Transmission Service Provider (TSP) with no retail customers. LCRA TSC
has no employees. Employees of LCRA provide necessary services to LCRA TSC through
a service agreement.

Q. PLEASE DESCRIBE LCRA TSC’S TRANSMISSION SYSTEM.
A. Presently, LCRA TSC owns or operates approximately 5,200 circuit miles of high voltage
transmission lines in over 70 counties across Central Texas and portions of West and South
Texas. In addition, LCRA TSC operates facilities at approximately 400 substations.

Q. PLEASE DESCRIBE THE PROJECT.
A. LCRA TSC proposes to design and construct a new single-circuit 138-kV transmission line
and new Cooks Point Substation located in Burleson County. The new line will connect
the new proposed Cooks Point Substation, located in the vicinity of the Cooks Point
community, to either the existing Lyle Wolz Substation or Lyons Substation, both of which
are owned by BBEC.

LCRA TSC is proposing the Project to provide transmission and substation
infrastructure needed to reliably serve the continued electric load growth in Burleson
County. Mr. Koellner’s testimony provides detailed information on why LCRA TSC is
undertaking the Project and an associated discussion on the specific purpose of, and need
for, the Project.
IV. IDENTIFICATION OF DIRECTLY AFFECTED PROPERTIES AND NOTICE

Q. PLEASE DESCRIBE LCRA TSC'S PROCESS FOR IDENTIFYING LANDOWNERS THAT ARE DIRECTLY AFFECTED BY THE PROJECT.

A. LCRA TSC follows the process established in PUC Procedural Rule 22.52, which requires it to notify directly affected landowners as identified on the current county tax rolls. According to the Commission’s rule, land is directly affected if an easement or other property interest would be obtained over all or any portion of it, or if it contains a habitable structure that would be within 300 feet of the centerline of a transmission line of 230-kV or less. For this Project, LCRA TSC identified all parcels within 300 feet of the centerline of all routes included in the Application based on data from the Burleson County Appraisal District.

Q. PLEASE DESCRIBE ALL THE NOTICE LCRA TSC PROVIDED IN ASSOCIATION WITH THE APPLICATION FILING.

A. In accordance with PUC Procedural Rule 22.52, LCRA TSC provided the following notice in association with the filing of the Application in this docket:

Landowner Notice: LCRA TSC sent via first-class mail notice of the Application to all directly affected landowners. The notice included a description of the Project, a detailed map of the alternative routes, narrative segment descriptions, information about how to participate in the proceeding, and my name and phone number as a primary point of contact for interested persons to obtain additional information about the Project. The mailed notice also included the PUC Landowner Brochure.

Published Notice: LCRA TSC published a public notice in the *Burleson County Tribune* the week after the Application was filed with the PUC. Publishers’ affidavits were filed with the Commission on June 20, 2018, showing proof of notice as required by Order No. 1. The newspaper in which notice was published is a newspaper of general circulation in Burleson County.
Notice to Counties and Municipalities: Concurrent with the filing of the Application, written notice was hand delivered or mailed by first-class mail to Burleson County officials and municipal authorities for the cities of Caldwell and Somerville.

Notice of Neighboring Utilities: Concurrent with the filing of the Application, written notice was mailed by first-class mail to the following neighboring utilities providing electric utility service within five miles of the requested facility:

**Electric Cooperatives**
- Bluebonnet Electric Cooperative

**Investor-Owned Utilities**
- Entergy Texas, Inc.

**Municipal Utilities**
- City of Caldwell Utilities; Bryan Texas Utilities

Notice to Other Public Officials, Organizations, and Interested Parties: Concurrent with the filing of the Application, written notice was hand delivered or mailed by first-class mail to state and federal representatives and senators in whose districts the Project is proposed, Caldwell Independent School District, the Office of Public Utility Counsel, the Texas Department of Transportation – Bryan District Office, owners of railroads crossed by a proposed route, and owners or operators of pipeline facilities crossed or within proximity to a proposed route. A complete list of the notices hand delivered or mailed to public officials, organizations, and other interested parties is included as Attachment 10 to the Application.

Notice to Department of Defense Siting Clearinghouse: Concurrent with the filing of the Application, written notice was mailed by first-class mail to the Department of Defense Siting Clearinghouse (DOD). On August 9, 2018, the DOD reported that the Proposed Project will have minimal impact on military operations conducted in the area. This correspondence is included as Exhibit JAS-5 to my testimony.

An affidavit attesting to the provision of notice in compliance with the Commission’s rules was filed with the Commission on June 20, 2018. The Commission issued Order Nos. 2 and 4 in this docket, finding LCRA TSC’s provision of notice to be sufficient.
Q. DID LCRA TSC HOLD ANY PUBLIC OPEN HOUSES ABOUT THE PROJECT PRIOR TO FILING THE APPLICATION?
A. Yes. LCRA TSC held a public open house meeting on January 30, 2018, in Caldwell, Texas.

Q. DID LCRA TSC PROVIDE NOTICE OF THE PUBLIC OPEN HOUSE MEETING PURSUANT TO PUC PROCEDURAL RULE 22.52?
A. LCRA TSC provided direct mail notice of the public meeting via first-class mail to owners of land within 300 feet of the centerline of the preliminary alternative segments. The notice LCRA TSC provided in association with the public open house meeting is more fully described in response to Question 18 of the Application, Chapter 3 and Appendix B of the EA, and Section VIII of my direct testimony, below.

LCRA TSC did not provide written notice of the public meeting to the DOD; however, on October 18, 2017, several months prior to the public open house meeting, written information was provided to the DOD about the study area and the nature of the Proposed Project. On December 14, 2017, the DOD reported that the Proposed Project will have minimal impact on military operations conducted in the area. This correspondence is included in Appendix A of the EA.

V. ROUTING IN COMPLIANCE WITH PURA AND THE COMMISSION'S RULES

Q. ARE YOU FAMILIAR WITH THE ROUTING CRITERIA IDENTIFIED IN PUC SUBSTANTIVE RULE 25.101(b)(3)(B)?
A. Yes. The routing criteria referenced in this part of the PUC's Substantive Rules are attached to my testimony as Exhibit JAS-2.

A. PUC Substantive Rule 25.101(b)(3)(B) requires that, to the extent reasonable without compromising reliability and safety and considering the requirements of PURA § 37.056 (attached as Exhibit JAS-1), engineering constraints, and costs, proposed electric transmission lines should be routed in such a manner as to:
1. Parallel or utilize existing compatible right-of-way (ROW) for electric facilities, including the use of vacant positions on existing multiple-circuit transmission lines;
2. Parallel or utilize other existing compatible ROW; including roads, highways, railroads, or telephone utility ROW;
3. Parallel property lines or other natural or cultural features; and
4. Conform to the PUC’s policy of prudent avoidance.

Q. WERE THE ROUTES AND SEGMENTS INCLUDED IN THE APPLICATION IDENTIFIED IN ACCORDANCE WITH THE COMMISSION’S ROUTING CRITERIA?

A. Yes. The alternative routes and route segments included within the Application utilize or parallel existing compatible ROW, property lines, and other natural or cultural features, wherever feasible. Considering PURA Section 37.056 and PUC Substantive Rule 25.101(b)(3)(B), including the PUC’s policy of prudent avoidance, LCRA TSC has reasonably routed the Project’s alternative routes to moderate the impact on the affected community and directly affected landowners. LCRA TSC has done so by paralleling existing transmission line ROW to the extent feasible without compromising reliability, paralleling road and highway ROW, paralleling railroad ROW, paralleling property lines where reasonable, and by paralleling other existing compatible routing features.

Q. ARE THE ROUTES IN THE APPLICATION CONSISTENT WITH THE PUC’S POLICY OF PRUDENT AVOIDANCE?

A. Yes. The proposed alternative routes for the Project have been identified in accordance with the PUC’s prudent avoidance policy. All of the proposed alternative routes and segments composing such routes reflect reasonable investments of money and effort in order to limit exposure to electric and magnetic fields.

Q. PLEASE EXPLAIN THE STEPS TAKEN BY LCRA TSC TO REDUCE THE IMPACTS TO LANDOWNERS THAT MAY RESULT FROM CONSTRUCTION OF THE PROJECT.

A. LCRA TSC has proposed alternative routes that parallel and/or utilize existing compatible ROW (roads, railroads, existing transmission line ROW), follow compatible routing features, and parallel apparent property lines where reasonable. Additionally, LCRA TSC
made routing adjustments (as described in the EA in Section 3) based on input from the public and local elected officials, where reasonable and practical.

Q. DOES THE APPLICATION CONTAIN AN ADEQUATE NUMBER OF ALTERNATIVE ROUTES TO CONDUCT A PROPER EVALUATION?

A. Yes. As proposed, the Project includes alternative routes to the four proposed Cooks Point Substation sites from two possible existing end points (either the Lyle Wolz Substation or the Lyons Substation). In her testimony, Ms. Jensen addresses in greater detail the diversity of alternative routing options included in the Application that results from the combination of segments, two existing alternative end points (i.e., Lyle Wolz or Lyons substations), and the four alternative sites identified for the new Cooks Point Substation.

Q. IS LCRA TSC REQUIRED TO IDENTIFY AN ALTERNATIVE ROUTE IN THE APPLICATION THAT IT BELIEVES BEST ADDRESSES THE REQUIREMENTS OF PURA AND THE PUC SUBSTANTIVE RULES?

A. Yes. Question 17 of the Commission’s CCN application form requires an applicant to identify the “alternative route the applicant believes best addresses the requirements of PURA and P.U.C. Substantive Rules.” LCRA TSC identified Route 7 as the route that best addresses the requirements of PURA and the PUC’s Substantive Rules. However, while LCRA TSC identified Route 7 as the route that best addresses the requirements of PURA and the PUC’s Substantive Rules at the time of the filing of the Application, all 26 routes in the Application, and any reasonably forward-progressing route that can be delineated from the 84 individual route segments that serve to connect either the existing Lyle Wolz Substation or Lyons Substation to one of the four Cooks Point Substation alternatives, are viable options available for approval by the PUC.

Q. IS ROUTE 7 LCRA TSC’S PREFERRED OR RECOMMENDED ROUTE?

A. No, neither Route 7, nor any other route, is LCRA TSC’s “preferred” or “recommended” route. Route 7 is simply the route LCRA TSC identified at the time of the filing of the Application as the route it believes best addresses the requirements of PURA and the PUC’s Substantive Rules.
VI. PROPOSED SUBSTATION LOCATIONS

Q. WHAT CRITERIA DID LCRA TSC AND URS CONSIDER IN IDENTIFYING POSSIBLE ALTERNATIVE SUBSTATION SITES FOR THE NEW COOKS POINT SUBSTATION?

A. LCRA TSC and URS considered the following guidelines in identifying possible alternative sites for the Cooks Point Substation:

- Capability to meet the need for the Project;
- Eight to nine acres in size;
- Generally level terrain;
- Ease of access and proximity to paved roads;
- Consideration of habitat, floodplain, and potentially impacted environmental features and land uses;
- Proximity to existing BBEC electric distribution facilities;
- Avoidance of buried utility infrastructure (e.g. pipelines) on the site; and
- Single parcel/tract rather than multiple parcels/tracts.

Q. HAS LCRA TSC IDENTIFIED ALTERNATIVE SITES FOR THE NEW COOKS POINT SUBSTATION THAT ADDRESS THESE CRITERIA?

A. Yes. LCRA TSC identified four possible alternative sites for the new Cooks Point Substation.

VII. PUBLIC INVOLVEMENT

Q. PLEASE DESCRIBE LCRA TSC’S PUBLIC INVOLVEMENT ACTIVITIES FOR THE PROJECT.

A. LCRA TSC held an open house meeting for the Project on January 30, 2018, at the City of Caldwell Civic Center in Caldwell, Texas. LCRA TSC mailed 1,216 written notices of the meeting to all owners of property within 300 feet of the centerline of each preliminary alternative segment. LCRA TSC also mailed or hand delivered notices of the open house to local public officials and various state and federal officials. In addition, notice of the open house was published in the Burleson County Tribune, the local newspaper of general circulation in Burleson County, on January 18 and January 25, 2018.
The public notices announced the location, time, and purpose of the meeting. A copy of the notice published in the newspaper is provided in Appendix B of the EA.

The meeting had the following objectives:

- Promote a better understanding of the Project, including its purpose, need, potential benefits, and impacts, and of the PUC certification process;
- Inform the public with regard to the routing procedure, schedules, and route approval process; and
- Gather the values and concerns of the public and community leaders.

The meeting was configured in an informal information station format with each station assigned to a particular aspect of the project or routing process and staffed with LCRA TSC or URS personnel. These stations included maps, illustrations, photographs, and text explaining each topic. In addition, LCRA TSC and URS provided GIS computer stations to show the extent of the project, the proposed preliminary alternative route segments, Burleson County Appraisal District parcel boundaries, and recent aerial photography of the project area. GIS-trained staff members were available to answer detailed questions regarding the proposed location of the transmission line segments and other features of interest to the public. Attendees were encouraged to visit each station so that the entire process could be explained in the sequence of project development. The information station format is typically advantageous because it allows attendees to process information in a more relaxed manner, to focus on their particular area of interest, and to ask specific questions. Furthermore, the one-to-one discussions with LCRA TSC or URS personnel encouraged more interaction from those attendees who might be hesitant to participate in a more formal speaker-audience format.

A total of 159 people signed in at the public open house meeting. In some cases, only one spouse or family member signed in when more than one may have been present. The open house questionnaire, a preliminary route segment map, and a frequently asked questions document (see Appendix B of the EA) were provided to the meeting attendees. The LCRA TSC ROW guide, State of Texas Landowner’s Bill of Rights, and the PUC’s landowner brochure were also made available to attendees at the open house. Some attendees handed in completed questionnaires at the meeting (totaling 44), while others took a questionnaire with them, acquired a questionnaire from neighbors, or accessed a copy of the questionnaire from the LCRA TSC Project website. A total of 34 additional
completed questionnaires were sent to LCRA TSC following the open house meeting. Thus, a total of 78 questionnaires were received by LCRA TSC at or following the public open house meeting.

Additional information concerning the public involvement program and summarizing the questionnaire results is located in Section 3.3, pages 3-2 through 3-5, of the EA. A representative copy of the questionnaire provided for the Project is included in Appendix B of the EA.

Q. HAS LCRA TSC COMMUNICATED WITH THE PUBLIC IN ADDITION TO THE OPEN HOUSE MEETING?
A. Yes. Following the open house, LCRA TSC received questionnaires and other input from landowners located within the study area. LCRA TSC also maintains a Project website to provide the public with updates about the Project.

Q. HAVE BURLESON COUNTY AND THE CITY OF CALDWELL PROVIDED COMMENTS REGARDING THE PROJECT?
A. Yes. In the spring of 2018, the City of Caldwell and Burleson County each passed a resolution supporting the need for the Project. In addition, the resolutions expressed the City’s and the County’s routing preferences. The resolutions are included in Appendix A of the EA.

VIII. SUMMARY AND CONCLUSION

Q. PLEASE SUMMARIZE YOUR TESTIMONY.
A. Each of the proposed alternative routes presented in the Application complies with the factors in PURA Section 37.056 and PUC Substantive Rule 25.101(b)(3)(B), including the policy on prudent avoidance. LCRA TSC is willing to build any of the 26 routes contained in the Application or any other reasonably forward-progressing route composed of the route segments contained in the Application that meet the need for the Project.

Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?
A. Yes.
Sec. 37.056. GRANT OR DENIAL OF CERTIFICATE.

(a) The commission may approve an application and grant a certificate only if the commission finds that the certificate is necessary for the service, accommodation, convenience, or safety of the public.

(b) The commission may:

(1) grant the certificate as requested;

(2) grant the certificate for the construction of a portion of the requested system, facility, or extension or the partial exercise of the requested right or privilege; or

(3) refuse to grant the certificate.

(c) The commission shall grant each certificate on a nondiscriminatory basis after considering:

(1) the adequacy of existing service;

(2) the need for additional service;

(3) the effect of granting the certificate on the recipient of the certificate and any electric utility serving the proximate area; and

(4) other factors, such as:

(A) community values;

(B) recreational and park areas;

(C) historical and aesthetic values;

(D) environmental integrity;

(E) the probable improvement of service or lowering of cost to consumers in the area if the certificate is granted; and

(F) to the extent applicable, the effect of granting the certificate on the ability of this state to meet the goal established by Section 39.904(a) of this title.

(d) The commission by rule shall establish criteria, in addition to the criteria described by Subsection (c), for granting a certificate for a transmission project that serves the ERCOT power region, that is not necessary to meet state or federal reliability standards, and that does not serve a competitive renewable energy zone. The criteria must include a comparison of the estimated cost of the transmission project and the estimated cost savings that may result from the transmission project. The commission shall include with its decision on an application for a
Public Utility Regulatory Act (PURAct) § 37.056

certificate to which this subsection applies findings on the criteria.
CHAPTER 25. SUBSTANTIVE RULES APPLICABLE TO ELECTRIC SERVICE PROVIDERS.

Subchapter E. CERTIFICATION, LICENSING AND REGISTRATION.


(a) Definitions. The following words and terms, when used in this section, shall have the following meanings unless the context clearly indicates otherwise:

(1) Construction and/or extension -- Shall not include the purchase or condemnation of real property for use as facility sites or right-of-way. Acquisition of right-of-way shall not be deemed to entitle an electric utility to the grant of a certificate of convenience and necessity without showing that the construction and/or extension is necessary for the service, accommodation, convenience, or safety of the public.

(2) Generating unit -- Any electric generating facility. This section does not apply to any generating unit that is less than ten megawatts and is built for experimental purposes only.

(3) Habitable structures -- Structures normally inhabited by humans or intended to be inhabited by humans on a daily or regular basis. Habitable structures include, but are not limited to: single-family and multi-family dwellings and related structures, mobile homes, apartment buildings, commercial structures, industrial structures, business structures, churches, hospitals, nursing homes, and schools.

(4) Municipal Power Agency (MPA) -- Agency or group created under Texas Utilities Code, Chapter 163 — Joint Powers Agencies.

(5) Municipal Public Entity (MPE) -- A municipally owned utility (MOU) or a municipal power agency.

(6) Prudent avoidance -- The limiting of exposures to electric and magnetic fields that can be avoided with reasonable investments of money and effort.

(7) Tie line -- A facility to be interconnected to the Electric Reliability Council of Texas (ERCOT) transmission grid by a person, including an electric utility or MPE, that would enable additional power to be imported into or exported out of the ERCOT power grid.

(b) Certificates of convenience and necessity for new service areas and facilities. Except for certificates granted under subsection (e) of this section, the commission may grant an application and issue a certificate only if it finds that the certificate is necessary for the service, accommodation, convenience, or safety of the public, and complies with the statutory requirements in the Public Utility Regulatory Act (PURA) §37.056. The commission may issue a certificate as applied for, or refuse to issue it, or issue it for the construction of a portion of the contemplated system or facility or extension thereof, or for the partial exercise only of the right or privilege. The commission shall render a decision approving or denying an application for a certificate within one year of the date of filing of a complete application for such a certificate, unless good cause is shown for exceeding that period. A certificate, or certificate amendment, is required for the following:

(1) Change in service area. Any certificate granted under this section shall not be construed to vest exclusive service or property rights in and to the area certificated.

(A) Uncontested applications: An application for a certificate under this paragraph shall be approved administratively within 80 days from the date of filing a complete application if:

(i) no motion to intervene has been filed or the application is uncontested;

(ii) all owners of land that is affected by the change in service area and all customers in the service area being changed have been given direct mail notice of the application; and

(iii) commission staff has determined that the application is complete and meets all applicable statutory criteria and filing requirements, including, but not limited to, the provision of proper notice of the application.

(B) Minor boundary changes or service area exceptions: Applications for minor boundary changes or service area exceptions shall be approved administratively within 45 days of the filing of the application provided that:

§25.101--1 effective 7/5/16 (P 45124)
CHAPTER 25. SUBSTANTIVE RULES APPLICABLE TO ELECTRIC SERVICE PROVIDERS.

Subchapter E. CERTIFICATION, LICENSING AND REGISTRATION.

(i) every utility whose certificated service area is affected agrees to the change;
(ii) all customers within the affected area have given prior consent; and
(iii) commission staff has determined that the application is complete and meets all applicable statutory criteria and filing requirements, including, but not limited to, the provision of proper notice of the application.

(2) Generation facility.
   (A) In a proceeding involving the purchase of an existing electric generating facility by an electric utility that operates solely outside of ERCOT, the commission shall issue a final order on a certificate for the facility not later than the 181st day after the date a request for the certificate is filed with the commission under PURA §37.058(b).
   (B) In a proceeding involving a newly constructed generating facility by an electric utility that operates solely outside of ERCOT, the commission shall issue a final order on a certificate for the facility not later than the 366th day after the date a request for the certificate is filed with the commission under PURA §37.058(b).

(3) Electric transmission line. All new electric transmission lines shall be reported to the commission in accordance with §25.83 of this title (relating to Transmission Construction Reports). This reporting requirement is also applicable to new electric transmission lines to be constructed by an MPE seeking to directly or indirectly construct, install, or extend a transmission facility outside of its applicable boundaries. For an MOU, the applicable boundaries are the municipal boundaries of the municipality that owns the MOU. For an MPA, the applicable boundaries are the municipal boundaries of the public entities participating in the MPA.
   (A) Need:
      (i) Except as stated below, the following must be met for a transmission line in the ERCOT power region. The applicant must present an economic cost-benefit study that includes an analysis that shows that the levelized ERCOT-wide annual production cost savings attributable to the proposed project are equal to or greater than the first-year annual revenue requirement of the proposed project of which the transmission line is a part. Indirect costs and benefits to the transmission system may be included in the cost-benefit study. The commission shall give great weight to such a study if it is conducted by the ERCOT independent system operator. This requirement also does not apply to an application for a transmission line that is necessary to meet state or federal reliability standards, including: a transmission line needed to interconnect a transmission service customer or end-use customer; or needed due to the requirements of any federal, state, county, or municipal government body or agency for purposes including, but not limited to, highway transportation, airport construction, public safety, or air or water quality.
      (ii) For a transmission line not addressed by clause (i) of this subparagraph, the commission shall consider among other factors, the needs of the interconnected transmission systems to support a reliable and adequate network and to facilitate robust wholesale competition. The commission shall give great weight to:
         (I) the recommendation of an organization that meets the requirement of PURA §39.151; and/or
         (II) written documentation that the transmission line is needed to interconnect a transmission service customer or an end-use customer.
CHAPTER 25. SUBSTANTIVE RULES APPLICABLE TO ELECTRIC SERVICE PROVIDERS.

Subchapter E. CERTIFICATION, LICENSING AND REGISTRATION.

(B) **Routing:** An application for a new transmission line shall address the criteria in PURA §37.056(c) and considering those criteria, engineering constraints, and costs, the line shall be routed to the extent reasonable to moderate the impact on the affected community and landowners unless grid reliability and security dictate otherwise. The following factors shall be considered in the selection of the utility’s alternative routes unless a route is agreed to by the utility, the landowners whose property is crossed by the proposed line, and owners of land that contains a habitable structure within 300 feet of the centerline of a transmission project of 230 kV or less, or within 500 feet of the centerline of a transmission project greater than 230 kV, and otherwise conforms to the criteria in PURA §37.056(c):

(i) whether the routes parallel or utilize existing compatible rights-of-way for electric facilities, including the use of vacant positions on existing multiple-circuit transmission lines;

(ii) whether the routes parallel or utilize other existing compatible rights-of-way, including roads, highways, railroads, or telephone utility rights-of-way;

(iii) whether the routes parallel property lines or other natural or cultural features; and

(iv) whether the routes conform with the policy of prudent avoidance.

(C) **Uncontested transmission lines:** An application for a certificate for a transmission line shall be approved administratively within 80 days from the date of filing a complete application if:

(i) no motion to intervene has been filed or the application is uncontested; and

(ii) commission staff has determined that the application is complete and meets all applicable statutory criteria and filing requirements, including, but not limited to, the provision of proper notice of the application.

(D) **Projects deemed critical to reliability.** Applications for transmission lines which have been formally designated by a PURA §39.151 organization as critical to the reliability of the system shall be considered by the commission on an expedited basis. The commission shall render a decision approving or denying an application for a certificate under this subparagraph within 180 days of the date of filing a complete application for such a certificate unless good cause is shown for extending that period.

(4) **Tie line.** An application for a tie line must include a study of the tie line by the ERCOT independent system operator. The study shall include, at a minimum, an ERCOT-approved reliability assessment of the proposed tie line. If an independent system operator intends to conduct a study to evaluate a proposed tie line or intends to provide confidential information to another entity to permit the study of a proposed tie line, the independent system operator shall file notice with the commission at least 45 days prior to the commencement of such a study or the provision of such information. This paragraph does not apply to a facility that is in service on December 31, 2014.

(c) **Projects or activities not requiring a certificate.** A certificate, or certificate amendment, is not required for the following:

(1) A contiguous extension of those facilities described in PURA §37.052;

(2) A new electric high voltage switching station, or substation;

(3) The repair or reconstruction of a transmission facility due to emergencies. The repair or reconstruction of a transmission facility due to emergencies shall proceed without delay or prior approval of the commission and shall be reported to the commission in accordance with §25.83 of this title;

(4) The construction or upgrading of distribution facilities within the electric utility’s service area;
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(5) Routine activities associated with transmission facilities that are conducted by transmission service providers. Nothing contained in the following subparagraphs should be construed as a limitation of the commission’s authority as set forth in PURA. Any activity described in the following subparagraphs shall be reported to the commission in accordance with §25.83 of this title. The commission may require additional facts or call a public hearing thereon to determine whether a certificate of convenience and necessity is required. Routine activities are defined as follows:

(A) The modification or extension of an existing transmission line solely to provide service to a substation or metering point provided that:
   (i) an extension to a substation or metering point does not exceed one mile; and
   (ii) all landowners whose property is crossed by the transmission facilities have given prior written consent.

(B) The rebuilding, replacement, or respacing of structures along an existing route of the transmission line; upgrading to a higher voltage not greater than 230 kV; bundling of conductors or reconductoring of an existing transmission facility, provided that:
   (i) no additional right-of-way is required; or
   (ii) if additional right-of-way is required, all landowners of property crossed by the electric facilities have given prior written consent.

(C) The installation, on an existing transmission line, of an additional circuit not previously certificated, provided that:
   (i) the additional circuit is not greater than 230 kV; and
   (ii) all landowners whose property is crossed by the transmission facilities have given prior written consent.

(D) The relocation of all or part of an existing transmission facility due to a request for relocation, provided that:
   (i) the relocation is to be done at the expense of the requesting party; and
   (ii) the relocation is solely on a right-of-way provided by the requesting party.

(E) The relocation or alteration of all or part of an existing transmission facility to avoid or eliminate existing or impending encroachments, provided that all landowners of property crossed by the electric facilities have given prior written consent.

(F) The relocation, alteration, or reconstruction of a transmission facility due to the requirements of any federal, state, county, or municipal governmental body or agency for purposes including, but not limited to, highway transportation, airport construction, public safety, or air and water quality, provided that:
   (i) all landowners of property crossed by the electric facilities have given prior written consent; and
   (ii) the relocation, alteration, or reconstruction is responsive to the governmental request.

(6) Upgrades to an existing transmission line by an MPE that do not require any additional land, right-of-way, easement, or other property not owned by the MOU;

(7) The construction, installation, or extension of a transmission facility by an MPE that is entirely located not more than 10 miles outside of an MOU’s certificated service area that occurs before September 1, 2021; or

(8) A transmission facility by an MOU placed in service after September 1, 2015, that is developed to interconnect a new natural gas generation facility to the ERCOT transmission grid and for which, on or before January 1, 2015, an MOU was contractually obligated to purchase at least 190 megawatts of capacity.

§25.101–4 effective 7/5/16 (P 45124)
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(d) Standards of construction and operation. In determining standard practice, the commission shall be guided by the provisions of the American National Standards Institute, Incorporated, the National Electrical Safety Code, and such other codes and standards that are generally accepted by the industry, except as modified by this commission or by municipal regulations within their jurisdiction. Each electric utility shall construct, install, operate, and maintain its plant, structures, equipment, and lines in accordance with these standards, and in such manner to best accommodate the public, and to prevent interference with service furnished by other public utilities insofar as practical.

(1) The standards of construction shall apply to, but are not limited to, the construction of any new electric transmission facilities, rebuilding, upgrading, or relocation of existing electric transmission facilities.

(2) For electric transmission line construction requiring the acquisition of new rights-of-way, electric utilities must include in the easement agreement, at a minimum, a provision prohibiting the new construction of any above-ground structures within the right-of-way. New construction of structures shall not include necessary repairs to existing structures, farm or livestock facilities, storage barns, hunting structures, small personal storage sheds, or similar structures. Utilities may negotiate appropriate exceptions in instances where the electric utility is subject to a restrictive agreement being granted by a governmental agency or within the constraints of an industrial site. Any exception to this paragraph must meet all applicable requirements of the National Electrical Safety Code.

(3) Measures shall be applied when appropriate to mitigate the adverse impacts of the construction of any new electric transmission facilities, and the rebuilding, upgrading, or relocation of existing electric transmission facilities. Mitigation measures shall be adapted to the specifics of each project and may include such requirements as:
   (A) selective clearing of the right-of-way to minimize the amount of flora and fauna disturbed;
   (B) implementation of erosion control measures;
   (C) reclamation of construction sites with native species of grasses, forbs, and shrubs; and
   (D) returning site to its original contours and grades.

(e) Certificates of convenience and necessity for existing service areas and facilities. For purposes of granting these certificates for those facilities and areas in which an electric utility was providing service on September 1, 1975, or was actively engaged in the construction, installation, extension, improvement of, or addition to any facility actually used or to be used in providing electric utility service on September 1, 1975, unless found by the commission to be otherwise, the following provisions shall prevail for certification purposes:

(1) The electrical generation facilities and service area boundary of an electric utility having such facilities in place or being actively engaged in the construction, installation, extension, improvement of, or addition to such facilities or the electric utility's system as of September 1, 1975, shall be limited, unless otherwise provided, to the facilities and real property on which the facilities were actually located, used, or dedicated as of September 1, 1975.

(2) The transmission facilities and service area boundary of an electric utility having such facilities in place or being actively engaged in the construction, installation, extension, improvement of, or addition to such facilities or the electric utility's system as of September 1, 1975, shall be, unless otherwise provided, the facilities and a corridor extending 100 feet on either side of said transmission facilities in place, used or dedicated as of September 1, 1975.

(3) The facilities and service area boundary for the following types of electric utilities providing distribution or collection service to any area, or actively engaged in the construction, installation, extension, improvement of, or addition to such facilities or the electric utility's system as of September 1, 1975, shall be limited, unless otherwise found by the commission, to the facilities and the area which lie within 200 feet of any point along a distribution line, which is specifically deemed to include service drop lines, for electrical utilities.

§25.101--5 effective 7/5/16 (P 45124)
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(f) **Transferability of certificates.** Any certificate granted under this section is not transferable without approval of the commission and shall continue in force until further order of the commission.

(g) **Certification forms.** All applications for certificates of convenience and necessity shall be filed on commission-prescribed forms so that the granting of certificates, both contested and uncontested, may be expedited. Forms may be obtained from Central Records.

(h) **Commission authority.** Nothing in this section is intended to limit the commission’s authority to recommend or direct the construction of transmission under PURA §§35.005, 36.008, or 39.203(e).
§22.52. Notice in Licensing Proceedings.

(a) Notice in electric licensing proceedings. In all electric licensing proceedings except minor boundary changes, the applicant shall give notice in the following ways:

(1) Applicant shall publish notice once of the applicant's intent to secure a certificate of convenience and necessity in a newspaper having general circulation in the county or counties where a certificate of convenience and necessity is being requested, no later than the week after the application is filed with the commission. This notice shall identify the commission's docket number and the style assigned to the case by Central Records. In electric transmission line cases, the applicant shall obtain the docket number and style no earlier than 25 days prior to making the application by filing a preliminary pleading requesting a docket assignment. The notice shall identify in general terms the type of facility if applicable, and the estimated expense associated with the project. The notice shall describe all routes without designating a preferred route or otherwise suggesting that a particular route is more or less likely to be selected than one of the other routes.

(A) The notice shall include all the information required by the standard format established by the commission for published notice in electric licensing proceedings. The notice shall state the date established for the deadline for intervention in the proceeding (date 45 days after the date the formal application was filed with the commission; or date 30 days after the date the formal application was filed with the commission for an application for certificate of convenience and necessity filed under PURA §39.203(e)) and that a letter requesting intervention should be received by the commission by that date.

(B) The notice shall describe in clear, precise language the geographic area for which the certificate is being requested and the location of all alternative routes of the proposed facility. This description shall refer to area landmarks, including but not limited to geographic landmarks, municipal and county boundary lines, streets, roads, highways, railroad tracks, and any other readily identifiable points of reference, unless no such references exist for the geographic area. In addition, the notice shall include a map that identifies all of the alternative locations of the proposed routes and all major roads, transmission lines, and other features of significance to the areas that are used in the utility's written notice description.

(C) The notice shall state a location where a detailed routing map may be reviewed. The map shall clearly and conspicuously illustrate the location of the area for which the certificate is being requested including all the alternative locations of the proposed routes, and shall reflect area landmarks, including but not limited to geographic landmarks, municipal and county boundary lines, streets, roads, highways, railroad tracks, and any other readily identifiable points of reference, unless no such references exist for the geographic area.

(D) Proof of publication of notice shall be in the form of a publisher's affidavit which shall specify the newspaper(s) in which the notice was published, the county or counties in which the newspaper(s) is or are of general circulation, the dates upon which the notice was published, and a copy of the notice as published. Proof of publication shall be submitted to the commission as soon as available.

(E) The applicant shall provide a copy of each environmental impact study and/or assessment for the project to the Texas Parks and Wildlife Department (TPWD) for its review within seven days of filing the application. Proof of submission of the information to TPWD shall be provided in the form of an affidavit to the commission, which shall specify the date the information was mailed or otherwise provided to TPWD, and shall provide a copy of the cover letter or other documentation that confirms that the information was provided to TPWD.

(2) Applicant shall, upon filing an application, also mail notice of its application to municipalities within five miles of the requested territory or facility, neighboring utilities providing the same utility service within five miles of the requested territory or facility, the county government(s)
of all counties in which any portion of the proposed facility or requested territory is located, and the Department of Defense Siting Clearinghouse. In addition, the applicant shall, upon filing the application, serve the notice on the Office of Public Utility Counsel using a method specified in §22.74(b) of this title (relating to Service of Pleadings and Documents). The notice shall contain the information as set out in paragraph (1) of this subsection and a map as described in paragraph (1)(C) of this subsection. An affidavit attesting to the provision of notice to municipalities, utilities, counties, the Department of Defense Siting Clearinghouse, and the Office of Public Utility Counsel shall specify the dates of the provision of notice and the identity of the individual municipalities, utilities, and counties to which such notice was provided. Before final approval of any modification in the applicant’s proposed route(s), applicant shall provide notice as required under this paragraph to municipalities, utilities, and counties affected by the modification which have not previously received notice. The notice of modification shall state such entities will have 20 days to intervene.

(3) Applicant shall, on the date it files an application, mail notice of its application to the owners of land, as stated on the current county tax roll(s), who would be directly affected by the requested certificate. For purposes of this paragraph, land is directly affected if an easement or other property interest would be obtained over all or any portion of it, or if it contains a habitable structure that would be within 300 feet of the centerline of a transmission project of 230kV or less, or within 500 feet of the centerline of a transmission project greater than 230kV.

(A) The notice must contain all information required in paragraph (1) of this subsection and shall include all the information required by the standard notice letter to landowners prescribed by the commission. The commission’s docket number pertaining to the application must be stated in all notices. The notice must also include a copy of the “Landowners and Transmission Line Cases at the PUC” brochure prescribed by the commission.

(B) The notice must include a map as described in paragraph (1)(C) of this subsection.

(C) Before final approval of any modification in the applicant’s proposed route(s), applicant shall provide notice as required under subparagraphs (A) and (B) of this paragraph to all directly affected landowners who have not already received such notice.

(D) Proof of notice may be established by an affidavit affirming that the applicant sent notice by first-class mail to each of the persons listed as an owner of directly affected land on the current county tax roll(s). The proof of notice shall include a list of all landowners to whom notice was sent and a statement of whether any formal contact related to the proceeding between the utility and the landowner other than the notice has occurred. This proof of notice shall be filed with the commission no later than 20 days after the filing of the application.

(E) Upon the filing of proof of notice as described in subparagraph (D) of this paragraph, the lack of actual notice to any individual landowner will not in and of itself support a finding that the requirements of this paragraph have not been satisfied. If, however, the utility finds that an owner of directly affected land has not received notice, it shall immediately advise the commission by written pleading and shall provide notice to such landowner(s) by priority mail, with delivery confirmation, in the same form described in subparagraphs (A) and (B) of this paragraph, except that the notice shall state that the person has fifteen days from the date of delivery to intervene. The utility shall immediately file a supplemental affidavit of notice with the commission.

(4) The utility shall hold at least one public meeting prior to the filing of its licensing application if 25 or more persons would be entitled to receive direct mail notice of the application. Direct mail notice of the public meeting shall be sent by first-class mail to each of the persons listed on the current county tax rolls as an owner of land within 300 feet of the centerline of a transmission project of 230kV or less, or within 500 feet of the centerline of a transmission project greater than 230kV. The utility shall also provide written notice to the Department of Defense Siting Clearinghouse of the public meeting. In the notice for the public meeting, at the public meeting, and in other communications with a potentially affected person, the utility

§22.52--2 effective date 6/8/17 (P 46765)
shall not describe routes as preferred routes or otherwise suggest that a particular route is more or less likely to be selected than one of the other routes. In the event that no public meeting is held, the utility shall provide written notice to the Department of Defense Siting Clearinghouse of the planned filing of an application prior to completion of the routing study.

(5) Failure to provide notice in accordance with this section shall be cause for day-for-day extension of deadlines for intervention and for commission action on the application.

(6) Upon entry of a final, appealable order by the commission approving an application, the utility shall provide notice to all owners of land who previously received direct notice. Proof of notice under this subsection shall be provided to the commission’s staff.

(A) If the owner’s land is directly affected by the approved route, the notice shall consist of a copy of the final order.

(B) If the owner’s land is not directly affected by the approved route, the notice shall consist of a brief statement that the land is no longer the subject of a pending proceeding and will not be directly affected by the facility.

(7) All notices of an applicant’s intent to secure a certificate of convenience and necessity whether provided by publication or direct mail shall include the following language: “All routes and route segments included in this notice are available for selection and approval by the Public Utility Commission of Texas.”

(b) Notice in telephone licensing proceedings. In all telephone licensing proceedings, except minor boundary changes, applications for a certificate of operating authority, or applications for a service provider certificate of operating authority, the applicant shall give notice in the following ways:

(1) Applicants shall publish in a newspaper having general circulation in the county or counties where a certificate of convenience and necessity is being requested, once each week for two consecutive weeks, beginning the week after the application is filed, notice of the applicant’s intent to secure a certificate of convenience and necessity. This notice shall identify in general terms the types of facilities, if applicable, the area for which the certificate is being requested, and the estimated expense associated with the project. Whenever possible, the notice should state the established intervention deadline. The notice shall also include the following statement: “Persons with questions about this project should contact (name of utility contact) at (utility contact telephone number). Persons who wish to intervene in the proceeding or comment upon action sought, should contact the Public Utility Commission, P.O. Box 13326, Austin, Texas 78711-3326, or call the Public Utility Commission at (512) 936-7120 or (888) 782-8477. Hearing- and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136. The deadline for intervention in the proceeding is (date 70 days after the date the application was filed with the commission) and you must send a letter requesting intervention to the commission which is received by that date.” Proof of publication of notice shall be in the form of a publisher’s affidavit, which shall specify the newspaper or newspapers in which the notice was published; the county or counties in which the newspaper or newspapers is or are of general circulation; the dates upon which the notice was published and a copy of the notice as published. Proof of publication shall be submitted to the commission as soon as available.

(2) Applicant shall also mail notice of its application, which shall contain the information as set out in paragraph (1) of this subsection, to cities and to neighboring utilities providing the same service within five miles of the requested territory or facility. Applicant shall also provide notice to the county government of all counties in which any portion of the proposed facility or territory is located. The notice provided to county governments shall be identical to that provided to cities and to neighboring utilities. An affidavit attesting to the provision of notice to counties shall specify the dates of the provision of notice and the identity of the individual counties to which such notice was provided.

(3) Failure to provide notice in accordance with this section shall be cause for day-for-day extension of deadlines for intervention.

§22.52--3 effective date 6/8/17

(P 46765)
### LCRA TSC Cooks Point Transmission Line Project
**CCN Application Sponsorship**

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August 9, 2018

Justin Stryker
Regulatory Case Manager
Lower Colorado River Authority
P.O. Box 220, MS DSC-D140
Austin, TX 78767

Dear Mr. Stryker,

As requested, the Military Aviation and Installation Assurance Siting Clearinghouse coordinated within DoD an informal review of the Cooks Point 138-kV Transmission Line Project. The results of our review indicated that the transmission line project located in Burleson County, TX, as proposed, will have minimal impact on military operations conducted in the area.

Please note that this informal review by the DoD Military Aviation and Installation Assurance Siting Clearinghouse does not constitute an action under 49 United States Code Section 44718 and that the DoD is not bound by the conclusion arrived at under this informal review. If you have any questions, please contact me at steven.j.sample4.civ@mail.mil or at 703-571-0076.

Sincerely,

Steven J. Sample
Deputy Director
Military Aviation and Installation Assurance Siting Clearinghouse