

Control Number: 50545



Item Number: 64

Addendum StartPage: 0

SOAH DOCKET NO. 473-20-3472  
PUC DOCKET NO. 50545



APPLICATION OF AEP TEXAS INC. § BEFORE THE STATE OFFICE  
TO AMEND ITS CERTIFICATE OF §  
CONVENIENCE AND NECESSITY FOR §  
THE BRACKETTVILLE-TO- § OF  
ESCONDIDO 138-KV TRANSMISSION §  
LINE IN KINNEY AND MAVERICK §  
COUNTIES § ADMINISTRATIVE HEARINGS

SOAH ORDER NO. 2  
CORRECTING SERVICE LIST AND CONFIRMING PREHEARING CONFERENCE

On April 30, 2020, the undersigned Administrative Law Judges (ALJs) issued State Office of Administrative Hearings (SOAH) Order No. 1, which, among other things, set the prehearing conference to be held **telephonically at 10:00 a.m. on May 14, 2020**. Applicant, AEP Texas Inc. (AEP), correctly stated in its May 5, 2020 filing, that SOAH Order No. 1— which AEP attached to its filing—was not served on the parties to this docket.<sup>1</sup> SOAH regrets the error, and by this order the ALJs confirm that the prehearing conference date and other matters described in SOAH Order No. 1 remain applicable and effective in this docket.<sup>2</sup> Any party to this proceeding who has not previously provided an e-mail address **SHALL, no later than 7 days after the date of this order**, file a notice informing the parties to this proceeding of the e-mail address to be used for service. Parties having questions regarding SOAH Order No. 1 should contact SOAH legal assistant Erin Hurley by email at [erin.hurley@soah.texas.gov](mailto:erin.hurley@soah.texas.gov).<sup>3</sup>

A due date for the filing of either a statement of position or testimony will be set in the procedural schedule. **Any party that does not timely file either written testimony or a position statement will be dismissed from this proceeding and prohibited from participating in the**

---

<sup>1</sup> AEP's filing was served using the correct service list for this docket.

<sup>2</sup> Parties to Docket No. 50485 who were inadvertently served with SOAH Order No. 1 in this docket should disregard that order.

<sup>3</sup> An information sheet for unrepresented parties, which reviews the prehearing and hearing process in greater detail, is attached to this Order.

64

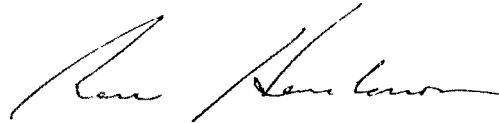
**hearing on the merits and briefing** in accordance with 16 Texas Administrative Code §§ 22.124 and 22.161.

**SIGNED May 7, 2020.**



---

**DANIEL WISEMAN  
ADMINISTRATIVE LAW JUDGE  
STATE OFFICE OF ADMINISTRATIVE HEARINGS**



---

**ROSS HENDERSON  
ADMINISTRATIVE LAW JUDGE  
STATE OFFICE OF ADMINISTRATIVE HEARINGS**

**SOAH DOCKET NO. 473-20-3472**  
**PUC DOCKET NO. 50545**

**INFORMATION FOR UNREPRESENTED PARTIES**

**Overview of Contested Case Process**

- This contested case hearing will proceed like a trial – with witnesses testifying under oath, subject to cross-examination.
- The administrative law judges (ALJs) preside over this hearing process. The ALJs work for the State Office of Administrative Hearings (SOAH). SOAH is a state agency that provides impartial judges to preside over contested case hearings. SOAH is separate from all other state agencies, including the Public Utility Commission of Texas (PUC or Commission).
- At the end of the hearing process, the ALJs will make a written recommendation about the transmission line route. This is called a Proposal for Decision (PFD).
- The final decision maker will be the three-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 judges will rule on any outstanding motions and set the schedule for prehearing activities and the hearing itself.

**The Prehearing Phase**

- Two primary things happen before hearing: (1) discovery, and (2) filing of direct testimony and/or position statements. Deadlines for these activities will be established either at the prehearing or shortly thereafter by an order from the ALJs.
- Discovery is the formalized exchange of information among parties.
- Unlike some trials in district court, every witness's direct testimony in this case will be in written form and filed prior to the hearing. At the hearing, each witness will take the stand and be sworn in, and the witness's direct testimony will be admitted if it complies with the rules of evidence. The witness will then be subject to cross-examination by the parties. (Sometimes, parties will waive cross-examination of a witness.)
- ***Every party in this case must file either testimony or a statement of position according to the schedule that will be established. Parties failing to do so will be dismissed and not allowed to participate further.***
- **Testimony** is evidence and includes assertions of fact (for example, about the location of property, the history and use of property, etc.). A **position statement** is argument, not evidence. There will be no cross-examination at the hearing of a party who has only filed a position statement. Assertions of fact in a position statement cannot be considered by the ALJs unless they are in some other document or testimony admitted in evidence. A party filing a position statement may ask questions of testifying witnesses.

**The Hearing**

- The hearing will be convened in Austin or via Zoom videoconferencing and could last several days.
- All witnesses who prefiled testimony must appear at the hearing unless all parties waive cross examination.

- Prefiled testimony will be admitted (subject to objections based on the rules of evidence), and witnesses will be cross-examined. Testimony not admitted because the witness failed to appear will be treated as a statement of position.

### **The Post-Hearing Phase**

- After the hearing, parties will file written closing arguments (briefs) according to the deadlines that will be established in the schedule.
- The ALJs will issue the PFD recommending an outcome, including a route for the transmission line if the application is granted.
- The ALJs' analysis will be based on the facts (established through evidence introduced in the hearing) and the applicable law (involving a consideration of factors such as community values, number of habitable structures, recreational and park areas, historical and aesthetic values, environmental integrity, and use of compatible rights of way).
- The preferred route carries no special weight in the analysis. Any route consisting of identified links may be recommended and approved.
- Parties who disagree with the ALJs' proposal will be able to file written objections (exceptions) to the PFD.
- The Commission will make a decision at a meeting open to the public. The Commission can adopt or reject the ALJs' proposal. If the Commission rejects the ALJs' proposal, it will likely choose another route.

### **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 PUC must occur by 3:00 p.m. on the date in question unless otherwise specified.
- The procedures regarding **filing** are specified in Subchapter E of the Commission's procedural rules and apply in this proceeding. Parties are expected to know those procedures and comply with them fully. Pleadings and other filings shall be deemed filed when the proper numbers of legible copies are presented to the PUC filing clerk for filing. All pleadings must contain both the SOAH and PUC Docket numbers to allow for efficient processing. (See the top of the first page of this information sheet.) As mentioned in SOAH Order No. 1, the parties should monitor the Commission website for changes in the filing procedures related to the COVID-19 outbreak.
- 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 **e-mailing** 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 maintains 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 **50545** and press "enter." A list of documents filed in this docket will appear and you may access those documents by clicking on the document number, provided that the document number is underlined and in blue font.