

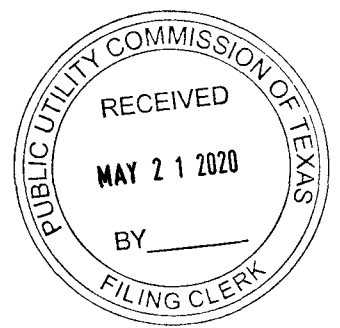


Control Number: 49523



Item Number: 338

Addendum StartPage: 0



# State Office of Administrative Hearings

Kristofer Monson  
Chief Administrative Law Judge

May 21, 2020

TO: Stephen Journeay, Commission Counsel  
Commission Advising and Docket Management  
William B. Travis State Office Building  
1701 N. Congress, 7th Floor  
Austin, Texas 78701

**VIA EFILE TEXAS**

RE: **SOAH Docket No. 473-19-6766**  
**PUC Docket No. 49523**

APPLICATION OF LCRA TRANSMISSION SERVICES CORPORATION TO  
AMEND ITS CERTIFICATE OF CONVENIENCE AND NECESSITY FOR THE  
PROPOSED MOUNTAIN HOME 138-KV TRANSMISSION LINE PROJECT IN  
GILLESPIE, KERR, AND KIMBLE COUNTIES

Dear Mr. Journeay,

On April 21, 2020, the undersigned Administrative Law Judges (ALJs) issued the Proposal for Decision (PFD) in this case. On May 4, 2020, Intervenor Creek House Ranch, LLC (Creek House), Vorpahl Ranch, LP (Vorpahl), and Maximino "Max" Michel-Gonzalez d/b/a Beta Real Estate and Savoy Ltd. (Beta Savoy) filed timely exceptions to the PFD. On the same day, LCRA Transmission Services Corporation (LCRA TSC) filed clarifications to the PFD. On May 15, 2020, LCRA TSC, Public Utility Commission Staff (Staff), Beta Savoy, Aligned A and C Mountain Home Landowners, and Apache Springs, LP filed replies to exceptions.

In their joint exceptions, Creek House and Vorpahl contend that proper notice was not provided because all landowners within 300 feet of the proposed Segment C5 should have received notice of the modification proposed by Beta Savoy.

Under 16 Texas Administrative Code § 22.52(a)(3)(C), the applicant must provide notice of modifications to the proposed route(s) to all direct affected landowners who have not already received such notice. The rule also states that 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 230 kV or

338

less.<sup>1</sup> Therefore, a landowner is directly affected if their land is crossed (by easement or other property interest) or has a habitable structure within 300 feet of the centerline. The rule requires notice of modification to directly affected landowners, not all landowners within 300 feet of the centerline. The evidence shows that LCRA TSC provided notice to Beta Savoy, the only landowner directly affected by Segment C5, which is utilized by Route Hunt 37A. Accordingly, the ALJs do not recommend any changes to the PFD in response to this exception.

Creek House and Vorpahl also contend that their preferred Route Hunt 7A only costs \$120,000 more than Route Hunt 37A. They argue that the costs of these two routes are effectively the same, because LCRA TSC's cost estimates all contain a "margin of error." While the costs are necessarily estimations, the evidence indicates that the cost estimates in this case were developed using a consistent methodology and are reliable for comparing routes to one another. Thus, the ALJs do not recommend any changes in response to this exception.

In their joint exceptions letter, Creek House and Vorpahl also argue that Route Hunt 37A does not comply with prudent avoidance, because Route Hunt 7A has seven fewer habitable structures within 300 feet of its centerline than Route Hunt 37A. Creek House and Vorpahl also contend that a habitable structure on Creek House's property will be within 58 feet of the centerline of Route 37A. All habitable structures on Creek House property are outside the right of way (ROW) for any route segment, including those on Route Hunt 37A. EMF levels at the edge of the ROW are comparable to other transmission lines of this type that have been approved by the Commission. Therefore, the ALJs do not recommend any changes in response to this exception.

Beta Savoy's exceptions letter reiterates its preference for Route Hunt 5, but acknowledges that there is relatively broad consensus around Route Hunt 37A. The ALJs do not recommend any changes in response to this exceptions letter.

LCRA TSC submitted clarifications to the PFD. The ALJs adopt the changes to Findings of Facts as proposed by LCRA TSC. Accordingly, the ALJs recommend the following changes<sup>2</sup> to the PFD:

- Finding of Fact No. 99 should state, "From the preliminary alternative route segments, POWER and LCRA TSC identified **40** reasonable, feasible primary alternative routes. In identifying these, POWER considered a variety of information, including input from the public and public officials, geographic diversity within the study area, and an inventory and tabulation of a number of environmental and land use criteria."
- The third bullet of Finding of Fact No. 106 should state, "utilizes paralleling (including all compatible corridors) for 18.9 miles, or 84 percent of its total length,

---

<sup>1</sup> 16 Tex. Admin. Code § 22.52(a)(3).

<sup>2</sup> Changes are notated in **bold** font.

which is **5 percent** more than the route **LCRA TSC identified as best meeting the requirements of the applicable statutes and rules.**"

- The fourth bullet of Finding of Fact No. 106 should state, "**has 37 habitable structures within 300 feet of the centerline, which is only 14 more than the route that has the fewest number of habitable structures within 300 feet of its centerline.**"
- The fifth bullet of Finding of Fact No. 106 should state, "crosses only 66.0 acres of the golden-cheeked warbler modeled habitat, which is approximately **10.8 acres** less than TPWD's recommended route."
- Finding of Fact Nos. 123, 171, 172, and 173 should be **deleted**.

With those corrections, the PFD is ready for your consideration.

Sincerely,



Beth Bierman  
Administrative Law Judge

Sincerely,



LINDA H. BRITE  
Administrative Law Judge

Enclosure

xc: All Parties of Record