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DOCKET NO. 49795
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COMPLAINT OF PETTY GROUP, LLP § BEFORE THE
AGAINST RIO GRANDE ELECTRIC § PUBLIC UTILITY COMMISSION
COOPERATIVE, INC. § OF TEXAS

**RIO GRANDE ELECTRIC COOPERATIVE INC.'S OBJECTIONS TO PETTY GROUP
LLC'S SIXTH RFIS AND REQUEST FOR EXTENSION OF TIME AND/OR WAIVER
OF REQUIREMENT TO FILE A PRIVILEGE LOG AND REQUEST FOR EXPEDITED
CONSIDERATION OF PRIVILEGE LOG ISSUES**

Rio Grande Electric Cooperative, Inc. files these Objections to Petty Group LLC's Sixth RFIs and Request for Extension of Time and/or Waiver of Requirement to File a Privilege Log and Request for Expedited Consideration on Privilege Log Issues and in support thereof, respectfully shows as follows:

6-2 For each testifying expert that has provided testimony for you in this case, please provide (to the extent not provided earlier):

- (a) A list of all cases in which the testifying expert has submitted testimony, from 2015 to the present;**
- (b) Copies of all prior testimony, articles, speeches, published materials and peer review materials written by the testifying expert, from 2015 to the present;**
- (c) The testifying expert's billing rate for this proceeding; and**
- (d) All documents and communications, including email correspondence, provided to, reviewed by, or prepared by or for the testifying expert in anticipation of the testifying expert filing testimony in this proceeding.**

6-3 For each consulting expert whose mental impressions or opinions have been reviewed by one or more of your testifying experts in this case, please provide, (to the extent not provided earlier):

- (a) A list of all cases in which the testifying expert has submitted testimony, from 2015 to the present;**
- (b) Copies of all prior testimony, articles, speeches, published materials and peer review materials written by the testifying expert, from 2015 to the present;**
- (c) The testifying expert's billing rate for this proceeding; and**
- (d) All documents and communications, including email correspondence, provided to, reviewed by, or prepared by or for the testifying expert in anticipation of the testifying expert filing testimony in this proceeding.**

Objection:

RGEC objects to subsections (b) and (d) of these RFIs because they are on their face overly broad and unduly burdensome. Subsection (b) is also not relevant to the issues in this proceeding, nor likely to lead to discoverable information because it is not limited to harmonics on a distribution system such as RGEC's, which is the relevant issue in this case. The topic of harmonics covers numerous subjects that would be entirely unrelated to any issue in this case. Therefore, at the least, this should be limited to a period of three years and further limited to harmonics on a distribution system. Furthermore, RGEC has not filed its testimony in this case and therefore has no testifying experts at this date. Moreover, Subsection (d) requests information that may be protected by the attorney client and attorney work product privileges to the extent that they are communications between RGEC employees and/or their lawyers. Because RGEC has not finalized its testimony in this case, it is not able to provide a privilege log within two days of the filing of this objection. Moreover, given the limited resources of RGEC due to COVID-19 activities, RGEC requests an extension of time until Friday, May 22, 2020 to provide a privilege log.

Petty 6-4

For each witness filing testimony on your behalf in this proceeding, please provide copies of all communications, including but not limited to email correspondence and text messages, between the witnesses, including the witnesses representatives, colleagues, and or employees, and RGEC related to harmonics for the time period 2010 to the present.

Petty 6-5

For each witness filing testimony on your behalf in this proceeding, please provide copies of all communications, including but not limited to email correspondence and text messages,

between the witnesses, including the witnesses representatives, colleagues, and or employees, and RGEC related to harmonics for the time period 2010 to the present.

Objection

RGEC objects to these requests because they are overly broad and unduly burdensome in that they requests information dating back ten years. A review of communications dating back ten years or more would take weeks, and during this time of self isolation and working from home, would most likely take up time that employees need to be spending on essential duties. As an essential service, RGEC employees are tasked with determining the best practices to continue reliable service while maintaining a safe working environment. Furthermore, RGEC has not filed its testimony in this case and therefore has no testifying experts at this date. Moreover, this RFI requests information that may be protected by the attorney client and attorney work product privileges to the extent that they are communications between RGEC employees and/or their lawyers. Because RGEC has not finalized its testimony in this case, it is not able to provide a privilege log within two days of the filing of this objection. Therefore, to the extent the Commission requires RGEC to provide such information dating back ten years, RGEC requests that it waive the requirement of a privilege log for communications between RGEC employees and its attorneys from February 2019 to the present, which is when Petty first filed its complaint and as such would be considered “core work product” which is not discoverable.¹ Furthermore, RGEC has already provided this information for its employees from the time period 2015 to the

¹ Core work product is absolutely privileged and not discoverable. *In re Bexar Co. Dist. Atty's Office*, 224 S.W.3d at 187-88; TEX. R. CIV. P. 192.5(b)(1).

present, to the extent not privileged. RGEC has provided over 3000 pages of communications to date in this case.

Petty 6-6: Please provide copies of all communications, including but not limited to e-mail correspondence and text messages, related to harmonics for the time period 2010 to the present between RGEC and the following entities and their affiliates: [REDACTED]

Objection:

RGEC objects to this request because it is overly broad and unduly burdensome in that it requests information dating back ten years. A review of communications dating back ten years or more would take weeks, and during this time of self-isolation and working from home, would most likely take up time that employees need to be spending on essential duties. As an essential service, RGEC employees are tasked with determining the best practices to continue service while maintaining a safe working environment. RGEC requests that the ALJs limit the communication to two years before the date of Petty's Complaint.

Petty 6-7: Please provide the annual gross and net revenues received by RGEC for the time period 2010 to the present from the following entities and their affiliates: [REDACTED]

[REDACTED] This request applies to each site or property served by RGEC for the listed parties.

Objection:

RGEC objects to this request because it is not relevant to the issues in this proceeding, nor limited to the discovery of admissible information. Revenue obtained from customers has no bearing on whether Petty received safe and reliable power. Moreover, to the extent that the request seeks information from each site or property, even those outside of the feeder at issue in

this case, it is equally not relevant. Finally, seeking information going back ten years is overly broad and unduly burdensome in that is not properly limited in time or scope.

Petty 6-8: Please provide copies of all electric service agreements, including but not limited to interconnection agreements and facilities extension agreements, between RGEC and any of the following entities: [REDACTED]

[REDACTED]. This request applies to each site or property served by RGEC for the listed parties

Objection:

RGEC objects to this request because it is not relevant to the issues in this proceeding, nor limited to the discovery of admissible information. Moreover, to the extent that the request seeks information from each site or property, even those outside of the feeder at issue in this case, it is equally not relevant. Finally, seeking information for each site is overly broad and unduly burdensome not properly limited in time or scope.

Respectfully submitted,

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**ATTORNEYS FOR RIO GRANDE
ELECTRIC COOPERATIVE, INC.**

CERTIFICATE OF SERVICE

I hereby certify that a copy of this document will be served on all parties of record on May 6, 2020 in accordance with the Commission's Orders regarding electronic filing and service.

/s/ Tammy Shea