

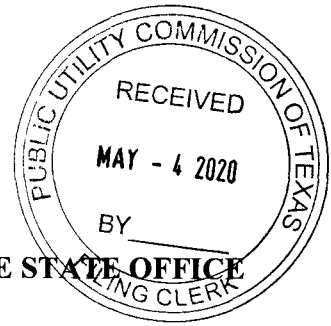
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SOAH DOCKET NO. 473-19-6766
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APPLICATION OF LCRA § BEFORE THE STATE OFFICE
TRANSMISSION SERVICES §
CORPORATION TO AMEND ITS §
CERTIFICATE OF CONVENIENCE §
AND NECESSITY FOR THE § OF
PROPOSED MOUNTAIN HOME 138-KV §
TRANSMISSION LINE PROJECT IN §
GILLESPIE, KERR, AND KIMBLE §
COUNTIES § ADMINISTRATIVE HEARINGS

**LCRA TRANSMISSION SERVICES CORPORATION'S CLARIFICATIONS
TO THE PROPOSAL FOR DECISION**

TO THE HONORABLE ADMINISTRATIVE LAW JUDGES:

COMES NOW LCRA Transmission Services Corporation (LCRA TSC) and files these clarifications to the Proposal for Decision (PFD) issued by the Administrative Law Judges (ALJs).

I. EXPLANATION OF CLARIFICATIONS

LCRA TSC takes no exception to the ALJs' discussion, findings, and conclusions in the PFD. The only clarifications that LCRA TSC identifies in this pleading are those necessary to ensure that the findings of fact are consistent with the record evidence. None of the clarifications noted herein necessitate a different analysis or determination on ultimate issues.

Finding of Fact No. 99

LCRA TSC recommends modification of Finding of Fact No. 99. This finding states that LCRA TSC identified 26 alternative routes. The correct number in the application is 40 routes.¹ Finding of Fact No. 13 identifies the correct number of routes, and Finding of Fact No. 99 should be modified to be consistent with the record evidence and Finding of Fact No. 13.

Finding of Fact No. 106

LCRA TSC recommends modification of Finding of Fact No. 106. This finding contains seven bullet points. The third bullet point indicates that Route Hunt 37A parallels 4 percent more

¹ LCRA TSC Ex. 7 at 11.

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compatible corridors than “the route recommended by LCRA TSC.” The number supported by the record evidence is 5 percent. Additionally, LCRA TSC has not recommended a route in this case. Rather, LCRA TSC initially identified Route Hunt 13 as the route it believed best meets the requirements of the applicable statutes and rules. As noted by the ALJs in the PFD, Route Hunt 13 parallels compatible corridors for 79 percent of its length, which is 5 percent less than Route Hunt 37A.² Thus, to the extent the ALJs are intending to reference Route Hunt 13 in this finding, the finding should be modified to show the correct paralleling difference is 5 percent.

LCRA TSC also recommends modification of Finding of Fact No. 106 because the fourth bullet point states that Route Hunt 37A “impacts 37 habitable structures, which is only 12 more than the route that impacts the least habitable structures.” The record evidence establishes that 37 habitable structures are within 300 feet of the centerline of Route Hunt 37A. However, no statute, rule, or evidence in this case establishes that such habitable structures are necessarily “impacted” as stated in this finding (nor does any statute, rule, or evidence foreclose the possibility that properties with habitable structures beyond 300 feet from the centerline of a route could also be impacted). LCRA TSC therefore recommends modifying the fourth bullet point to clarify that Route Hunt 37A has 37 habitable structures within 300 feet of the centerline.

In addition, LCRA TSC notes that the fewest number of habitable structures within 300 feet of the centerline of any route is 23, on Route Hunt 18, which the ALJs note elsewhere in the PFD.³ Accordingly, the difference between the number of habitable structures within 300 feet of the centerline of Route Hunt 37A and Route Hunt 18 is 14 habitable structures, not 12.

In the fifth bullet point of Finding of Fact No. 106, the finding correctly indicates Route Hunt 37A crosses only 66.0 acres of golden-cheeked warbler modeled habitat, but erroneously states that this is approximately 13 acres less than the route recommended by the Texas Parks and Wildlife Department (Route Ingram 1). The record evidence reflects that Route Hunt 37A crosses 10.8 acres less golden-cheeked warbler modeled habitat than Route Ingram 1.⁴ The ALJs note the correct difference of 10.8 acres on page 27 of the PFD.

² PFD at 18.

³ PFD at 17 (citing LCRA TSC Ex. 15).

⁴ LCRA TSC Ex. 15.

Finding of Fact No. 123

LCRA TSC recommends removal of Finding of Fact No. 123, which states that the primary alternative routes under consideration range from “61.22 to 70.77 miles.” The routes in consideration range from 21 to 30 miles in length.⁵ The ALJs note the correct route lengths on page 1 of the PFD and in Finding of Fact No. 17. Because Finding of Fact No. 17 has the correct route lengths, Finding of Fact No. 123 may be deleted.

Finding of Fact No. 163

LCRA TSC notes a point of clarification related to Finding of Fact No. 163. In the PFD, the ALJs note that Apache Springs has offered to donate right of way (ROW) at no cost for Segment W4 if a route using that segment is approved by the Commission.⁶ Route Hunt 37A recommended by the ALJs uses Segment W4. LCRA TSC clarifies for the Commission that the total estimated cost for Route Hunt 37A reflected in Finding of Fact No. 163 already includes the cost adjustment for the donated ROW. Thus, no adjustment to the total cost for Route Hunt 37A is necessary to reflect Apache Springs’ ROW donation.

Finding of Fact Nos. 171, 172, and 173

LCRA TSC recommends removal of Finding of Fact Nos. 171, 172, and 173 because they are identical to Finding of Fact Nos. 125, 126, and 127. Because these findings are duplicative, they are unnecessary and may be deleted.

Having provided this explanation of its clarifications, LCRA TSC now turns to the specific changes proposed to the ALJs’ findings of fact.

II. SPECIFIC CLARIFICATIONS

In regard to the findings of fact and conclusions of law, LCRA TSC recommends modification of the following findings and notes the suggested changes, for the reasons discussed above:

Finding of Fact No. 99:	LCRA TSC proposes that the number “26” be stricken and replaced with the number “40” in this finding.
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⁵ LCRA TSC Ex. 15.

⁶ PFD at 26.

- Finding of Fact No. 106: LCRA TSC proposes that (1) the phrase “4 percent” be replaced with “5 percent” in the third bullet point; (2) the fourth bullet point be stricken in its entirety and replaced with “has 37 habitable structures within 300 feet of its centerline, which is only 14 more than the route that has the fewest number of habitable structures within 300 feet of its centerline;” and (3) the number “13” be stricken and replaced with the number “10.8” in the fifth bullet point.
- Finding of Fact No. 123: LCRA TSC proposes that this finding be deleted.
- Finding of Fact No. 171: LCRA TSC proposes that this finding be deleted.
- Finding of Fact No. 172: LCRA TSC proposes that this finding be deleted.
- Finding of Fact No. 173: LCRA TSC proposes that this finding be deleted.

III. CONCLUSION

In conclusion, LCRA TSC requests that the Commission accept the ALJs’ recommendation, adopt the ALJs’ findings of fact, conclusions of law, and ordering paragraphs, clarified as discussed above, and issue an order approving LCRA TSC’s application to amend its certificate of convenience and necessity to construct the proposed project.

Respectfully submitted,

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**ATTORNEYS FOR LCRA TRANSMISSION
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CERTIFICATE OF SERVICE

I certify that a copy of this document was served on all parties on this date, May 4, 2020, in accordance with the service procedures set out in SOAH Order No. 1 issued in this docket.

/s/ Craig R. Bennett
Craig R. Bennett