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**PUC DOCKET NO. 49523
SOAH DOCKET NO. 473-19-6766**



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

**BEFORE THE
PUBLIC UTILITY COMMISSION
OF TEXAS**

APACHE SPRINGS L.P.'S REPLY TO EXCEPTIONS

Apache Springs, L.P. ("Apache Springs") files its reply to the exceptions filed by Creek House Ranch, LLC and Vorpahl Ranch, LP ("Creek House and Vorpahl") and Maximino "Max" Michel-Gonzalez d/b/a Beta Real Estate LLC and Savoy LTD ("Mr. Michel-Gonzalez") to the proposal for decision ("PFD") regarding the application of LCRA Transmission Services Corporation ("LCRA TSC") to amend its Certificate of Convenience and Necessity ("CCN") for the proposed Mountain Home 138-kV transmission line project. Pursuant to the Commission's Office of Policy & Docket Management letter filed on April 22, 2020, this Reply is timely filed on or before May 15, 2020. This Reply is organized in the same order as the PFD issued by the administrative law judges ("ALJs").

I. INTRODUCTION AND SUMMARY

The PFD recommended that the Commission select Route 37A. Apache Springs supports the selection of any of the proposed "A" route alternatives: Hunt 5A,¹ Hunt 7A,² Hunt 31A,³ Hunt

¹ Hunt 5A is composed of the following segments: X3, B, C, J, V3, Z3, W4, T4, Sub 3, L1, O1, R1, X1, I2, J2, S2, G3, L3, W3, and Q3. *See* LCRA TSC Ex. 16, Mountain Home Project Intervenor Map Showing Selected Routes Utilizing Segment – W4 (Feb. 5, 2020) ("LCRA TSC Modified Rainbow Map") (See the table in the upper left corner of the modified "Rainbow Map" that identifies the segments for each alternative route. This is attached to the Joint Motion of LCRA Transmission Services Corporation and Apache Springs, L.P. for a Good Cause Exception to Re-open the Record for Admission of Additional Evidence and for Expedited Consideration Thereof at bates 43 (Feb. 5, 2020)).

² Hunt 7A is composed of the following segments: X3, B, F, I, H4, I4, L4, W4, T4, Sub 3, L1, O1, R1, X1, I2, J2, S2, G3, L3, W3, Q3. *See id.*

³ Hunt 31A is composed of the following segments: X3, B, F, I, U3, V3, Z3, W4, T4, Sub 3, L1, O1, R1, X1, I2, Q2, U2, T2, G3, L3, W3, Q3. *See id.*

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36A,⁴ or Hunt 37A.⁵ All of these routes use Segment W4 instead of Segments Q-A1-B1-F1-H1 or Q-A1-G1. All of these “A” routes that use Segment W4 are viable, and all of the landowners directly affected by Segment W4 have consented to the transmission line.⁶ Selecting a route that uses Segment W4 as an alternative to routes that use Segments Q-A1-G1 or Q-A1-B1-F1-H1 better addresses routing criteria because the routes with Segment W4 are:

- 0.5 to 0.62 miles shorter;
- \$370,000 to \$1.22 million less expensive;
- impact the same or up to two fewer habitable structures; and
- use segments to which directly affected landowners have consented.

	<u>Hunt</u> <u>5</u>	<u>Hunt</u> <u>5A</u>	<u>Hunt</u> <u>7</u>	<u>Hunt</u> <u>7A</u>	<u>Hunt</u> <u>13</u>	<u>Hunt</u> <u>31</u>	<u>Hunt</u> <u>31A</u>	<u>Hunt</u> <u>36</u>	<u>Hunt</u> <u>36A</u>	<u>Hunt</u> <u>37</u>	<u>Hunt</u> <u>37A</u>
Cost (in millions)	\$61.6	\$61.22	\$64.82	\$64.45	\$64	\$64.79	\$63.62	\$64.15	\$62.93	\$65.5	\$64.33
Habitable structures within 300 feet of ROW centerline	26	26	30	30	32	34	32	39	37	39	37
Total length of route (miles)	21.48	20.98	22.77	22.26	22.34	22.45	21.83	22.57	21.95	23.13	22.51

II. REPLY TO EXCEPTIONS OF CREEK HOUSE AND VORPAHL

A. Notice

Creek House and Vorpahl except to the PFD’s finding that Segment C5 was properly noticed because they contend that notice of modified routes should have been provided to owners of land within 300 feet of the centerline rather than to only “directly affected landowners” of the

⁴ Hunt 36A is composed of the following segments: X3, B, F, I, U3, V3, Z3, W4, T4, Sub 3, L1, N1, Z1, B2, F2, I3, J3, M3, R3. *See id.*

⁵ Hunt 37A is composed of the following segments: X3, B, F, I5, C5, V4, Z3, W4, T4, Sub 3, L1, N1, Z1, B2, F2, I3, J3, M3, R3. *See id.*

⁶ *See* LCRA TSC Ex. 14, Supplemental Rebuttal Testimony and Exhibits of Lance Wenmohs at 7 (Feb. 5, 2020) (“I consider Routes Hunt 5A, Hunt 7A, Hunt 31A, Hunt 36A, and Hunt 37A as viable alternatives that connect the Project endpoints and meet the need for the Project. All of these routes are composed of a combination of noticed segments and Segment W4, which is composed of a combination of portions of notices segments (Segments Q and G1) and newly proposed routing that crosses or comes in proximity to landowners identified on the Kerr County tax rolls who have consented to the proposed routing.”).

modified segment. However, they erroneously cite to 16 Texas Administrative Code (“TAC”) § 22.52(a)(4) to support their argument, which governs notice to public open meetings the utility must hold prior to filing its CCN application with the Commission; it does not govern notice of a CCN application filed with the Commission or modifications of routes proposed after the application is filed.

16 TAC § 22.52(a)(3) required LCRA TSC to provide notice of its CCN application to all owners of land that would be “directly affected” by any of the proposed transmission line routes. 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 less...”⁷

The rule governing notice of modifications to the proposed routes in LCRA TSC’s application is 16 TAC § 22.52(a)(3)(C), which states that: “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” (emphasis added). Thus, the criteria for determining which landowners were entitled to notice of proposed routes in LCRA TSC’s CCN application and any modified routes is the same: (1) owners of land that would require right-of-way for the line; and (2) owners of land that contain a habitable structure that would be within 300 feet of the centerline of the proposed route.

The evidence in this proceeding clearly shows that LCRA TSC complied with the Commission’s notice requirements regarding modifications to the routes in its application. Lance Wenmohs testified that LCRA TSC obtained the consent of, and notice was affirmatively waived by, all landowners directly affected by the modified segments proposed after its CCN application was filed (*i.e.* Segments C5, V4, and W4).⁸ Copies of the consents and waivers of notice from all

⁷ 16 TAC § 22.52(a)(3).

⁸ See LCRA TSC Ex. 9, Rebuttal Testimony of Lance Wenmohs (“Wenmohs Rebuttal”) at 4/19-24; LCRA TSC Ex. 14, Supplemental Rebuttal Testimony of Lance Wenmohs (Wenmohs Supp. Rebuttal”) at 4-6.

of those directly affected landowners are in the record as attachments to Mr. Wenmohs Rebuttal Testimony and Supplemental Rebuttal Testimony.⁹

III. REPLY TO MR. MICHEL-GONZALEZ

A. Preliminary Order Issue No. 4: Which proposed transmission line route is the best alternative weighing the factors set forth in PURA §37.056(c) and 16 Tex. Admin. Code § 25.101(b)(3)(B)?

In his Exceptions to the PFD, Mr. Michel-Gonzalez recommend that route Hunt 5 be approved, claiming that it is “the shortest, least expensive, and directly impacts the fewest habitable structures.”¹⁰ However, the record evidence shows that Route Hunt 5A, which uses Segment W4 instead of Segments Q-A1-B1-F1-H1 used in Route Hunt 5, is the cheapest route alternative overall and is \$380,000 less expensive than Hunt 5.¹¹

Route Hunt 5A is also the shortest route overall at 20.98 miles long and is 0.5 miles shorter in length than Hunt 5.¹² Hunt 5A and Hunt 5 are tied in impacting the third fewest number of habitable structures among all the route alternatives proposed by LCRA TSC; Hunt 5 and 5A are each within 300 feet of 26 habitable structures.¹³ Moreover, Hunt 5A uses more existing transmission line ROW and parallels more existing transmission line ROW than Hunt 5.¹⁴

Throughout Mr. Michel-Gonzalez’s Reply Brief filed in this proceeding, he recommends that the Commission select either Route Hunt 5 or Route Hunt 5A.¹⁵ Therefore, if the Commission agrees with Mr. Michel-Gonzalez’s exceptions to the PFD, then Apache Springs requests that Hunt

⁹ See LCRA TSC Ex. 9, Wenmohs Rebuttal at Exhibits LW-2R and LW-3R; LCRA TSC Ex. 14, Wenmohs Supp. Rebuttal at Exhibits LW-3SR, LW-4SR, LW-5SR, LW-6SR, LW-7SR, LW-8SR, LW-9SR, LW-10SR, LW-11SR, and LW-12SR.

¹⁰ Maximino “Max” Michel-Gonzalez d/b/a Beta Real Estate LLC and Savoy Ltd’s Exceptions to Proposal for Decision at 2 (May 4, 2020) (“Mr. Michel-Gonzalez Exceptions”).

¹¹ See LCRA TSC Ex. 15, [Updated] Route Cost and Data Chart.

¹² Hunt 5 is 21.48 miles long and Hunt 5A is 20.98 miles long. *See id.*

¹³ *See id.* (Hunt 18 and 20 impact 23 and 25 habitable structures respectively and Hunt 4 also impacts 26 habitable structures)

¹⁴ *See id.*; *see also* Apache Springs’s Initial Brief at 11-12 (comparing Hunt 5 and 5A on these criteria).

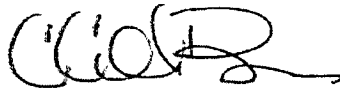
¹⁵ *See* Mr. Michel-Gonzalez Reply Brief at 1 (“Route Hunt 5 (or 5A) remains the route that best meets PURA and the Commission’s routing criteria.”); *Id.* at 5 (“The Commission should select Route Hunt 5 (or Hunt 5A), which follows Mr. Michel-Gonzalez’s western property boundary along Segment C); *id.* at fn. 15 (“Mr. Michel-Gonzalez would also support Route Hunt 5A, which incorporates fully consented Segment W4...”).

5A be approved rather than Hunt 5 because it is shorter and less expensive than Hunt 5, impacts the same number of habitable structures as Hunt 5, and is generally equivalent to or better than Hunt 5 in meeting routing criteria.

IV. CONCLUSION

Apache Springs respectfully requests that the Commission select one of the proposed “A” routes that use Segment W4: Hunt 5A, 7A, 31A, 36A, or 37A. All of these routes are viable, constructible, and all directly affected landowners have been noticed in accordance with the Commission’s rules. Moreover, each of these “A” routes utilizing Segment W4 better meets the routing criteria as compared to the corresponding route alternative that does not use Segment W4, resulting in shorter routes that cost less, and directly affect fewer habitable structures.

Respectfully submitted,



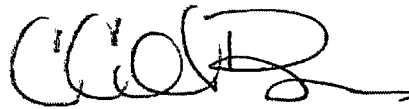
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CERTIFICATE OF SERVICE

I, Carrie Collier-Brown, attorney for Apache Springs, certify that a copy of this document was served on all parties of record on May 15, 2020 in accordance with the Commission's Order Suspending Rules issued in Project No. 50664 on March 16, 2020.

A handwritten signature in black ink, appearing to read 'CCB', with a long horizontal flourish extending to the right.

Carrie Collier-Brown