From:	Andrew Richards
To:	O"Connell, Andrew J. (UTC); cindy@ladyofthelake.com; Kelly Mueller; matthewh@jdsalaw.com; colter@backcountrytravels.com; Hathaway Burden; Fukano, Harry (UTC); Roberson, Jeff (UTC); jordanm@jdsalaw.com; Gross, Krista (UTC); DeMarco, Betsy (UTC)
Cc:	Doyle, Paige (UTC)
Subject:	RE: Request for Clarification or Confirmation of Motion
Date:	Friday, January 4, 2019 4:04:47 PM
Attachments:	image002.png image004.png image006.png image007.png image008.png image009.png

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Judge O'Connell,

Thank you for this clarification. Your original interpretation of the motion, highlighted below, is what LCRI is asking for – withdrawal of its protest and as a party (including its counsel), with an opportunity to submit a comment and an opportunity for the applicant to respond to any comment.

Best,
Andrew Richards

From: O'Connell, Andrew J. (UTC) [mailto:andrew.j.oconnell@utc.wa.gov]
Sent: Friday, January 4, 2019 3:52 PM
To: Andrew Richards <ARICHARDS@gsblaw.com>; cindy@ladyofthelake.com; Kelly Mueller <KMUELLER@gsblaw.com>; matthewh@jdsalaw.com; colter@backcountrytravels.com; Hathaway Burden <HBURDEN@gsblaw.com>; Fukano, Harry (UTC) <harry.fukano@utc.wa.gov>; Roberson, Jeff (UTC) <jeff.roberson@utc.wa.gov>; jordanm@jdsalaw.com; Gross, Krista (UTC) <krista.gross@utc.wa.gov>; DeMarco, Betsy (UTC) <betsy.demarco@utc.wa.gov>
Cc: Doyle, Paige (UTC) <paige.doyle@utc.wa.gov>
Subject: RE: Request for Clarification or Confirmation of Motion

LCRI, Mr. Richards, Ms. Burden,

I do not think LCRI's objection/protest can be extricated from its status as a party. If LCRI's objection/protest remains, then I am inclined to deny the motion to withdraw as a party because I believe it is necessary to have the Protestant (as defined in WAC 480-07-340 and -370(7)) as a party to the case to present to the Commission its testimony under oath as well as any exhibits supporting and explaining its objection/protest. There is a difference between participating as a party in a proceeding and making comments as part of the public. Public comments become part of the record and are taken into account in proceedings, but only parties may participate in discovery, offer testimony and exhibits under oath, cross-examine opposing witnesses, and provide briefs on the case's legal issues. Noteworthy for this case, in particular: without any Protestant objecting to the application, there may not have been an adjudication regarding the application, depending upon the Commission Staff's evaluation of the application.

To carry-on as a party, I would expect LCRI to present testimony and exhibits on 01/14/19 consistent with the prehearing conference order and procedural schedule, unless it made a motion for, and

received an order granting, a continuance.

I note that withdrawal of counsel can be separated from withdrawal as a party (there was potential for a lack of clarity in the email I sent earlier by including that as part of the withdrawal as a party). A party may carry-on in a proceeding without legal counsel – this is a decision that is entirely up to the party.

Please inform me which of the options we have discussed through email Lake Chelan Recreation, Inc. wishes to pursue. If a motion remains, I will consider it and issue an order addressing the motion.

Best,

Andrew J. O'Connell
Administrative Law Judge
t: (360) 664-1285
e: andrew.j.oconnell@utc.wa.gov

Utilities and Transportation Commission
Respect. Professionalism. Integrity. Accountability.

From: Andrew Richards [mailto:ARICHARDS@gsblaw.com]
Sent: Friday, January 4, 2019 2:11 PM
To: O'Connell, Andrew J. (UTC) <andrew.j.oconnell@utc.wa.gov>; cindy@ladyofthelake.com; Kelly Mueller <KMUELLER@gsblaw.com>; matthewh@jdsalaw.com; colter@backcountrytravels.com; Hathaway Burden <HBURDEN@gsblaw.com>; Fukano, Harry (UTC) <harry.fukano@utc.wa.gov>; Roberson, Jeff (UTC) <jeff.roberson@utc.wa.gov>; jordanm@jdsalaw.com; Gross, Krista (UTC) <krista.gross@utc.wa.gov>; DeMarco, Betsy (UTC) <betsy.demarco@utc.wa.gov>
Cc: Doyle, Paige (UTC) <paige.doyle@utc.wa.gov>
Subject: RE: Request for Clarification or Confirmation of Motion

Dear Judge O'Connell,

That is an accurate summary of the motion. However, if it is possible for LCRI to withdraw as a party (item 1) while preserving its protest on the record (item 2) and continuing on a public comment basis (items 3 and 4), then LCRI would prefer that approach – so 1, 3 and 4 noted below.

Best,
Andrew Richards

From: O'Connell, Andrew J. (UTC) [mailto:andrew.j.oconnell@utc.wa.gov]
Sent: Friday, January 4, 2019 12:18 PM
To: Andrew Richards <ARICHARDS@gsblaw.com>; cindy@ladyofthelake.com; Kelly Mueller <KMUELLER@gsblaw.com>; matthewh@jdsalaw.com; colter@backcountrytravels.com; Hathaway Burden <HBURDEN@gsblaw.com>; Fukano, Harry (UTC) <harry.fukano@utc.wa.gov>; Roberson, Jeff (UTC) <jeff.roberson@utc.wa.gov>; jordanm@jdsalaw.com; Gross, Krista (UTC)

<krista.gross@utc.wa.gov>; DeMarco, Betsy (UTC) <betsy.demarco@utc.wa.gov>
Cc: Doyle, Paige (UTC) <paige.doyle@utc.wa.gov>
Subject: Request for Clarification or Confirmation of Motion

Lake Chelan Recreation, Inc., Mr. Richards, and Ms. Burden,

I want to ask for you to please clarify or confirm that your motion to withdraw your protest (filed 01/03/19) is:

A motion to withdraw

(1) as a party in this proceeding (including withdrawal of counsel), and

(2) your objection/protest (*see* RCW 81.84.020 and WAC 480-51-040) filed on 10/08/18, as well as

A motion to modify the procedural schedule to provide:

(3) an opportunity for public comments by 01/25/19 from Lake Chelan Recreation, Inc. on the pending application, instead of testimony and exhibits as a party on 01/14/19, and

(4) an opportunity for response to any submitted comments.

Thank you.

Best,

Andrew J. O'Connell
Administrative Law Judge
t: (360) 664-1285
e: andrew.j.oconnell@utc.wa.gov

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