



Control Number: 38140



Item Number: 1159

Addendum StartPage: 0

SOAH DOCKET NO. 473-10-4109
PUC DOCKET NO. 38140

APPLICATION OF ONCOR ELECTRIC
DELIVERY COMPANY LLC TO AMEND
A CERTIFICATE OF CONVENIENCE
AND NECESSITY FOR THE
RILEY-KRUM WEST 345-KV CREZ
TRANSMISSION LINE (FORMERLY
OKLAUNION TO WEST KRUM) IN
ARCHER, CLAY, COOKE, DENTON,
JACK, MONTAGUE, WICHITA,
WILBARGER, AND WISE COUNTIES,
TEXAS

§ BEFORE THE STATE OFFICE
§
§
§
§
§ OF
§
§
§
§
§ ADMINISTRATIVE HEARINGS

11/13/13 PM 2:04
D

**INITIAL POST-HEARING BRIEF OF THE HENRY FAMILY, W.T. WAGGONER
ESTATE, GEORGE PARKEY, JAMES D. LINDEMANN, LINDEMANN
PROPERTIES, LTD., AND TAYLOR PROPERTIES**

TO THE HONORABLE ADMINISTRATIVE LAW JUDGE:

The Henry Family, W.T. Waggoner Estate, George Parkey, James D. Lindemann, Lindemann Properties, Ltd., and Taylor Properties (collectively, “the Western Intervenors”) support the Joint Initial Brief of Settling Parties filed by Oncor and others, in support of the Non-Uniform Settlement. The Western Intervenors jointly file this Initial Post-Hearing Brief to address three main issues: (1) the Non-Uniform Settlement, (2) reliability evidence supporting a northern route, and (3) the location of existing CREZ lines on the W.T. Waggoner Estate; and to propose an additional finding of fact.

I. NON-UNANIMOUS SETTLEMENT

The Henry Family, W.T. Waggoner Estate, George Parkey, James D. Lindemann, Lindemann Properties, Ltd., and Taylor Properties agreed to and joined the Non-Uniform Settlement (“NUS”) reached in this case.¹ The Western Intervenors agree that the NUS is supported by the record evidence in this case and that “Modified Route 1025”—the route agreed

¹ Oncor Exhibit 22.

to by all parties to the NUS—should be recommended to the Commission for selection and construction. While fully supporting the selection of Modified Route 1025 in its entirety, the Western Intervenors note that the only two intervenors who did not join the NUS (the Wise County Commissioners and Forbis) also stated on the record at one point that they supported Modified Route 1025 “from the Riley substation to the node at Links K2, O1, L4 and O2.”²

II. RELIABILITY

The evidence at the hearing on route adequacy in this case strongly supports the selection of Modified Route 1025, because it addresses reliability concerns by passing to the north of Wichita Falls, farthest away from the Riley-to-Bowman and Bowman-to-Jacksboro CREZ lines. During the route-adequacy hearing and at the hearing on the merits, Oncor offered the testimony of Mr. John P. Daniel of ABB, the engineering consultant selected by ERCOT to complete the CREZ Reactive Power Study and hired by Oncor to analyze specific outage contingencies involving the Riley-Krum West line, the Riley to Bowman line, and the Bowman-to-Jacksboro line.³ Mr. Daniel repeatedly recommended that, due to reliability concerns, the line in this case be kept “as far apart as possible” from the Riley-to-Bowman-to-Jacksboro CREZ lines⁴ (hereinafter referred to as the “Southern CREZ lines”). Similarly, Mr. Daniel’s supervisor at ABB, Willie Wong, sent a letter to Oncor recommending that these lines be kept “as far apart as possible.”⁵ As can be readily seen on the maps in this case,⁶ the Southern CREZ lines head

² Tr. Vol. 2, 24:9-11; 25:13-15 (Wise County Commissioners); 26:10-15 (Forbis).

³ Oncor Exhibit 16B (Route Adequacy Hearing Tr.) at 129:10-130:10; Oncor Exhibit 10 at 4:8-24.

⁴ Oncor Exhibit 16B at 133:6-8; 141:4-8; 144:17-18; Oncor Exhibit 10 at 5:10-16 and 10:16-22.

⁵ Oncor Exhibit 17B (specifically, Exhibit Oncor-14 from the Route Adequacy Hearing (CONFIDENTIAL - Letter from ABB to Oncor dated May 19, 2010)).

basically southeast from the Riley substation, passing south of Wichita Falls. The maps also show that all of the routes that pass south of Wichita Falls must cross the Southern CREZ lines twice. Specifically, all southern routes cross the Southern CREZ lines at either G1 or G4, and then again at either J1, J2, or J3. The effect of crossing the Southern CREZ lines twice would be to locate many miles of the Riley-to-Krum West CREZ line within close proximity to many miles of the Southern CREZ lines. The southern routes include twenty (20) to twenty-five (25) miles of line that are located within five (5) miles of the Southern CREZ lines.⁷ Thus, the southern routes are directly contrary to Mr. Daniel's testimony that the new CREZ line should be kept as far apart as possible from the other CREZ lines.

Modified Route 1025, on the other hand, heads off to the northeast, quickly separating from the Southern CREZ lines. Modified Route 1025 then stays on a path that passes north of Wichita Falls, never coming within 14 miles of the Southern CREZ lines.⁸ As Oncor witness Charles Jasper testified, Modified Route 1025 "provides for greater geographic diversity of Oncor's CREZ lines [because it] exits the Riley Station to the north and does not run parallel or even cross" the Southern CREZ lines.⁹ Modified Route 1025 best addresses the significant reliability concerns raised by Oncor's witnesses' testimony in this case by staying as far apart as possible from the Riley-to-Bowman-to-Jacksboro CREZ lines.¹⁰

⁶ See, e.g., Oncor Exhibit 17B (specifically, Exhibit Oncor-16 from the Route Adequacy Hearing); and Oncor Exhibit 1 (specifically Figs. 3-1F and 3-1G from Attachment 1 to Oncor's Application, which depicts the Bowman-to-Jacksboro line (traveling SE from Bowman).

⁷ This number is derived by scaling the portion of links A, B2, B3, G2, G4, G52, H31, H32, H4, I1, and J1 that are located within five (5) miles of Riley to Bowman route or the Riley to Jacksboro line.

⁸ See Oncor Exhibit 1(Fig. 3-1G).

⁹ Oncor Exhibit 20 (Supplemental Settlement Testimony of Charles T. Jasper) at 5:7-11.

¹⁰ Additionally, expert witnesses Rudolph Reinecke, Robert Romancheck, and James Dauphinais all concluded that northern routes were superior to southern routes. See e.g., Parkey Group Exhibit 2 (Direct Testimony of Rudolph K. "Rudi" Reinecke) at 13; Parkey Group Exhibit 1 (Direct Testimony of Dr.

III. OTHER CREZ LINES ACROSS W.T. WAGGONER ESTATE PROPERTY

In addition to the reliability concerns associated with the new line and the existing CREZ lines, there is an issue of fundamental fairness in routing a CREZ line over property owned by a party that has already accepted a CREZ line. The W.T. Waggoner Estate and the Henry Family were also intervenors in the Riley-to-Bowman CREZ case.¹¹ Both parties were extremely active in the open meetings and the PUC proceedings in the Riley-to-Bowman case as well as this case. In the Riley-to-Bowman case, both parties expressed their willingness to accommodate the CREZ line on certain paths through their respective property,¹² and the final settlement in that case included a specific path across the property owned by the W.T. Waggoner Estate.¹³

In this case, both parties also expressed their willingness to accommodate this CREZ line along certain paths on their property.¹⁴ None of those agreeable routes, however, were among the alternatives in this case. Instead, all of the southern routes (i.e. routes that pass south of Wichita Falls) in this case would cross the W.T. Waggoner Estate's property in one of two highly objectionable ways, on either G1 or G4. Similarly, every southern route in this case would pass through G51 and then cross the Henry Family's property in one of two highly objectionable ways, on either G52 or G6.

Robert Romancheck, P.E.) at 14; Henry Exhibit 2 (Direct Testimony of James R. Dauphinais) at 21:6-10 and 21:24-25.

¹¹ The CCN Application for the Riley-to-Bowman line was addressed in PUC Docket No. 37408.

¹² See, e.g., Henry Exhibit 1 (Direct Testimony of Robert Henry) at 8:11-17.

¹³ See, e.g., Oncor Exhibit 17 (Exhibit Oncor-16 from the Route Adequacy Hearing, which depicts the Riley-to-Bowman approved route, of which links A, C and F cross property owned by the W.T. Waggoner Estate).

¹⁴ See e.g., Parkey Group Exhibit 12 (Direct Testimony of J. Todd Thomas), at 13-14 and Henry Exhibit 1 (Direct Testimony of Robert H. Henry) at 8:11-14 and 30:36-31:2.

J. Todd Thomas, as a representative of the W.T. Waggoner Estate, offered un rebutted testimony on the objectionable nature of links G1 and G4.¹⁵ The objectionable nature is apparent from any map that shows the property boundaries and the proposed links.¹⁶ More specifically, the W. T. Waggoner Estate objects to link G1, because it crosses 21 miles of Waggoner Estate property, crosses the previously negotiated Riley-to-Bowman CREZ line, and is expected to interfere with a significant oil and gas exploration block recently executed.¹⁷ The W.T. Waggoner Estate objects to link G4 because it crosses the previously negotiated Riley-to-Bowman CREZ line, will cross two existing transmission easements and will traverse approximately 7 miles of Waggoner ranchland before exiting and reentering the Waggoner property on the south end of the route.¹⁸

Robert Henry's testimony describes the objectionable nature and significant negative impact of links G6 and G52. Both links would interfere with the pivot irrigation and gravity irrigation enabled by the irrigation canal that runs through the Henry Family property and that is managed by the Wichita County Water Improvement District No. 2.¹⁹ Proper gravity irrigation requires precise grading and constant dirt work to ensure effective irrigation,²⁰ and such work is significantly inhibited by a transmission line right of way cut through the middle of prime farmland requiring irrigation.²¹ In addition, link G6 runs for miles next to and through the Henry

¹⁵ Parkey Group Exhibit 12, at 7-9.

¹⁶ *See, e.g.*, Oncor Exhibit 2.

¹⁷ Parkey Group Exhibit 12, at 7.

¹⁸ *Id.* at 8.

¹⁹ Henry Exhibit 1 (Direct Testimony of Robert Henry) at 14:22-30; 24:26-25:12.

²⁰ *Id.* at 22:24-23:11; 24:8-20.

²¹ *Id.* at 23:23-24:5; 24:26-25:3.

Family's treasured Blackberry Creek and then close by the Henry Family's recently upgraded ranch home, cutting in between the ranch home and the main road.²²

Any southern route would cross both the W.T. Waggoner Estate Property and the Henry Family property. After the W.T. Waggoner Estate entered into a final settlement accepting the Riley-to-Bowman CREZ line on its property, after the Henry Family had offered to take the Riley-to-Bowman CREZ line on their property, and after both parties had offered similar routes for this CREZ line, it would be fundamentally unfair to order one of the southern routes in this case which cross these parties' properties in such an objectionable manner.

IV. ADDITIONAL REQUESTED FINDING OF FACT

The Western Intervenors propose the following Findings of Fact be added to the proposed Findings of Fact that they understand will be submitted as part of Oncor's joint brief:

Routes

Reliability

46A. The Settlement Route addresses the reliability concerns stated by Oncor and others by not crossing the Riley-to-Bowman and Bowman-to-Jacksboro CREZ lines and by staying "as far apart as possible" from the Riley-to-Bowman and Bowman-to-Jacksboro CREZ lines by exiting the Riley Station to the north.

²² *Id.* at 19:13-20:8.

V. CONCLUSION AND REQUEST FOR RELIEF

Modified Route 1025 best moderates the impact on the affected community and landowners, as demonstrated by the near-unanimous settlement. In addition, Modified Route 1025 follows a northern route, which is "as far apart as possible" from the existing Riley-to-Bowman-to-Jacksboro CREZ lines, and which therefore best addresses the serious reliability concerns to which the Oncor witnesses testified in this proceeding. Finally, Modified Route 1025 avoids the fundamentally unfair selection of one of the southern routes, all of which cross property owned by the W.T. Waggoner Estate, which just agreed to have the Riley-to-Bowman CREZ line built across its property along a different path.

For the foregoing reasons, the Henry Family, W.T. Waggoner Estate, George Parkey, James D. Lindemann, Lindemann Properties, Ltd., and Taylor Properties pray that the ALJ recommend, and that the Commission order, the Riley-to-Krum West CREZ line built on Modified Route 1025.

Respectfully submitted,

SCOTT, DOUGLASS & McCONNICO, L.L.P.
600 Congress Avenue, Suite 1500
Austin, Texas 78701-2589
(512) 495-6300
(512) 474-0731 Fax

By 

Christopher D. Siler
State Bar No. 24027977
csiler@scottDoug.com
John K. Hicks
State Bar No. 24050755
jhicks@scottDoug.com

ATTORNEYS FOR THE HENRY FAMILY

BRAUN & ASSOCIATES
P.O. Box 466 (Mailing)
Dripping Springs, Texas 78620
14101 Hwy. 290 W., Suite 1100B (Physical)
Austin, Texas 78737
512-894-5426 (telephone)
512-894-3405 (fax)

By 

David Braun
State Bar No. 02918725
dbraun@braunassociateslaw.com
Cassie Gresham
State Bar No. 24045980
cgresham@braunassociateslaw.com

RICHARDS RODRIGUEZ & SKEITH LLP
Tahne Manassian
State Bar No. 24007596
tmanassian@rfsllp.com
816 Congress Avenue, Suite 1200
Austin, Texas 78701
(512) 476-0005 (telephone)
(512) 476-1513 (fax)

ATTORNEYS FOR THE W.T. WAGGONER
ESTATE, GEORGE PARKEY, JAMES D.
LINDEMANN, LINDEMANN PROPERTIES,
AND TAYLOR PROPERTIES

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was filed served
as required by the pre-trial order on the 18th day of August 2010.

A handwritten signature in black ink, appearing to read 'C. Sileo', written over a horizontal line.

Christopher D. Sileo