



Control Number: 38324



Item Number: 321

Addendum StartPage: 0

SOAH DOCKET NO. 473-10-4789
PUC DOCKET NO. 38324

APPLICATION OF ONCOR ELECTRIC
DELIVERY COMPANY LLC TO AMEND
A CERTIFICATE OF CONVENIENCE
AND NECESSITY (CCN) FOR THE
WILLOW CREEK-HICKS 345kV CREZ
TRANSMISSION LINE IN
DENTON, PARKER, TARRANT, AND
WISE COUNTIES, TX

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

RECEIVED
10 JUL 30 AM 2:56
PUBLIC UTILITY COMMISSION
FILING CLERK

**OBJECTIONS OF WALSH RANCHES, LP; WALSH & WATTS, INC.;
AND F. HOWARD WALSH JR. OPERATING CO., INC. TO THE
DIRECT TESTIMONY OF KENNETH A. DONOHOO**

TO THE HONORABLE PUBLIC UTILITY COMMISSION OF TEXAS:

NOW COME, Intervenors Walsh Ranches, LP; Walsh & Watts, Inc.; and F. Howard Walsh Jr. Operating Co., Inc. (collectively "Walsh") and file their Objections to the direct testimony of Kenneth A. Donohoo submitted by Oncor Electric Delivery Company, LLC ("Oncor"). Walsh objects to the following opinion testimony by Donohoo:

- His opinion that potentially severe grid reliability and security issues could arise from paralleling the proposed line along with Oncor's Willow Creek/Parker CREZ line [links Q and Y].

The objectionable testimony is based on an inadequate investigation and lack of consideration of the true facts presented. The PUC docket record, as well as previously-erected lines across this State, shows that the concerns highlighted by Donohoo in support of his opinion that links Q and Y should not be considered are minimal at best. It is an indisputable fact that the PUC has permitted, and indeed Oncor has built, multiple parallel 345kV CREZ line segments.

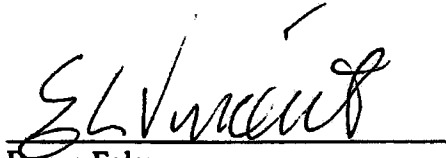
Moreover, Donohoo provides no factual basis, or analytical explanation for his opinion that the concerns he cites should, on this record, outweigh the clear preference that should be given to such paralleling by Commission rules.

Oncor bears the burden of demonstrating that the proffered testimony is admissible on its face before this Court can allow it to be used in this docket. *E.I. duPont Nemours and Co., Inc. v. Robinson*, 923 S.W.2d 549, 555 (Tex. 1995); TRE 702. Here, the opinion is not based on demonstrable facts that are supported by admissible evidence. *Marathon Corp. v. Pitzner*, 106 S.W.3d 724, 729 (Tex. 2003). Indeed, the testimony itself provides no data or basis for the broad, conclusory statements it contains. *Earle v. Ratliff*, 998 S.W.2d 882, 890 (Tex. 1999) (expert's *ipse dixit* testimony insufficient and should be struck).

Moreover, because the testimony is clearly based on an *incorrect* factual investigation and analysis, it thus does not provide a sufficiently reliable foundation to meet the required test for reliability under Texas law and should not be relied upon. *Gammill v. Jack Williams Chevrolet, Inc.*, 972 S.W.2d 713, 726 (Tex. 1998) (burden is on Oncor to show expert testimony reliable before it can be admitted or relied upon); *Merrell Dow Pharms. v. Havner*, 953 S.W.2d 706, 714 (Tex. 1997) (expert opinion unreliable and inadmissible if it is based on flawed reasoning or methodology).

Walsh therefore objects to the instant testimony since it fails to meet the standard for admissibility under Texas law, and thus it cannot be relied upon by this Court in declining to approve the construction of the instant line along a route which includes links Q and Y.

Respectfully submitted,




Donya Folco
State Bar No.: 00788699
E. Lawrence Vincent
State Bar No.: 20585590

LAW OFFICES OF JOE H. STALEY, JR.
3100 Monticello Ave., Suite 850
Dallas, Texas 75205
Tel: (214) 739-3700
FAX: (214) 739-1919

Attorneys for Walsh Ranches, LP;
Walsh & Watts, Inc.; and
F. Howard Walsh Jr. Operating Co., Inc.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing objections was filed according to Order No. 4 in this action on July 30, 2010.


E. Lawrence Vincent