



Control Number: 38517



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SOAH DOCKET NO. 473-10-5923
PUC DOCKET NO. 38517

APPLICATION OF §
ONCOR ELECTRIC §
DELIVERY COMPANY §
LLC TO AMEND ITS §
CERTIFICATE OF §
CONVENIENCE AND §
NECESSITY FOR THE §
CLEAR CROSSING TO §
WILLOW CREEK 345 §
KV CREZ §
TRANSMISSION LINE §
IN HASKELL, JONES,
THROCKMORTON,
SHACKELFORD,
YOUNG, STEPHENS,
JACK, PALO PINTO,
WISE AND PARKER
COUNTIES

BEFORE THE STATE
OFFICE

OF

ADMINISTRATIVE
HEARINGS

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INITIAL BRIEF OF Barbara and Wayne Trice

TO THE HONORABLE MICHAEL J. O'MALLEY AND THE HONORABLE
HUNTER BURKHALTER, ADMINISTRATIVE LAW JUDGES:

This is the initial brief of Barbara and Wayne Trice, an intervenor who filed testimony that has been admitted into evidence in this case. This brief is timely filed on or before Monday, November 29, 2010.

EXECUTIVE SUMMARY

In this case, the route selected for Oncor Electric Delivery Company LLC's Clear Crossing to Willow Creek transmission line should be the Commission Staff's

recommended route, Route 1091, or another route that does not contain Link R2. Barbara and Wayne Trice opposes Oncor's "preferred" route, Route 232 and other routes containing Link R2.

INTRODUCTION

Barbara and Wayne Trice owns property located on Link R2 which is part of proposed routes 25,26,27,28,29,30,229,230,231,232,233 and 234 of the Willow Creek 345 KV CREZ Transmission Line. We oppose any route utilizing Link R2. We support the Commission Staff's recommended route, Route 1091. We believe the new Transmission Lines should follow existing ROWs as much as possible to avoid new impacts, such as, landowners, river and stream crossings, bisecting properties, historical and aesthetic values. Our property will be impacted by all these issues should Link R2 be used on any routes. We believe that the Commission Staff's recommended route, Route 1091 will have the least impact on landowners.

Our property consists of around 700 hundred acres. We live in a 1875 historic house built by Barbara's great grandfather (Mr. Brooks). The property was purchased by Brooks in 1869. The Brooks Cemetery is located on our property and over looks the Brazos River. The land is used for livestock grazing, wildlife , recreation and viewing the scenery such as, wildlife, spring flowers and sunsets.

PROCEDURAL HISTORY

Not briefed

NOTICE

Not briefed

RESULT OF COMPLETION OF THE PROPOSED TRANSMISSION LINE PROJECT

Will completion of the Proposed Transmission Line Project accomplish the intended result for the CREZ project designated as "Clear Crossing to Willow Creek" in the CREZ Transmission Plan and ordered by the Commission in Docket Nos. 37902 and 36802?

Not briefed

ROUTE

Contested Issues

I oppose the preferred route 232 and any routes that contain the "R2" Link

Which proposed transmission line route is the best alternative, weighing the factors set forth in PURA § 37.056(c)(4), excluding (4)(E), and P.U.C. Subst. R. 25.101(b)(3) (B)?

Based on the evidence I support the PUC Staff route 1091 or any route that does not contain the R2 link. According to Mark Sullivan of PUC Staff, "Route 1091 appears to comply with the criteria as well or more favorably than any of the other alternative routes." He further states, "Based on the information provided in the ABB transient state model report, the paralleling of 345 kV lines by Route 1091 does not have a detrimental effect on grid reliability."

Community Values

"Community values" signifies a shared appreciation of an area or other natural or human resource by members of a national, regional or local community. The City of

Graham and Young County have expressed their opposition to routes or links that are immediately north (link Z5 & V2) or south of Graham (link Y5). During cross-examination at the Hearing on the Merits, both Judge Stan Peavy (Young County Commissioner) and Mr. Larry Fields (City Manager of Graham) stated that if they had to choose between these north or south routes, they would prefer the north. The northern links are included in the Staff Route 1091 and Route 1084 recommended by Texas Parks & Wildlife.

2. Recreational and Park Areas

According to Staff testimony, there is no significant impact to recreation or park areas in the study area on any of the potential routes.

3. Historic and Aesthetic Values

Staff testimony states, "from an archeological and historical perspective, Route 1091 is a preferable selection compared to Route 232." Link R2 of Route 232 includes one of the more significant historical sites on the property of Wayne and Barbara Trice, which contains a historic cemetery and home, recognized by the Texas Historical Commission. The farm has also been recognized as the oldest family farm in Young County.

Environmental Integrity

The only environmental expert testifying on behalf of any intervenors is Donna DeYoung for Kristin Snow Edwards, Trevor Edwards and the Dragonfly Ranch, which is located on Link Y5. Ms. DeYoung outlines the negative impact on the wooded Cross Timbers habitat on their ranch and further states that "the impacts anticipated on the

Dragonfly Ranch would also be anticipated over much of the Y5 Link. This is considered to be especially true in the heavily wooded and hilly areas." She further states that from observations of existing ROWs on the R4, Z5, and H3 Links made from a helicopter, these negative impacts to Cross Timbers habitat could be avoided if existing ROWs were followed to the extent possible. In addition to Staff Route 1091, the Texas Parks and Wildlife Department recommended a northern Route 1084, which "appears to better minimize potential impacts to natural resources than Oncor's preferred route 232."

5. The effect of granting the certificate on the ability of this State to meet the goal established by Section 39.904(a)

Not briefed

6. Engineering Constraints

Not briefed

7. Costs

Staff testimony states that Route 1091 is cost effective because it is \$48 million *less* than the CTO estimate. It further states that Route 1091 costs less than 88% of the proposed alternative routes.

8. Compatible rights of way

Staff testimony states, "I am recommending Route 1091 because it 1) parallels transmission lines for a greater length than the preferred route by 15 miles and for more than two miles more than the next longest proposed alternate route in this criteria, 2) the total length of the route parallel to existing corridors (including apparent property boundaries) is greater than the preferred route and 97% of the other alternative routes and

3) it is cost effective when compared to the CREZ CTO study." It further states that "1091 parallels transmission lines for 55 miles, more than any other route, while route 232 parallels them for less than 40 miles."

9. Conformance with the Commission's policy of prudent avoidance

Route 1091 complies with the policy of prudent avoidance in that it avoids the City of Graham, and by following existing high-voltage transmission lines, it does not create new exposures of electronic and magnetic fields to areas that are currently unaffected by EMF.

Are there alternative routes or facilities configurations that would have a less negative impact on landowners?

Staff testimony states, "I conclude that no alternative routes or facilities configurations that would have a less negative impact on landowners have been proposed by any party to this case or are apparent from a review of the Application and EA."

PROPOSED MODIFICATIONS

Not briefed

Has Oncor proposed modifications to the transmission improvements described in the CREZ order?

- 1. Would such improvements reduce the cost of transmission or increase the amount of generating capacity that transmission improvements for the CREZ can accommodate? Would such modifications speed up the project's implementation timeline, achieve other technical**

efficiencies, or otherwise be cost-effective and consistent with the CREZ Transmission Plan?

2. Have all such modifications been submitted to ERCOT, and has ERCOT made a recommendation to Oncor to be filed in this proceeding?

ESTIMATED COST

Are there discrepancies between the estimated total cost included in the CCN application in this docket and the cost identified for the proposed project in the CREZ Transmission Plan?

Staff testimony states that there are differences in the estimated cost and the CTO study, but "that the differences result in lower total costs and thus do not raise concerns regarding approval of the Application."

TEXAS PARKS AND WILDLIFE DEPARTMENT ISSUES

What modifications, if any, should be made to the Proposed Transmission Line Project as a result of any recommendations or comments?

Route modifications and or selection should include consideration of impact to the Cross Timbers habitat and probable old growth forests as recommended by TPWD. Mr. Brian Almon of TPWD states, "These ecologically important vegetation communities would be damaged by the removal of woody vegetation for the construction and maintenance of a transmission line."

What conditions or limitations if any, should be included in the final order in this docket as a result of any recommendations or comments?

Not briefed

What other disposition, if any, should be made of any recommendations or comments?

Not briefed

If any recommendation or comment should not be incorporated in this project or the final order, or should not be acted upon, or is otherwise inappropriate or incorrect in light of the specific facts and circumstances presented by this application or the law applicable to contested cases, please explain why that is the case.

Not briefed

PARALLELING 345-KV TRANSMISSION LINES

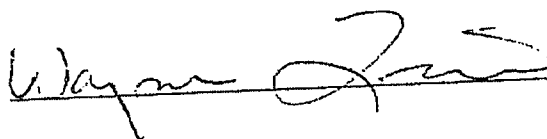
Not briefed

- A. If this application proposes segments of routes that travel parallel to existing 345-kV transmission lines for some portions of the proposed routes but do not parallel existing 345-kV transmission lines for other portions of the proposed routes, what circumstances justify the disparate treatment?
- B. If this application does not propose any segments of routes that travel parallel to existing 345-kV transmission lines, why not?
- C. What are the potential ramifications to system reliability if 345-Kv transmission lines proposed in this application are sited adjacent to other 345-kV transmission lines?
 - 1. Under what circumstances is it appropriate and advisable to parallel existing and approved but not yet constructed 345-kV right-of-way with a new transmission line?
 - 2. Under what circumstances is it inadvisable to parallel 345-kV right-of-way with a new transmission line?
 - 3. Are there limits to the length of 345-kV right-of-way that can be safely paralleled?
- D. Should there be additional reliability considerations for transmission lines proposed in this application for the Panhandle that parallel or cross transmission lines from other power regions?

CONCLUSION

Based on the knowledge and experience of PUC Staff witness Mr. Mark Sullivan, Mr. Brian Almon of Texas Parks and Wildlife, and environmental expert Ms. Donna DeYoung, it is clear that preferred Route 232 or any route using the R2 link would substantially damage the environment, create new exposures to EMF, affect landowners who are currently not affected by transmission lines, impact future growth of the City of Graham, and have a significant negative impact on the scenic beauty of the area. After consideration of the testimony of these witnesses and their recommendations, I conclude that the Commissioners should choose Route 1091 or Route 1084 for this project.

Respectfully submitted,



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*Staff Ex. 1 at 14
Application of LCRA Transmission Services Corporation to Amend its Certificate of
Convenience and Necessity (CCN) for a 138-kV Transmission Line in Kerr County, Docket No. 33844,
Final Order at 15 (Mar. 4, 2008).*

*Trice Ex. 2 at 3 and Trice Ex. 4 at 3-4
Transcript 429 at 1-3 and Transcript 439 at 19-23
Staff Ex. 1 attachment: letter from TPWD at 6
Staff Ex. 1 at 26
Staff Ex. 1 at 29
Trice Ex. 1 at 5-6*

Staff Ex. 1 at 16
Staff Ex. 1 at 20
Staff. Ex. 1 at 32
Staff Ex. 1 at 13
Staff Ex. 1 at 13 and 21
Staff Ex. 1 attachment: letter from TPWD at 3-5