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P.U.C. Docket No. 42087  
SOAH Docket No. 473-14-2252

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APPLICATION OF ONCOR §  
ELECTRIC DELIVERY COMPANY §  
LLC TO AMEND ITS CERTIFICATE §  
OF CONVENIENCE AND §  
NECESSITY FOR A PROPOSED 138- §  
KV TRANSMISSION LINE IN §  
DENTON TARRANT AND WISE §  
COUNTIES (HICKS-ELIZABETH §  
CREEK CCN) §

PUBLIC UTILITY COMMISSION  
FILING CLERK  
BEFORE THE

PUBLIC UTILITY COMMISSION  
OF TEXAS

**CLOSING ARGUMENTS OF INTERVENOR  
NORTHWEST INDEPENDENT SCHOOL DISTRICT**

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APPLICATION OF ONCOR ELECTRIC	§	
DELIVERY COMPANY LLC TO	§	BEFORE THE
AMED ITS CERTIFICATE OF	§	
CONVENIENCE AND NECESSITY	§	PUBLIC UTILITY COMMISSION
FOR A PROPOSED 138-KV	§	
TRANSMISSION LINE IN DENTON	§	OF TEXAS
TARRANT AND WISE COUNTIES	§	
(HICKS-ELIZABETH CREEK CCN)	§	

**CLOSING ARGUMENTS OF INTERVENOR  
NORTHWEST INDEPENDENT SCHOOL DISTRICT**

To the Honorable Administrative Law Judges Vickery and Qualtrough: Comes, now, Northwest Independent School District (NISD), and files this, its closing argument.

**I. INTRODUCTION**

The selection of a transmission line route turns on a wholistic consideration of statutory and regulatory factors set forth at PURA § 37.056(c) and the Public Utility Commission's Substantive Rule 25.101(b)(3)(B). Although Route 72 has fewer habitable structures located within 300 feet of its centerline, the overall purpose of the Commission's policy of prudent avoidance is the protection of public safety. The placement of Route 107 near the V.R. Eaton Campus raises public safety concerns due to the potential interaction between the transmission line and nearby gas lines, as well as potential interference of the transmission line with the communication tower at the V.R. Eaton Educational Complex. Thus, an overall consideration of public safety favors the selection of Route 72. Furthermore, Route 72 better moderates the impact of the

proposed transmission line on affected landowners and the affected community.

## II. ROUTING (Issue No. 4 in Commission's Order of Referral)

### **A. Routes 72 and 107 are preferable to routes utilizing Link J.**

Routes 72 and 107 are better alternatives than any of Oncor's proposed routes utilizing Link J. Cost and prudent avoidance are two factors that tend to favor Routes 72 and 107 over to any route utilizing Link J:<sup>1</sup>

Route	Corridor	Transmission Line Cost (in millions)	Habitable Structures
12	Central <sup>2</sup>	\$35.4 <sup>3</sup>	41 <sup>4</sup>
62	Central <sup>5</sup>	\$35.1 <sup>6</sup>	156 <sup>7</sup>
132	Western <sup>8</sup>	\$46.3 <sup>9</sup>	86 <sup>10</sup>
134	Western <sup>11</sup>	\$43.7 <sup>12</sup>	89 <sup>13</sup>
225	Western <sup>14</sup>	\$49.1 <sup>15</sup>	119 <sup>16</sup>
232	Western <sup>17</sup>	\$44.1 <sup>18</sup>	89 <sup>19</sup>

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<sup>1</sup> Link J is included in alternate Routes 12, 62, 132, 134, 225 and 232. Oncor Ex. 1 at 964 – 965.

<sup>2</sup> Hillwood Ex. JWD-3, p. 31.

<sup>3</sup> Oncor Ex. 1 at 871.

<sup>4</sup> Oncor Ex. 1 at 887.

<sup>5</sup> Hillwood Ex. JWD-3 at 31

<sup>6</sup> Oncor Ex. 1 at 872.

<sup>7</sup> Oncor Ex. 1 at 890

<sup>8</sup> Hillwood Ex. JWD-3 at 31.

<sup>9</sup> Oncor Ex. 1 at 874

<sup>10</sup> Oncor Ex. 1 at 892

<sup>11</sup> Hillwood Ex. JWD-3 at 31.

<sup>12</sup> Oncor Ex. 1 at 875

<sup>13</sup> Oncor Ex. 1 at 892

<sup>14</sup> Hillwood Ex. JWD-3 at 31.

<sup>15</sup> Oncor Ex. 1 at 876

<sup>16</sup> Oncor Ex. 1 at 894

72	Central <sup>20</sup>	\$29.7 <sup>21</sup>	36 <sup>22</sup>
107	Central <sup>23</sup>	\$29.7 <sup>24</sup>	14 <sup>25</sup>

Furthermore, a consideration of community values weighs against the selection of any route utilizing Link J. Any route utilizing Link J will prevent the planned construction of Middle School Number 6 by Northwest I.S.D.<sup>26</sup> The current site for Middle School Number 6 is within an area that already has a substantial number of students, is well-sited in consideration of transportation logistics, and is well-sited in terms of current and future student enrollment.<sup>27</sup> If NISD was unable to utilize this site as a location for Middle School No. 6, the district would need to spend significant money to obtain a new site.<sup>28</sup> Furthermore, the delay caused by the need to purchase a new site would result in school overcrowding while the District awaits the completion of the needed middle school, or would result in higher construction costs due to an accelerated construction schedule.<sup>29</sup>

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<sup>17</sup> Hillwood Ex. JWD-3 at 31.

<sup>18</sup> Oncor Ex. 1 at 876

<sup>19</sup> Oncor Ex. 1 at 894

<sup>20</sup> Hillwood Ex. JWD-3 at 31.

<sup>21</sup> Oncor Ex. 1 at 873

<sup>22</sup> Oncor Ex. 1 at 890 (In order to be conservative in the evaluation of Routes using Link J, this assumes no modification of Route 72).

<sup>23</sup> Hillwood Ex. JWD-3 at 31.

<sup>24</sup> Oncor Ex. 1 at 875

<sup>25</sup> Oncor Ex. 1 at 891.

<sup>26</sup> NISD Ex. NISD-3 at 18.

<sup>27</sup> NISD Ex. NISD-2, at 6 – 7.

<sup>28</sup> NISD Ex. NISD-1 at 13.

<sup>29</sup> NISD Ex. NISD-1 at 13:5-6.

The development of Middle School Number 6 is far from speculative. In 2012, construction funds for Middle School No. 6 were included in NISD's \$255,000,000 Capital Bond Program approved by the community.<sup>30</sup> The site of Middle School No. 6 at issue in this proceeding is the same site as that used to illustrate the location of the Middle School when illustrating the purposes of the Bond Program to the public.<sup>31</sup> The NISD property traversed by Link J was specifically purchased by NISD for the purposes of locating a middle school and a high school on that property.<sup>32</sup>

Additionally, the use of Link J results in backtracking across Highway 287. As it traverses Link J, the transmission line would be moving westward away from the ultimate terminus of the transmission line at the Elizabeth Creek Substation. In doing so, the transmission line would revert to the western side of State Highway 287. This means that any route utilizing Link J would have at least two more highway crossings than Routes 72 or 107.

Accordingly, in consideration of costs, prudent avoidance, community values and highway engineering constraints, either Route 72 or Route 107 is preferable to any Route utilizing Link J.

**B. Route 72 is a better alternative than Route 107 weighing the factors in PURA**

**§ 37.056(c) and P.U.C. Subst. R. 25.101(b)(3)(B).**

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<sup>30</sup> NISD Ex. NISD-1 at 11:4-7, 12:10-19.

<sup>31</sup> NISD Ex. NISD-1 at 12:10-19.

<sup>32</sup> NISD Ex. NISD-1 at 12, l. 11-12.



**1. Route 72 is more consistent with the values of the community than Route 107.**

A comparative consideration of community expressions of concern, the nature of those concerns, and the level of concern expressed by persons in the areas where Route 72 and Route 107 diverge shows that a consideration of community values weighs in favor of Route 72.

The consideration of community values has not been meaningfully addressed by any expert recommending Route 107 in this proceeding. Notably, beyond a conclusory statement in her testimony that Route 107 does not significantly impact community values, Oncor's expert Brenda Perkins did not address community values when identifying Route 107 as her recommended route.<sup>33</sup> Nor did James W. Daniel for Hillwood, Gary Tidmore for the Vinsons, or James Dauphinais on behalf of the Walsh Group address community values in their analysis. In short, no expert has testified that Route 107 is the best route with regard to consistency with community values.

The opposition of Route 107 by NISD as an elected entity is important to the community values analysis. As SOAH has previously acknowledged, the resolution of a governmental entity is due "serious consideration" when evaluating community values because such entities composed of elected officials who represent area residents are well suited to provide guidance on community values.<sup>34</sup> Similarly, Brenda Perkins testifying

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<sup>33</sup> Oncor Ex. 1 at 880-886, Oncor Direct Testimony of Brenda J. Perkins at 9-12.

<sup>34</sup> Application of LCRA Transmission Services Corporation to Amend its Certificate of Convenience and Necessity (CCN) for a 138-KV Transmission Line in Kerr County, \*12, 2008

on behalf of Oncor conceded that the expression of concern by an elected entity such as NISD is reflective of community values.<sup>35</sup>

NISD's purposes, and the scope of the constituency represented by NISD, place it in a good position to express the values of the community. In partnership with parents and the community, NISD strives to provide students with a premier education, and works to develop equally premier educational facilities to accomplish that goal.<sup>36</sup> NISD serves as a unifying influence in this area, and helps to build and maintain a cohesive community in the areas served by its educational facilities.<sup>37</sup>

NISD represents a wide breadth of the affected communities within Oncor's study area. NISD encompasses 234 square miles in Wise, Denton and Tarrant Counties, including 14 cities and towns as well as substantial unincorporated areas.<sup>38</sup> NISD encompasses the majority of Oncor's study area, including all areas traversed by both Routes 72 and 107.<sup>39</sup> More than 20,000 students are anticipated to attend NISD schools in the fall of 2014.<sup>40</sup>

Consistent with concerns previously submitted by NISD, and a resolution opposing the application adopted by NISD's Board of Trustees on May 12, 2014, NISD

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WL 466312 (TX.St.Off.Admin.Hgs.), SOAH Docket No. 473-07-2304, PUC Docket No. 33844 (2008).

<sup>35</sup> Tr. 193:22-25.

<sup>36</sup> NISD Ex. NISD-1 at 5:2-8.

<sup>37</sup> NISD Ex. NISD-2, at 5 - 6.

<sup>38</sup> NISD Ex. NISD-1 at 5:10-13.

<sup>39</sup> Compare NISD Ex. NISD-1B and Oncor Ex. 1 at 53.

<sup>40</sup> NISD Ex. NISD-1 at 6:9.

continues to oppose the selection of Route 107.<sup>41</sup>

Concerns related to the location of Route 107 in proximity to the V.R. Eaton Educational complex are a primary reason why NISD favors the selection of Route 72 above Route 107. The V.R. Eaton Educational Complex is comprised of the V.R. Eaton High School which is nearing completion, a planned Middle School Number 6 which has previously been approved as part of a capital improvement bond, and the existing Schluter Elementary School.<sup>42</sup> It is anticipated that V.R. Eaton will accommodate approximately 2,400 students, and Middle School No. 6 will accommodate 1200 students.<sup>43</sup>

With specific regard to NISD's educational mission, this concern is premised on: (1) the potential interference of Route 107 with the transportation infrastructure surrounding the V.R. Eaton educational complex; (2) potential interference of Route 107 with the emergency communication system at the V.R. Eaton educational complex; (3) dangers posed by the co-location of electric transmission lines and gas transmission pipelines near the V.R. Eaton Educational Complex as proposed in Route 107; and (4) potential exposure of NISD the V.R. Eaton educational complex to electric and magnetic fields through the placement of the transmission line along Route 107. The selection of Route 72 eliminates or significantly reduces each of these concerns. Thus, Route 72 is more consistent with the community's educational values than is Route 107.

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<sup>41</sup> Ex. NISD-1C (July 30, 2013 comments), Ex. NISD-1D (May 12, 2014 Resolution).

<sup>42</sup> NISD-1 at 11-12 and NISD -3

<sup>43</sup> Ex. NISD-1 at 11-12

**2. Route 72 Better Moderates the Impact of the Transmission Line on Landowners and the Affected Community.**

**a. The nature of the Right-of-Way Utilized by Route 72 Better Moderates the Impact of the Proposed Transmission line on Affected Communities and Landowners than Route 107.**

Although Oncor has characterized Route 107 as making greater use of compatible corridors, an examination of the types of corridors used and the resulting burdens placed on nearby properties shows that Route 72 better moderates the impact of the transmission line on affected communities and landowners.

On balance, Route 107 places a greater burden on landowners than does Route 72. The property of the Jason Development Company is already burdened by an existing CREZ line. If Oncor constructs the proposed transmission line along Route 107, then this property owned by Jason Development Company would be further burdened by a transmission line on the southern and eastern boundaries of the property.<sup>44</sup> As it traverses Link D, Route 107 places an additional transmission line on the property of the Todd Group in addition to an existing CREZ line, with a gap between the two lines that would be burdened on both sides by electric transmission lines.<sup>45</sup> As Route 107 traverses Links D3, I1, M, WW, and P, it will result in the addition of a visually obtrusive industrial structure in an area with no existing or planned industrial uses. In this area, links I1 M, WW, and P place a visually obtrusive

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<sup>44</sup> Jason Development Company, Inc. Direct Testimony of Richard E. LeBlanc at 5.

<sup>45</sup> Todd Group, Ltd. Direct Testimony of Shane Cole, at 3 - 4.

industrial structure upon the roadway frontage of properties.

On the other hand, for a significant portion of its length, Route 72 makes use of existing Burlington Northern-Santa Fe Right-of-way (BNSF ROW). This railroad is an existing visually obtrusive industrial land use. The proposed transmission line is more compatible with this industrial land use than it is with the property boundaries and roadway frontage utilized by Route 107. Additionally, by following the BNSF ROW, Route 72 places the transmission line away from the highway frontage of the properties traversed by the line, thereby resulting in less interruption with the ability to develop and market these properties.<sup>46</sup> Vann Cattle Yards has expressed concern regarding the impact of Route 72 on its use of the property, but the impact of the transmission line on Vann Cattle Yard's property is reduced by the fact that the transmission line does not obstruct any roadway frontage of the Vann Cattle Yard property. Likewise, the transmission line does not obstruct the roadway frontage of property owned by GA Haslet.<sup>47</sup> In both cases, the transmission line runs adjacent to the BNSF existing industrial property.<sup>48</sup>

By placing the transmission line largely along an existing industrial corridor, and in the rear of the affected properties, Route 72 better moderates the impact of the proposed transmission line than does Route 107.

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<sup>46</sup> Tr. at 235.

<sup>47</sup> Oncor Ex. 1 at 54.

<sup>48</sup> Oncor Ex. 1 at 54.

**b. The Co-location of Route 107 with a gas line in near school facilities poses potential impacts that Route 72 does not.**

The manner in which Route 107 would place a high voltage transmission line adjacent to natural gas transmission lines near an educational complex also raises concerns regarding the impacts of Route 107 upon the community. As noted by Brad Johnson testifying on behalf of Atmos Energy, the placement of electric transmission within 1000 feet of a gas pipeline can induce sufficient voltage in the pipeline as to pose a shock hazard.<sup>49</sup> Placement of the transmission line along Link I1 would result in the line being within approximately 100 feet of such natural gas lines.<sup>50</sup> Generally, the closer a transmission line is to a pipeline, the greater the induced voltage.<sup>51</sup> Thus, all other things being equal, the voltage induced on the pipelines near the V.R. Eaton Educational Complex can be anticipated to be greater than that predicted in Atmos' modeling at a distance of 1000 feet.

The potential for induced voltage in the nearby gas transmission lines presents a valid safety concern for the placement of the transmission line along Link I1, immediately across the street from the V.R. Eaton Educational Complex. Any induced voltage will result in accelerated corrosion of the pipeline, making it more likely that the pipeline will experience premature failure by leakage or rupture.<sup>52</sup> Such voltage also

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<sup>49</sup> Atmos Energy Corporation, Direct Testimony of Brad Johnson at 6.

<sup>50</sup> NISD Ex. NISD-2B.

<sup>51</sup> Tr. at 346 - 347.

<sup>52</sup> Atmos Energy Corporation, Direct Testimony of Brad Johnson at 6 - 7.

presents the risk of a “step shock,” by which a person may experience an electrical shock even if they are on the surface and not in contact with the pipeline itself.<sup>53</sup> Children are more sensitive to shock hazards than adults.<sup>54</sup> Thus, pipeline shock hazards are of greater concern for facilities in the vicinity of a school.<sup>55</sup>

Route 72 better moderates the impact of the transmission line on the affected community by avoiding the creation of such a shock hazard in the vicinity of a school.

### **3. Prudent Avoidance**

Oncor has concluded that both Route 72 and Route 107 conform with the Commission’s policy of prudent avoidance.<sup>56</sup> While Route 72 has a greater number of habitable structures within 300 feet of its centerline than does Route 107, this difference is not so significant as to justify the selection of Route 107 in consideration of all the relevant factors. The 53 alternative routes that remain under consideration in this matter have habitable structure counts ranging from 193 to 14.<sup>57</sup> With 36 habitable structures, Route 72 has fewer habitable structures than 85% of the routes under consideration.<sup>58</sup> The narrow consideration of prudent avoidance alone would favor Route 107, but when this is weighed against other relevant factors, particularly other ways by which Route 107 could endanger public safety, Route 72 remains the overall preferable route.

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<sup>53</sup> Atmos Energy Corporation, Direct Testimony of Brad Johnson at 5, Tr. at 336.

<sup>54</sup> Oncor Ex. 14, at 20 (At section 5.2.1.4), Tr. at 340 (Testimony of Brad Johnson).

<sup>55</sup> Oncor Ex. 14, at 20 (At section 5.2.1.4).

<sup>56</sup> Oncor Direct Testimony of Brenda Perkins at 9.

<sup>57</sup> Oncor Ex. 1 at 891 – 892.

<sup>58</sup> Oncor Ex. 1 at 887 – 895.

#### **4. Potential Interference of Route 107 with V.R. Eaton's Communications Tower Poses an Engineering Constraint that Weighs in Favor of Route 72.**

Oncor's own expert categorized the presence of any electronic installation within 2,000 feet of a route's centerline as relevant to a determination of whether a particular route should be selected.<sup>59</sup> The V.R. Eaton Campus will include a transmission tower to be located approximately 890 feet from the centerline of Link I1.<sup>60</sup> This tower will be part of a system that allows NISD to communicate across the 234 square miles encompassed by the District, enabling the District's schools to communicate with each other as well as first-responders, on-site security and on-site police officers.<sup>61</sup> Such towers are needed for emergencies, such as tornados or other severe weather, and are also essential to the everyday operations of the schools.<sup>62</sup> The southern area of the school district currently has a temporary communications tower that is inadequate to serve these intended purposes.<sup>63</sup> The tower on the V.R. Eaton Campus will replace this temporary tower, serving V.R. Eaton itself, as well as two existing middle schools, six existing elementary schools, and any future schools that might be built in this area of the District.<sup>64</sup>

Oncor has improperly disregarded the potential for the proposed transmission line

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<sup>59</sup> Oncor Ex. 1 at 882.

<sup>60</sup> NISD Ex. NISD-3 at 10 – 11.

<sup>61</sup> NISD Ex. NISD-4 at 4.

<sup>62</sup> NISD Ex. NISD-4 at 5.

<sup>63</sup> NISD Ex. NISD-4 at 5.

<sup>64</sup> NISD Ex. NISD-4 at 5.



to interfere with the operation of the V.R. Eaton communications tower. In his rebuttal testimony, Thomas Yamin testifies that such interference is “unlikely” and “relatively uncommon,” while further opining that “normal operations” do not present anticipated interference issues.<sup>65</sup> During the hearing on the merits, Mr. Yamin stated that he could not testify as to the potential for interference to occur when the transmission line is experiencing fault conditions.<sup>66</sup>

Mr. Yamin’s testimony does not resolve safety concerns related to potential interference of Route 107 with the operation of NISD’s V.R. Eaton communication tower. Even if interference between the transmission line and V.R. Eaton’s tower is “uncommon”, it is unacceptable for the operation of such a system to be compromised even occasionally. Furthermore, the availability of a working communications system is most critical during emergency conditions – precisely the conditions that Mr. Yamin could not address. A downed power line experiencing fault conditions would itself constitute an emergency situation, and the potential for damage to the transmission line coincides with other occasions when an effective communications tower would be most necessary. For example, the rupturing of the gas pipelines near the proposed Link I1 near the V.R. Eaton Campus would potentially cause damage to the transmission line at precisely the same time as the District would find it necessary to coordinate an emergency response to the pipeline rupture. In this manner, the location of Route 107 within close proximity to NISD’s communication tower at the V.R. Eaton Campus

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<sup>65</sup> Oncor Ex. Oncor Yamin – Rebuttal, 6:25- 30, 7:8-9.

<sup>66</sup> Tr. at 460.

weighs heavily in favor of the selection of an alternate route.

**5. For All Practical Purposes, Routes 72 and 107 Involve Equal Costs**

For all practicable purposes, Route 107 and Route 72 are equivalent in terms of cost. Oncor has estimated that Route 107 will cost \$42,000 less than Route 72,<sup>67</sup> which is a decrease of only 0.1% relative to the overall project cost of Route 72.<sup>68</sup> Considering that Oncor's cost figures are only estimates, and not intended to reflect the actual cost of any given route,<sup>69</sup> this difference is so small as to be insignificant.

**6. Routes 107 and 72 are substantially equivalent with regard to all other considerations relied upon by Oncor to Justify the Selection of Route 107**

In her Alternative Routes Analysis, Brenda Perkins cites numerous factors to justify her selection of Route 107 as the preferred Route.<sup>70</sup> Beyond the distinguishing factors noted above, the two Routes are effectively equal for all other considerations presented by Ms. Perkins:

<b>Factor</b>	<b>Route 72</b>	<b>Route 107</b>
Length (miles)	15.2 <sup>71</sup>	15.2 <sup>72</sup>
Cost (in millions)	\$29.7 <sup>73</sup>	\$29.7 <sup>74</sup>

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<sup>67</sup> Oncor Ex. 1 at 873 & 874.

<sup>68</sup> Oncor Ex. 1 at 873

<sup>69</sup> Tr. at 193.

<sup>70</sup> Oncor Ex. 1 at 881 – 882.

<sup>71</sup> Oncor Ex. 1 at 964

<sup>72</sup> Oncor Ex. 1 at 964

<sup>73</sup> Oncor Ex. 1 at 873.

Length of Route across parks/recreation areas	0 <sup>75</sup>	0 <sup>76</sup>
Parks/Recreational Areas within 1,000 feet	2 <sup>77</sup>	2 <sup>78</sup>
Land with mobile irrigation systems	0	0
Known rare/unique plant locations within ROW	0	0
Proportion Crossing Cropland/Pastureland	94% <sup>79</sup>	96% <sup>80</sup>
Proportion Crossing Upland Woodlands	6% <sup>81</sup>	5% <sup>82</sup>
Cultural Resource Sites crossed or within 1,000 feet	0 <sup>83</sup>	0 <sup>84</sup>
Proportion crossing areas of high prehistoric and historic site potential	16% <sup>85</sup>	14% <sup>86</sup>
FAA-Registered airports with 3,200 feet within	2 <sup>87</sup>	2 <sup>88</sup>

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<sup>74</sup> Oncor Ex. 1 at 874.

<sup>75</sup> Oncor Ex. 1 at 890

<sup>76</sup> Oncor Ex. 1 at 891

<sup>77</sup> Oncor Ex. 1 at 890

<sup>78</sup> Oncor Ex. 1 at 891

<sup>79</sup> Oncor Ex. 1 at 890 (75,146 feet of cropland and pastureland out of total length of 80,070 feet).

<sup>80</sup> Oncor Ex. 1 at 882

<sup>81</sup> Oncor Ex. 1 at 890

<sup>82</sup> Oncor Ex. 1 at 82

<sup>83</sup> Oncor Ex. 1 at 890

<sup>84</sup> Oncor Ex. 1 at 891

<sup>85</sup> Oncor Ex. 1 at 890

<sup>86</sup> Oncor Ex. 1 at 882

<sup>87</sup> Oncor Ex. 1 at 890

<sup>88</sup> Oncor Ex. 1 at 891

20,00 feet of centerline		
Airstrips within 10,000 feet	0 <sup>89</sup>	0 <sup>90</sup>
Use of HH3 and II with existing ROW	Yes <sup>91</sup>	Yes <sup>92</sup>
Heliports within 5,000 Feet	0 <sup>93</sup>	1 <sup>94</sup>
Commercial AM Radio Transmitters within 10,000 feet	0 <sup>95</sup>	96
U.S. or State Highway Crossings	1 <sup>97</sup>	1 <sup>98</sup>
FM, county road, or other street crossings	7 <sup>99</sup>	7 <sup>100</sup>

7. A comparative Weighing of the relevant factors shows that Route 72 is the best Route.

Given the manner in which Route 72 is more consistent with community values, eliminates safety concerns related to the V.R. Eaton Educational Complex, places less burden on the impacted properties, Route 72 is the better route. While more habitable structures are within 300 feet of the centerline of Route 72, the overall purpose of the

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<sup>89</sup> Oncor Ex. 1 at 890

<sup>90</sup> Oncor Ex. 1 at 891

<sup>91</sup> Oncor Ex. 1 at 964

<sup>92</sup> Oncor Ex. 1 at 964

<sup>93</sup> Oncor Ex. 1 at 890

<sup>94</sup> Oncor Ex. 1 at 891

<sup>95</sup> Oncor Ex. 1 at 890

<sup>96</sup> Oncor Ex. 1 at 891

<sup>97</sup> Oncor Ex. 1 at 890

<sup>98</sup> Oncor Ex. 1 at 891

<sup>99</sup> Oncor Ex. 1 at 890

<sup>100</sup> Oncor Ex. 1 at 891

Commission's prudent avoidance policy is to protect public safety. NISD in no way dismisses concerns regarding the exposure of persons to electronic and magnetic fields. But, the public safety risks posed by the placement of Route 107 near the V.R. Eaton Educational Complex outweigh the incremental difference in the exposures to electronic and magnetic fields by the proximity of Route 72 to additional habitable structures.

III. The Transmission Line Within Link E of Route 72 in the Area of Habitable Structure Group 8 should be moved southward by Two Hundred Feet.  
(Issue No. 5 in Commission's Order of Referral)

Route 107 includes 22 habitable structures within 300 feet of its centerline which Oncor has not demonstrated could not be avoided with reasonable investment of time and money.<sup>101</sup> These habitable structures have been designated by Oncor as "Group 8".<sup>102</sup> Oncor has not identified any engineering constraint that would prevent the movement of this section of the transmission line southward by approximately 270 feet, which would avoid these 22 structures.<sup>103</sup>

The consideration of such a modification is appropriate at this time. During the hearing, an objection was made that questions regarding such a modification were irrelevant,<sup>104</sup> which objection was sustained.<sup>105</sup> NISD is not advocating for the addition of

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<sup>101</sup> Oncor Ex. 1 at 543 (Group 8).

<sup>102</sup> *Id.*

<sup>103</sup> *Id.*

<sup>104</sup> Tr. at 184 - 185.

<sup>105</sup> Tr. at 189. NISD takes the position that sustaining this objection constituted legal error. In preventing NISD from conducting cross examination regarding the modification of the transmission line facility in this area, NISD was denied the opportunity to present evidence on Issue No. 5 in the Commission's Order of Referral. This denial deprived NISD of its opportunity to present evidence on each issue involved in the case in violation of Texas Government Code § 2001.051(2).

a new route, but rather is simply seeking the modification of an existing route. Thus, the consideration of this modification does not present a question of route adequacy, but rather a question of whether alternate facility configurations would have a less negative impact on landowners which remains a live issue in this proceeding. Furthermore, the question of notice goes to the process by which such a modification may be adopted, and does not preclude the consideration of such a modification.

NISD notes that with this adjustment, Route 72 has only 14 habitable structures within 300 feet of its centerline. Thus, with this adjustment, the consideration of prudent avoidance does not weigh in favor of Route 72 over Route 107.

#### IV. CONCLUSION AND PRAYER

For these reasons, NISD respectfully prays that the ALJ's recommend the selection of Route 72 for the placement of the proposed transmission line.

Respectfully,

A handwritten signature in black ink, appearing to read "Eric Allmon", with a long horizontal flourish extending to the right.

Frederick, Perales,  
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COUNSEL FOR NORTHWEST I.S.D.

## **CERTIFICATE OF SERVICE**

By my signature above, I, Eric Allmon, certify a copy of the foregoing document and 12 copies were served on September 10, 2014, in the manner indicated to the following:

**Public Utility Commission of Texas**

*via hand-delivery*

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