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OF

**REPLY BRIEF OF THE HERSHEY RANCH, HILL COUNTRY LAND TRUST,
PEDERNALES CELLARS, LLC, AND JUDITH TASCH**

July 20, 2015

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**SOAH DOCKET NO. 473-15-1589
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**APPLICATION OF LCRA
TRANSMISSION SERVICES
CORPORATION TO AMEND ITS
CERTIFICATE OF CONVENIENCE
AND NECESSITY FOR THE PROPOSED
BLUMENTHAL SUBSTATION AND 138-
KV TRANSMISSION LINE PROJECT IN
BLANCO, GILLESPIE, AND KENDALL
COUNTIES, TEXAS**

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BEFORE THE STATE OFFICE

OF

ADMINISTRATIVE HEARINGS

I. INTRODUCTION

Consistent with prior Public Utility Commission of Texas (“PUC” or “Commission”) experience, the Texas Hill Country has proven to be a very sensitive area for routing of electric transmission lines. Fortunately for the utility and other parties in this case, the Commission has available precedent to offer guidance in this area. Consistent with that precedent and the applicable standards, there is widespread agreement among the Parties filing initial briefs that the applicable statutory and regulatory criteria support selection of a route that follows existing rights-of-way and property lines to the extent feasible.

The majority of the briefs support either selection of Route 17-Modified or Route 11 Modified. In addition to their support of Route 11 Modified as stated in the testimony of the intervenors who own property along Segments W, X, and Y on FM 1888, those same parties’ initial brief focuses on presenting a case for selection of Route 16 or 16-Modified.¹

The Hershey Ranch, Pedernales Cellars, Judith Tasch, and the Hill Country Land Trust agree with the Initial Briefs of most of the parties, the Public Utility Commission Staff, and the Texas Parks and Wildlife that the resulting Route 17-Modified best complies with the statutory and regulatory criteria as the route that meets the electrical needs identified in the Application and has the least harmful impact on the study area and its communities.

¹ Despite the fact that FM 1888 Scenic Byway Alliance’s Initial Post-hearing Brief (hereinafter “FM 1888 Alliance Initial Brief”) filed on July 1, 2015 did not comply with the applicable page limits in P.U.C. SUBST. R. 22.72, the page references in this Reply Brief pertain to the brief that exceeded the Commission’s page limits. Since the filing of that brief, FM 1888 Alliance has filed a motion for leave without stating good cause for its lack of awareness and/or compliance with the rule. Reply to the longer brief herein should not be considered waiver or agreement with the lack of compliance with the plainly stated rule.

II. SUMMARY OF ARGUMENT

This Reply Brief refutes a number of the assertions offered in the Initial Brief filed by the parties who own property along the portion of FM 1888 in the southern part of the study area ("FM 1888 Alliance"). The undersigned parties fully recognize that in very few instances does a property owner wish to have a transmission line on their property. However, the Commission has worked in earnest over the years to establish routing criteria in its rules that are consistent with the statutory direction.² Further, the Commission has worked to apply those criteria in a reasoned and consistent manner, particularly for transmission lines that are routed in the sensitive Texas Hill Country.³ Selection of Route 16 or Route 16-Modified⁴ would be an unwarranted departure from these established standards and precedent.

Contrary to the insinuations of FM 1888 Alliance, Route 16 has been an option studied by all parties to this proceeding from the initial filing of LCRA TSC's Application. All expert witnesses in this proceeding, including the PUC Staff expert witness, analyzed this route and concluded that the applicable statutory and regulatory criteria supported selection of a different route. In fact, the expert for Jenschke Lane intervenors on whom FM 1888 Alliance relied, supports a route other than Route 16.⁵

The Hershey Ranch, Hill Country Land Trust, Pedernales Cellars, and Judith Tasch respectfully advocate that the Administrative Law Judge (ALJ) recommend approval of a route that avoids traversing conservation easements such as Route 17-Modified for construction of the Project, and would show in support the arguments in the following sections.

² P.U.C. SUBST. R. 25.101 – the Commission established the routing criteria in this rule in 2001 (PUC Project No. 24101), and have since updated this rule in 2002 (PUC Project No. 25515) and 2015 (PUC Project No. 42470).

³ Luckenbach Alliance Ex. 2 at 7.

⁴ Route 16-Modified is the same as Route 16 except that Route 16-Modified uses Substation 9 and is thus shorter than Route 16 which begins at Substation 7. Throughout this Reply Brief, arguments made with respect to Route 16 also apply to Route 16-Modified.

⁵ JLPA Ex. 1

III. ISSUES SET OUT BY THE COMMISSION IN ITS ORDER OF REFERRAL AND PRELIMINARY ORDER⁶

Route

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

P.U.C. SUBST. R. 25.101(b)(3)(B) implements the applicable statutory criteria. In doing so, it begins with the premise that the transmission line be routed in such a way as to “moderate the impact on the affected community and landowners”. In this case, the selection of Route 16 would not moderate the impact on the perpetual conservation easement on the Hershey Ranch. Whereas, construction of the line on Route 17-Modified would allow all affected properties to continue in their present use.

A. PURA § 37.056(c)(4)(A) Community Values

FM 1888 Alliance attempts to grasp onto the questionnaire responses from the initial open houses conducted by LCRA TSC as a definitive statement of community values.⁷ However, Commission precedent shows that determination of community values is very subjective and the Commission relies on a number of forms of expression to understand the community values of a particular study area, including agreement among intervenors in a certificate of convenience and necessity (“CCN”) case. In this case, preservation of the scenic Texas Hill Country is a community value shared by all intervenors⁸ – there are differences of opinion on how to accomplish that preservation.

Given the specific facts of this case, undue reliance should not be placed on the landowner questionnaires as a reliable means of determining community values. First, the evidence shows that there were material changes to the substations and routes after the open house which solicited responses to the questionnaires.⁹ Second, as noted by LCRA TSC’s

⁶ The numbering used in this section cross-reference to the Commission’s Preliminary Order.

⁷ FM 1888 Initial Brief at 4.

⁸ Tr. at 495, lines 3-8.

⁹ Tr. at 623, lines 20-23.

Project Manager, the percentages for any single factor in the questionnaires were not very high.¹⁰ While 23 % of those completing the survey indicated that their first criteria was to maximize distance from habitable structures, that means that 77% of the respondents did not consider this to be their primary consideration. Given that more than three quarters of the people attending the open house did not identify distance from habitable structures as the primary concern, FM 1888 Alliance's reliance on the questionnaires as a definitive statement of community values is not reasonable. If anything, the responses to the questionnaires support a conclusion that maximizing distance from structures is not the most important criteria.

Further, there are other expressions of community values that should be considered – for example, key expressions of community values in this case come from the Resolutions of the Fredericksburg Convention and Visitor Bureau and the Gillespie County Economic Development Commission.¹¹ These entities recognize the importance of the natural view-sheds in the area.¹² Further, the experts studying this area as well as other intervenor testimonies support the conclusion that preservation of the Texas Hill Country is a shared community value.¹³

FM 1888 Initial Brief details some of the specific impacts to individual properties along the road.¹⁴ Some of those property-specific contentions will be addressed later in this brief in the section related to individual property impacts per the Preliminary Order.

B. PURA § 37.056(c)(4)(B) Recreational and Park Areas

No parties allege that Recreational and Park Areas are a significant factor in distinguishing the routes.

C. PURA § 37.056(c)(4)(C) Historical and Aesthetic Values

FM 1888 Alliance raises no factual assertion regarding historical values that presents a material distinction in favor of Route 16.

¹⁰ Tr. at 317, line 20.

¹¹ LCRA TSC Ex. No. 1 (Application, Attachment 1, the EA) at Appendix A.

¹² *Id.*

¹³ Tr. at 495, lines 3-8.

¹⁴ FM 1888 Initial Brief at 5-9.

With respect to aesthetic values, the Commission rule favoring paralleling of roadways and existing rights-of-way incorporates the aesthetic value impacts. FM 1888 Alliance, would have the ALJs and the Commission ignore the rule and precedent regarding consideration of aesthetics in the Hill Country. The Commission has recognized the community value of protecting the beauty and environmental integrity of the Texas Hill Country in previous transmission line cases that were routed in the area. Specifically, the Commission determined that it is more desirable to parallel roadways than to cut through less developed land as the areas around major roads:

- 1) are already developed;
- 2) represent existing fragmentation of wildlife habitat; and
- 3) are more compatible right-of-way for paralleling transmission lines than alternative paralleling opportunities such as property lines or pipelines.¹⁵

FM 1888 Alliance points to a letter filed by an RV group and private property owner testimony in its attempt to characterize FM 1888 as a “scenic byway.”¹⁶ The record is clear that there has been no governmental or public designation of the road as scenic.¹⁷ Statements by this travel group establish the heavy use of the road, but do not equate to a designation of the road as a scenic byway.

With regard to aesthetic impacts, FM 1888 Alliance insinuates that the determination of aesthetic impact depends on the number of affected property owners who testify against a route.¹⁸ First, this factor does not only apply to those properties for which an owner intervenes. Second, there are numerous property owners along Route 16 who have intervened – including those who participated as the Jenschke Lane intervenors, the 1623 Alliance, the Hershey Ranch, the Hill Country Land Trust, the Schumann Road Landowners, and the Bryla Intervenors.

¹⁵ *Application of LCRA Transmission Services Corporation to Amend its Certificate of Convenience and Necessity for the Proposed McCamey D to Kendall to Gillespie 345-kV CREZ Transmission Line in Schleicher, Sutton, Menard, Kimble, Mason, Gillespie, Kerr, and Kendall Counties*, PUC Docket No. 38354, Order (January 24, 2011).

¹⁶ FM 1888 Alliance Initial Brief at 13.

¹⁷ LCRA TSC Ex. 1, Attachment 1 (EA) at 2-49.

¹⁸ FM 1888 Alliance Initial Brief at 14

In discussing aesthetics, FM 1888 Alliance recounts allegations of individual property owner impacts along FM 1888.¹⁹ These property-specific contentions will be addressed later in this brief in the section related to individual property impacts per the Preliminary Order.

FM 1888 Alliance Initial Brief mischaracterizes the nature of the testimony provided on behalf of the Hill Country Land Trust and the Hershey Ranch with respect to aesthetics. Mr. Lindemann, Dr. Sansom, and Mr. Almon each testified as to the spoliation of the large undisturbed Hill Country landscape that makes up the Hershey Ranch. Avoidance of Hill Country land fragmentation was an important issue expressed by experts throughout the case. For example, Friends for the Preservation of the Texas Hill Country, Mr. Turnbough testified:

[T]he notion is that you are breaking up these large undeveloped tracts, and you're putting infrastructure in there that changes the character of the property, either in terms of an environmental integrity notion, an aesthetics notion, maybe even a land-use management context.²⁰

D. PURA § 37.056(c)(4)(D) Environmental Integrity

Pursuant to its statutory authority, TPWD has offered an environmental analysis from a perspective neutral to individual landowner interests. That environmental analysis is supported by the PUC Staff. In general, the conclusion is from an environmental perspective, Route 17-Modified has the least negative impact to the environment. Further, both entities conclude that Route 16 would have serious negative environmental consequences because, in part, a significant length of Route 16 bisects an established conservation easement.

In response to “general concerns” on the environment, FM 1888 Alliance claims that wildlife habitat “may even benefit” from construction of a transmission line that bisects the condemnation easement on the Hershey Ranch along Segments A1, F2, and E1 following the abandoned pipeline.²¹ This statement extrapolates Mr. Reid’s testimony regarding the potential impact on deer hunting in a manner that strains credibility. Contrary to the arguments of FM

¹⁹ FM 1888 Alliance Initial Brief at 13-18.

²⁰ Tr. at 572, lines 1-6.

²¹ FM 1888 Alliance Initial Brief at 23.

1888 Alliance, the Commission rules favoring the paralleling of existing ROWs and property lines are consistent with the TPWD stated preference for following disturbed corridors rather than fragmenting properties.

The testimony cited by FM 1888 Alliance provides evidence that following the abandoned pipeline is preferable to cutting across an area of property where no right-of-way ever existed.²² This is not evidence to support a contention that the environmental impacts of following a 20-foot wide abandoned pipeline in any way equates to following a roadway right-of-way or an existing property line. FM 1888 Alliance cites to testimony of LCRA TSC witness Mr. Wenmohs characterizing the area of the abandoned pipeline as a “cleared and maintained pipeline ROW/corridor”; however, the evidence is undisputed that the right-of-way is abandoned and is no longer maintained.²³ Further, the evidence is undisputed that, for portions of Segments U, A1, and F2, the area covered by the abandoned pipeline has already healed so as to be indistinguishable from the native surroundings.²⁴ In addition to the extent the Segments paralleling the abandoned pipeline traverse cultivated fields, the former ROW is not detectable.²⁵

The key issue here is that even if following the abandoned pipeline is a “positive routing attribute” over cutting across never disturbed area, the negative impact on the environment of following the abandoned pipeline is much greater than that of following an existing roadway. In fact, LCRA TSC itself recognizes the serious drawbacks of following the abandoned pipeline.²⁶ As stated by LCRA TSC:

In addition, the abandoned pipeline right-of-way bisects a number of properties and does not parallel any other existing routing feature.²⁷

²² FM 1888 Alliance Initial Brief at 26

²³ Tr. at 626, lines 1-10.

²⁴ Luckenbach Alliance Ex. No. 2, p. 14, lines 6-10

²⁵ LCRA Ex. No. 1 at Figure 7, map 5.

²⁶ Hershey Ex. 2.

²⁷ *Id.* While some experts indicate that the use of the term “bisect” connotes splitting a property in equal halves. Throughout this brief, consistent with the use here by LCRA, the term bisect will be used to describe a segment that divides a property into two portions through the interior.

With respect to the removal of the pipeline, FM 1888 Alliance mistakenly characterizes the evidence to erroneously concluding that the Hershey's chose to have the pipeline removed over abandoning it in place.²⁸ The terms of the pipeline easement and the rights of the landowner regarding any choice of whether to remove the pipeline are not in evidence. If FM 1888 Alliance seeks to reopen the record on this issue, the Hershey Ranch would not object. However, speculation and sentences that begin "One must question" are not evidence.²⁹

With regard to the abandoned pipeline, FM 1888 Alliance indicates that overlap of the former easement is "analogous to the co-location option contemplated in P.U.C. SUBST. R. 25.101(b)(3)(B)(i)."³⁰ This assertion is completely contrary to the plain reading of the Commission's rules and the record evidence. The former pipeline had a 20-foot right-of-way.³¹ The new transmission line ROW will be 80-130 feet in width.³² There is no doubt that the additional ROW requirement would have a significantly detrimental affect by using segments that parallel the abandoned pipeline. In addition to substantially widening the former ROW, the overhead structures of the proposed transmission line would have a much different impact than the subsurface presence of the abandoned pipeline. The rule cited by FM 1888 Alliance speaks of locating transmission lines on the same structure – a vastly different proposition.

One of the key aspects of environmental impact is the avoidance of Golden-cheek Warbler habitat. FM 1888 Alliance discussion of this issue reflects a misunderstanding of this issue. FM 1888 Alliance focuses on actual sightings of individual species on a property.³³ However, the legal protection covers habitat for the relevant species regardless of the demonstrating sighting of the species at that exact location. This is exactly why LCRA TSC

²⁸ FM 1888 Alliance Initial Brief at 28.

²⁹ FM 1888 Alliance Initial Brief at 29.

³⁰ FM 1888 Alliance Initial Brief at 29.

³¹ Tr. 482, lines 20-21.

³² LCRA TSC Ex. 1, Attachment 1 (EA) at 1-8.

³³ FM 1888 Alliance Initial Brief at 24.

relied on the corroboration of three modeling techniques to determine environmentally-sensitive areas for Golden-cheeked Warbler habitat.³⁴

As to conservation easements, FM 1888 Alliance spends much of its brief refuting an argument that no party has made in this proceeding. FM 1888 Alliance is misleading in stating that the Hershey Ranch and the Hill Country Land Trust as requesting the Commission to treat conservation easements as routing “stop signs.” FM 1888 Alliance mischaracterizes the record in stating that “Almon’s opinion is that conservation easements should not be crossed – they are a ‘stop sign’ for routing.”³⁵ It is only an FM 1888 Alliance attorney, Mr. Spivey, who used the term “stop sign” in questioning witnesses.³⁶ The Hershey Ranch and Hill Country Land Trust witnesses made clear that they do not contend that the presence of a conservation easement is a legal bar to routing of a transmission line.³⁷ These witnesses made it clear, however, that the potential impact to conservation easements should be given weight in the evaluation of environmental integrity.

FM 1888 Alliance references testimony from LCRA TSC speculating that the “‘stop sign’ policy” could present a problem to the extent that property owners “attempt to convey conservation easements after they discover at an open house that their properties are within a routing corridor...”³⁸ Again, no party in this proceeding is suggesting that the Commission establish a blanket rule that is a “stop-sign” with regarding to crossing conservation easements with a transmission line. The evidence in this case is clear that with respect to the conservation easements on the Hershey Ranch and the Hale property, no such motivation was present—as both conservation easements were in place for many years prior to the beginning of this project.³⁹

³⁴ LCRA Ex. 7 at 25, lines 22-29.

³⁵ FM 1888 Alliance Initial Brief at 31 *citing* Tr. at 603, Lines 5-11.

³⁶ FM 1888 Alliance Initial Brief at 31.

³⁷ Tr. at 482, lines 3-14; Tr. 614, line 17 through Tr. 615, line 1; Tr. 625, lines 1-8.

³⁸ FM 1888 Alliance Initial Brief at 31.

³⁹ Tr. at 485, lines 3-12

FM 1888 Alliance challenge the intellectual integrity of the PUC Staff, TPWD, the Hill Country Land Trust, and the Hershey Ranch in claiming that those parties have taken a position supporting a modification to Route 17 to utilize Segment Y instead of Segment X – thereby avoiding traversing the conservation easement on Mr. Hale’s property.⁴⁰ First, it is important to note that each of these parties came to the recommendation of modifying Route 17 based on applicable routing criteria in the statute and Commission rules. FM 1888 Alliance is mistaken in saying that the Hershey Ranch Intervenors also advocated for Route 17.⁴¹ The Hershey Ranch have consistently recommended modifying Route 17 to avoid the conservation easement held by the Nature Conservancy along Segment X. Second, a primary beneficiary of avoiding the conservation easement is the easement holder – in this case the Nature Conservancy and the Hill Country Land Trust. The Nature Conservancy’s position with respect to its recommendation to consider conservation easements as a significant factor in routing transmission lines is included in the Application. The Nature Conservancy states:

I would urge you to select routes that don’t cross properties that have permanent protection in the way of a conservation easement. These tracts are held in conservation due to the abundance of wildlife species (both threatened and endangered) as well as for the scenic beauty. Although conservation easements don’t trump eminent domain, it would be extremely detrimental to the land as well as the ability to use conservation easements as a tool in the future.

This statement is not specific to the easement on the Hale property and is consistent with the recommendations of PUC Staff, TPWD, the Hill Country Land Trust, and the Hershey Ranch that conservation easements be considered as a factor in evaluating the routing of proposed transmission lines. Further, this statement helps to clarify, as made clear in the record of this case, that the conservation easement itself only applies to the property on which the easement is held. FM 1888 Alliance’s attempt to bootstrap on the conservation easement on Mr. Hale’s property to apply across the road on property of another landowner lacks credence.

⁴⁰ FM 1888 Alliance Initial Brief at 31.

⁴¹ FM 1888 Alliance Initial Brief at 24.

Lastly with regard to environmental integrity, it is important to note that even though LCRA TSC and its consultants, on advice of counsel,⁴² gave zero weight to the presence of a conservation easement,⁴³ LCRA TSC and its consultants recommended Route 17 as having a lesser impact on environmental integrity than Route 16 or 16-Modified.

E. P.U.C. SUBST. R. 25.101(b)(3)(B) Cost

Unlike in the discussion of the number of habitable structures, when it comes to cost, FM 1888 Alliance recognizes that the routing decision is one that requires a balancing of all factors.⁴⁴ Despite the insinuations from FM 1888 Alliance, no party recommends selection of Route 17-Modified solely because it is the least expensive route. However, contrary to the assertions of FM 1888 Alliance, the fact that the estimated cost for Route 17-Modified is more than \$2,000,000 less than any other route is significant. The lengthy discussion of the cost estimations performed by FM 1888 Alliance are not probative.⁴⁵ The record is clear that the cost methodology is an estimate and that this methodology was applied uniformly across the study area to all routes. It is also important to note that despite all the protestations, the full extent of FM 1888 Alliance conclusion as to cost is that the amount by which Route 17-Modified is cheaper than the other routes may be less, i.e., that instead of a \$2,000,000+ estimated savings with Route 17-Modified, the cost difference between routes may be less.⁴⁶ At no point do they even challenge the fact that Route 17-Modified is the least expensive route.

1. P.U.C. SUBST. R. 25.101(b)(3)(B) Engineering Constraints

The only material engineering constraint discussed in briefing relates to the VORTAC facility. The undersigned parties defer to LCRA TSC and Commission Staff's discussion of this issue.

⁴² LCRA TSC Ex. 13 at 9.

⁴³ LCRA TSC Ex. 13 at 10.

⁴⁴ FM 1888 Alliance Initial Brief at 37.

⁴⁵ FM Alliance Initial Brief 38-46.

⁴⁶ FM 1888 Alliance Initial Brief at 46.

2. P.U.C. SUBST. R. 25.101(b)(3)(B)(i)-(iii) Using or Paralleling Existing Compatible Rights-of-Way Including Property Lines

P.U.C. SUBST. R. 25.101(b)(3)(B) requires consideration of the extent to which a proposed route parallels the following categories:

existing compatible rights-of-way; and

property lines or other natural or cultural features.⁴⁷

Using these criteria, Route 17-Modified parallels these features for 80% of its length. This compares very favorably to other routes proposed by LCRA TSC, particularly Route 16 or Route 16-Modified which parallel existing compatible ROW and property boundaries for less than 50% of their total lengths.

FM 1888 Alliance claims that the Commission's rule requiring paralleling of roadways is "in tension with the community values in these proceedings." Again, relying solely on the questionnaires presented at the Open House, FM 1888 Alliance appears to argue that because paralleling roadways was not one of the top 3 factors ranked in the questionnaire responses, that the Commission rule should be disregarded. First, no matter what the questionnaire answers were, they would not nullify the Commission rule. Second, as discussed previously, the questionnaire responses show that 77% of the respondents did not mark maximizing distance from residences as the most important criteria. Thus, there does not appear to be any evidence of "tension" between the questionnaire responses and the Commission's rule preferring the paralleling of roadways.

With regard to paralleling property lines and other natural and cultural features, FM 1888 Alliance first appears to assert that the impact from following property tract lines is the same as the impact of following a property line where the ownership is different on either side of the line. Regardless of the strained rule interpretations offered by FM 1888 Alliance, there is no question that the impact to a landowner is different if the line follows the property boundaries than if it follows an internal property tract line.

⁴⁷ P.U.C. Subst. R. 25.101(b)(3)(B). This rule also requires consideration of routes which actually use existing rights-of-way; however, no route is presented in this case that utilizes existing ROW.

FM 1888 Alliance would count the abandoned pipeline corridor length paralleled in the same category as paralleling roadways. This is not consistent with Commission precedent which favors following disturbed corridors because of the attendant reduction in community value, environmental, aesthetic and land use impacts.

Further, even if one were to include the abandoned pipeline in a paralleling category similar to property lines, Route 16-Modified or Route 16 performs better than Route 17 or 17-Modified in terms of the percentage of the route that parallels any feature. FM 1888 tries to excuse away this fact by indicating that the other property owners whose property is traversed internally did not intervene.⁴⁸ As previously acknowledged, FM 1888 Alliance is incorrect in assuming that the Commission's rules should only apply to property for whom the owner was able to intervene in these proceedings. The record evidence maps in Attachment 7 show the way in which Route 16 would bisect (or divide in two parts) the majority of properties that are crossed by the alternative route.⁴⁹ A review of pages 5, 6, 10, and 11 of Attachment 7 show apparent property boundaries in yellow and demonstrate how these properties are bisected by the Segments shown in red.

3. P.U.C. SUBST. R. 25.101(b)(3)(B)(iv) Prudent Avoidance

It is understandable that FM 1888 Alliance repeatedly points to the habitable structure count throughout its brief because that is really the only data point on which Route 17-Modified performs better than Route 16. However consideration of prudent avoidance is not a simple counting exercise. The Commission Staff agrees with LCRA TSC's position that all routes comply with the Commission's requirements for prudent avoidance, including Route 17-Modified.

The Commission has frequently approved routes that did not have the lowest number of habitable structures. Further, the Commission has approved routes with a higher number of habitable structures where the difference in habitable structure number is much greater than is

⁴⁸ FM 1888 Alliance Initial Brief at 50.

⁴⁹ Tr. at 752, lines 7-9.

present in this case.⁵⁰ The evidence in this case shows that there is not a material difference in prudent avoidance between Routes 17-Modified and Route 16.

5. Are there alternative routes or facility configurations that would have a less negative impact on landowners? What would be the incremental cost of those routes?

Contrary to the assertions of FM 1888 Alliance, Route 16 or 16-Modified are not routing selections that have a less negative impact on landowners. These Routes do not follow property lines or any existing ROW on properties crossed by all or portions of Segments S, A1, F2, E1, V1, H1 and J1.

There are some mitigation measures that could reduce the impact of Segment W along FM 1888. As previously noted in FM 1888 Alliance's Initial Brief, LCRA TSC can reduce the right-of-way width along this segment. Further, because the segment is adjacent to a roadway, LCRA TSC may be able to place the transmission line structures closer to the property line and allow a portion of the easement to overlap the road right-of-way.

In addition, FM 1888 Alliance mentions individual impacts and "unanswered questions".⁵¹ LCRA TSC has indicated that it can resolve each of these issues in its rebuttal testimony.

⁵⁰ See, for example: *Application of TXU Electric Delivery Company for a Certificate of Convenience and Necessity (CCN) for a Proposed Transmission Line in Dallas County, Texas*, P.U.C. Docket No. 32455, Order at 18 (June 7, 2007); *Application of CenterPoint Energy Houston Electric, LLC for a Certificate of Convenience and Necessity (CCN) for a Proposed 69kV Transmission Line Within Brazoria County*, P.U.C. Docket No. 30617, Order at 12-13 (March 22, 2006); *Application of TXU Electric Delivery Company for a Certificate of Convenience and Necessity (CCN) for a Proposed Transmission Line within Jack, Wise, and Denton Counties, Texas*, P.U.C. Docket No. 30168, Order at 14 (Nov. 7, 2005).

⁵¹ FM 1888 Alliance Initial Brief at 60-65.

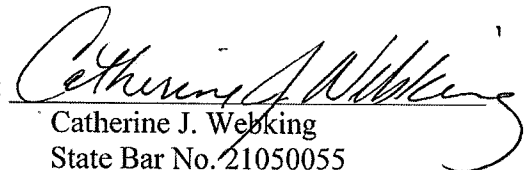
6. **If alternative routes or facility configurations are considered due to individual landowner preference:**
- a. **Have the affected landowners made adequate contributions to offset any additional costs associated with the accommodations?**
 - b. **Have the accommodations to landowners diminished the electric efficiency of the line or reliability?**

No such alternative routes or configurations have been identified other than Route 17-Modified.

IV. Conclusion

Considering all of the routes available for consideration presented in LCRA TSC's Application, Route 17-Modified best meets the applicable regulatory and statutory criteria. None of the arguments raised by FM 1888 Alliance provide sufficient basis for an alternate conclusion. The Commission rules and established precedent support a decision to preserve the protected portions of the Texas Hill Country implicated in this case to the greatest possible extent by approving Route 17-Modified.

Respectfully submitted,


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CERTIFICATE OF SERVICE

I certify that a copy of the above has been served in accordance with the procedural orders in this proceeding on this 20th day of July, 2015.


Candace Almquist