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Addendum StartPage: 0

SOAH DOCKET NO. 473-17-1552  
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PUBLIC UTILITY STATE OFFICE  
BEFORE THE COMMISSION  
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APPLICATION OF BRAZOS ELECTRIC  
POWER COOPERATIVE, INC. TO  
AMEND ITS CERTIFICATE OF  
CONVENIENCE AND NECESSITY FOR  
A 138-KV TRANSMISSION LINE IN  
COLLIN COUNTY, TEXAS

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OF

ADMINISTRATIVE HEARINGS

**SOAH ORDER NO. 7  
RULING ON EVIDENTIARY OBJECTIONS,  
DENYING LATE MOTIONS TO INTERVENE, AND  
DISMISSING INTERVENORS**

**1. Ruling on Objections**

On May 10, 2017, the following parties filed objections to prefiled evidence:

1. Brazos Electric Power Cooperative, Inc. (BEC)
2. City of McKinney (McKinney)
3. Staff of the Public Utility Commission of Texas (Commission)

On May 17, 2017, the following parties responded to those objections:

1. Allen Economic Development Corp. (AEDC); Briar Ridge Investments, Ltd. (Briar Ridge); Cottonwood Creek Baptist Church (Cottonwood Creek); Johnson Centre, Ltd. (Johnson); Meadow Road/Ford, LP (Meadow Road), and The P. Bush Elkin Property Co., Ltd. (P. Bush Elkin) (collectively TMF Intervenors)
2. AllenTowne Mall, LLC (AllenTowne)
3. McKinney
4. City of Allen (Allen)
5. Amherst Capital Investments, LLC and Texas Partners in Capital Investments, LLC (Amherst Capital)
6. Lake Forest-McKinney Investors, Ltd. (Lake Forest-McKinney)
7. William R. and Karen R. Wines, Wines Family Irrevocable Trust, Wines Property Trust, and Wines Grandchildren Trust (Wines Family)

Many of Staff's and McKinney's objections focus on statements of future development and diminution of property values. However, the ALJs disagree with McKinney's and Staff's assertions that this testimony is not relevant and is speculative. Much of the testimony sets out

604

detailed plans, executed contracts, site plans, etc., regarding how various properties will be developed. This indicates to the ALJs that the future planned use for many of the intervenors is far from speculative. In addition, the ALJs conclude that the testimony is relevant to the broad factors of community and aesthetic values.<sup>1</sup> Furthermore, the ALJs find it inconsistent that evidence on the need for the proposed transmission line is based on projected future development, yet evidence from some of the very developers who may be driving that development is somehow not relevant to the issues in this case.

In addition, the ALJs overrule Staff's and McKinney's objections regarding diminution of property values. The allegedly objectionable testimony falls far short of the Commission's pronouncement that "*the appropriate compensation* for right-of-way or condemnation of property" is not an issue in this proceeding.<sup>2</sup> The evidence consists of statements of concerns regarding the effect the proposed transmission line may have on various properties. The ALJs will give the testimony the appropriate weight in their analysis.

However, BEC and Staff object to the TMF Intervenors' witness James A. Rohrig's testimony regarding his appraisal of the actual "market value of the easement interest of land."<sup>3</sup> Although the TMF Intervenors assert that this testimony is relevant to the reasonableness of BEC's cost estimates, Mr. Rohrig's analysis goes beyond what is required of BEC in the CCN process. Furthermore, any finding of fact regarding Mr. Rohrig's market-value analysis would seem to establish "the appropriate compensation for the right-of-way." Accordingly, the ALJs sustain BEC's and Staff's objections to Mr. Rohrig's testimony and grant their motions to strike.

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<sup>1</sup> Tex. Util. Code § 37.056(c)(4)(A), (C).

<sup>2</sup> Order of Referral and Preliminary Order at 5 (Dec. 7, 2016) (emphasis added).

<sup>3</sup> Rohrig Direct Testimony at 4 (TMF Intervenor).

The Administrative Law Judges (ALJs) make the following rulings:

Witness and Party	Objecting Party	Testimony	Ruling
<b>Almon – Allen</b>	McKinney	Pg 28, ln 17-pg 29, ln. 3	Overruled
	BEC	Pg 8, ln 10-pg 18, ln 3	Overruled
	Staff	Pg. 23, lns 3-5, 11-14	Overruled
<b>Bass - Allen</b>	McKinney	Pg 10, lns 19-21	Overruled
	McKinney	Pg 20, lns 2-18	Overruled
	BEC	Pg 4, lns 19-22; Pg 10, lns 13-23	Overruled
	Staff	Pg 11, ln 19-pg 12, ln 2; Pg 20, lns 8-9, Att. BB-3-BB-7;	Overruled
<b>Rohrig – TMF Intervenors</b>	BEC	Entire direct testimony	Sustained
	Staff	Pg 5, ln 24-pg 6, ln 25; Pg 6, lns 20-25 and attached report; Pg 7, lns 5-11	Sustained
<b>Fuller – TMF Intervenors (P. Bush Elkin)</b>	McKinney	Pg 4, lns 17-19; Pg 4, lns. 11-13, 19-21, 29-31	Overruled
	Staff	Pg 4, lns 11-13	Sustained
<b>Schultz – TMF Intervenors (Meadow Road)</b>	McKinney	Pg 4, lns 15-18, lns. 9-18, lns. 26-27	Overruled currently under contract
<b>Johnson – TMF Intervenors (Johnson)</b>	McKinney	Pg 3, ln 27-pg 4, ln 2; Pg 4, lns 22-24; Pg 4, ln 24-pg 5, ln 12	Overruled
	Staff	Pg 3, ln 27-pg 4, ln 2; Pg 4, Lines 22-24; Pg 4, ln 24-pg, ln 12	Overruled
<b>Sanford – TMF Intervenors (Cottonwood Creek)</b>	McKinney	Pg 6, lns 8-10, 25-27	Overruled

Witness and Party	Objecting Party	Testimony	Ruling
<b>Bowman – TMF Intervenors (AEDC)</b>	McKinney	Pg 4, ln 18-pg 5, ln 17; Pg. 6, lns 7-9	Overruled
	Staff	Pg 4, ln 18-pg 5, ln 25	Overruled
<b>Nies – TMF Intervenors (Briar Ridge)</b>	McKinney	Pg 4, lns 19-23; Pg 5, lns 7-9	Overruled
	Staff	Pg 4, lns 19-23	Overruled
<b>Wines – Wines Family Trust</b>	BEC	Pg 7, lns 9-12, lns 24-29; Pg 10, lns 12-14; Pg 12, lns 3-8	Overruled
	McKinney	Pg 7, lns 18-21	Overruled
	McKinney	Pg 4, lns 39-pg 5, ln. 5; Pg 6, lns 7-14; Pg 7, lns 11-12; Pg 7, ln 23-pg 8, ln 8; Pg 8, lns 16-17; Pg 8, lns 30-34; Pg 9, ln 13-pg 10, ln 14; Pg 11, lns 23-30; Pg 12, lns 27-29; Pg 12, lns 32-pg 13, ln 2	Overruled
	Staff	Pg 6, ln 29-pg 7, ln 2; Pg 7, lns 11-12; Pg 7, lns 18-21; Pg 7, ln 23-Pg 8, ln 8; Pg 8, lns 16-17, lns 31-34; Pg 9, lns 13-34; Pg 10, lns 10-11; Pg 10, lns 12-14; Pg 11, lns 23-27; Pg 11, lns 27-30; Pg 12, lns 4-11	Overruled
<b>Mark Bulmash - AllenTowne</b>	Staff	Pg 3, lns 18-23; Pg 4, ln 24-pg 5, ln 6; Pg 5, ln 16- pg 6, ln 7; Pg 9, ln 20-pg 10, ln 19; Pg 12, ln 15; Pg 13, ln 7; Pg 13, lns 9-17; Pg 13, lns 18-19; Pg 13, ln 22-pg 14, ln 2; Pg 14, lns 8-19; Pg 16, ln 15	Overruled
<b>Ronald H. Hobbs, AIA - Amherst Capital</b>	Staff	Pg 2, ln 14-pg 3, ln 2; Pg 3, ln 13-18; Pg 3, ln 20-pg 7, ln 18	Overruled

Witness and Party	Objecting Party	Testimony	Ruling
<b>Ronald A. Duperroir - Amherst Capital</b>	Staff	Pg 3, ln 9-pg 4, ln 9; Pg 4, lns 15-16 and attached Exhibits 1-4	Overruled
<b>Erin Brooke Baber - Amherst Capital</b>	Staff	Pg 2, lns 14-22; Pg 3, ln 19-pg 5, ln 8; Exhibits 1 through 5	Overruled
<b>Baber Younus, MD - Amherst Capital</b>	Staff	Pg 2, lns 3-7, ln 15; Pg 2, ln 23-pg 5, ln 12	Overruled
<b>Roy T. Oliver - Lake Forest-McKinney</b>	Staff	Page 4, Lines 5-6; Page 6, Lines 5-6; Page 8, Line 31-Page 9, Line 3; Page 11, Line 24-Page 12, Line 23; Page 14, Lines 16-19; Exhibits F-1 through F-12; Demonstratives 1-3	Overruled
<b>Jennifer Arnold - McKinney</b>	Staff	Pg 3, lns 8-16, 17-19, ln 20-pg 4, lns 12-26; Pg 5, lns 3-4; Pg 5, lns 6-10	Overruled

**2. Denying Motions to Intervene**

On April 28, 2017, Pamela McDonald and Jason McDonald filed requests to intervene after the November 28, 2016 deadline established in PUC Order No. 1 issued on October 17, 2016. In addition, the McDonalds did not file the required written evidence or statement of position by the April 28, 2017 deadline established in SOAH Order No. 4 issued on January 19, 2017. Accordingly, the McDonalds’ requests to intervene are denied.

**3. Dismissing Intervenors**

The ALJs established the procedural schedule in this case in SOAH Order No. 4. That order provided that intervenors must file their statements of position or written evidence by April 28, 2017. SOAH Order No. 4 also stated that “[e]ach non-aligned intervenor must file a

statement of position or written evidence by [April 28, 2017] or the intervenor will be dismissed as a party and will no longer participate in the case.”

The following intervenors did not file statements of position or written evidence by April 28, 2017. Therefore, the ALJs dismiss the following parties from this proceeding and they will no longer participate:

TD Watters 121/SEC Watters & 121	Qingya She
Nick and Karri Yurkovich	Kathleen Mayfield
Holger and Sonia Moncayo	Bryan Jackson
Jefflyn Inc. and Jefflyn Properties	Jonathan Logan
Mario Urriolagoitia	Theodore Hovivian
Sachin Aggarwal	Arun Nair
David Egbert	MJC Interests
Tara Wright	Brad Nelson
Eric Bowman	Tom Dao and Mai Trang
Venkata Jada	Star Creek Village
Charles Smith	John and Glenna Slavens
Karen Tavana	Tokalon Group
GKN/Anavim Venture	Jason and Pamela McDonald
Leah Kapioltas	

With the dismissal of the above parties, the current list of parties to this proceeding is as follows:

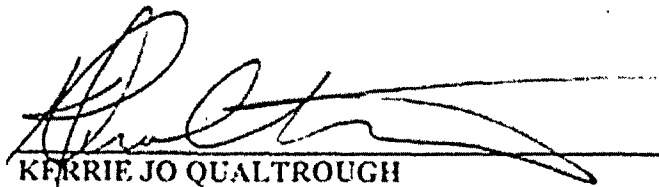
BEC	The Wines Family
Allen	Allen Independent School District
McKinney	McKinney Seven 31
City of Plano	RPS Development Company
City of Frisco	Amherst Capital
TMF Intervenors	The Landings of Kittyhawk, Saddle Ridge
AllenTowne	Estates, Shaddock Park, Waterford
Lake Forest-McKinney	Crossing, Waterford Parks Homeowner’s
Craig Ranch PT MFA II	Association, and Creekside at Ridgeview
121 HPC	Homeowners Association, Inc.
Haggar Jesseen Partners	

BEC must, and the other parties may, determine whether the above list of parties is correct and inform the ALJs of its determination by **June 9, 2017**. In addition, if a party feels the

ALJs have dismissed it from this proceeding in error, it must explain to the ALJs why they remain a party and submit that explanation to the ALJs by **June 9, 2017**.

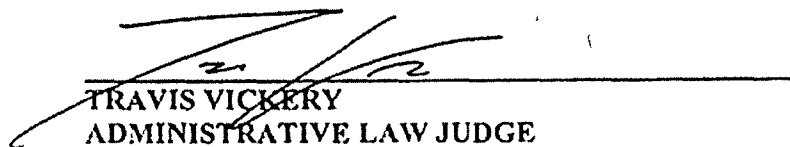
In addition to the above intervenors, the ALJs also dismiss Comerica Bank, Trustee of the Betty C. Williams Trust pursuant to its January 9, 2017 Notice of Withdrawal of Intervention.

**SIGNED May 26, 2017.**



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KERRIE JO QUALTROUGH  
ADMINISTRATIVE LAW JUDGE  
STATE OFFICE OF ADMINISTRATIVE HEARINGS



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TRAVIS VICKERY  
ADMINISTRATIVE LAW JUDGE  
STATE OFFICE OF ADMINISTRATIVE HEARINGS