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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 §

BEFORE THE STATE OFFICE
OF
ADMINISTRATIVE HEARINGS

REPLY BRIEF

OF

**WILLIAM R. WINES AND KAREN R. WINES, THE WINES FAMILY
IRREVOCABLE TRUST, WINES PROPERTY TRUST, WINES
GRANDCHILDREN TRUST, WALT HENRION AND MGA FAMILY LP**

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August 30, 2017

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TO THE HONORABLE ADMINISTRATIVE LAW JUDGES:

Intervenors William R. Wines and Karen R. Wines, The Wines Family Irrevocable Trust, Wines Property Trust, Wines Grandchildren Trust, Walt Henrion and MGA Family LP, (collectively referred to as “the Wines”) files their Reply Brief regarding the Application of Brazos Electric Power Cooperative, Inc. (“Brazos” or the “Applicant”) for the above-captioned Certificate of Convenience and Necessity (“CCN”) (“the Application”). The Wines pray that the Administrative Law Judges (“ALJs”) issue a Proposal for Decision (“PFD”) recommending the Texas Public Utility Commission (the “Commission”) deny the Application because Brazos has not met its burden of proof on need; otherwise, only approve Routes 7, 8, 11, 17 or 25 if the lines are buried. It should be noted that Wines has approximately the same amount of affected acres and frontage on both the north and south sides of SH 121 Tollway.

I. REPLY TO CITY OF ALLEN

The Wines reply to filing under item #662 by the City of Allen, specifically pages 26 to 32. Route 17 includes the approximate ½ mile of the Wines property SH 121 Tollway frontage on the north side of SH 121, as well as the additional adjoining property to the west of SH 121 Tollway frontage on the north side. On page 26, subsection c, of its brief, the City of Allen states that “McKinney has not preserved the north side” and “McKinney has not preserved its plan.” This is not true as to the property east of Stacy Road over to McKinney Place Drive, including the property owned by the Wines. This “preserved” property has been planned and zoned by the City of McKinney as Class A high-rise corporate campus developments as well as other Class A high-rise development.

The Wines property has been held off the market specifically for the purpose of the property being developed as a Class A high-rise development. The market for these type properties has now developed to the point where immediate development of this type property is sure to occur soon. This is evidenced by the Hines development on the south side of the SH 121 Tollway at the Southeast corner of Alma and the development at the northeast corner of Stacy and the SH 121 Tollway that was under contract at the time of the initial Brazos announcement of the possible routes for these transmission lines. This 36-acre contract has now been terminated after the potential developer had engineering, legal and other fees and costs of approximately \$500,000 to obtain zoning approval for this Class A, multiple building development. It is believed by the owner of this property that this contract has not closed because of the possibility of overhead transmission lines on the property.

On page 26 of its brief, the City of Allen in its reply brief continues to focus on the property on the WEST side of Stacy Road in McKinney. The properties being discussed in this brief are EAST of Stacy Road in McKinney. Again, on page 27 of its reply brief, the City of Allen reply brief discussed properties on the north side of the SH 121 Tollway, WEST of Stacy Road and, again, its statements do not apply to the EAST side of Stacy Road where the presence of these overhead transmission lines will destroy the possibility of the development of Class A, high rise office, hotel, etc. type developments between Stacy Road and McKinney Place Drive.

On page 30, the City of Allen brief focuses on Route 17 involving less SH 121 Tollway frontage than routes on the south side of the SH 121 Tollway. However, a possible route going east of Alma considerably north of the SH 121 Tollway would involve no SH 121 Tollway frontage on either the north or south sides. Brazos has failed to adequately consider a possible route in this area presumably because it failed to consider the extreme economic impact and cost of any route that involves SH 121 Tollway frontage. Therefore, we request Brazos be required by the Commission to more fully explore routes that do not involve SH 121 Tollway frontage.

In conclusion, the City of Allen brief almost completely ignores the extreme impact that these overhead transmission lines will have on the properties on the north side of the SH 121 Tollway on the east side of Stacy over to McKinney Place Drive in McKinney. These properties represent more than ½ mile of frontage on the north side of the SH 121 Tollway and have been planned as Class A high- rise development for approximately 30 years and continue to be planned as this type of development. Since the adverse impact of these overhead transmission lines on these properties will be so great,

and the cost of right-of-way, including damages to remaining properties will be so large, and the severe decrease in the esthetics of the area, it is requested that the PUC require Brazos to more fully study alternative routes that do not involve any transmission lines that adjoin either side of the SH 121 Tollway, and that, if lines are to be located adjoining the SH 121 Tollway, those lines are required to be underground

Routing of transmission lines and substations near sports fields which are far off the valuable SH 121 Tollway routes would have far less adverse economic and visual impact than along routes next to the SH 121 Tollway. It is apparent that inadequate consideration has been given to the adverse visual and economic consequences of any route adjoining the SH 121 Tollway, so the PUC needs to order more route considerations which do not adjoin either side of the SH 121 Tollway.

II. REPLY TO TMF INTERVENORS

The Wines reply to filing under item #660 by the TMF Intervenors. The Wines agree with many points of the TMF Intervenors except for the following points.

The Wines agree with the TMF Intervenors as to the 4th paragraph of page 2 since, if you consider the extreme adverse economic and “eyesore” impact of overhead lines that adjoin either side of the SH 121 Tollway, as well as the excessive cost to the ratepayers of either having to pay extensive right-of-way costs, including related damages to remaining property, or having to construct the lines underground, more consideration and study needs to be performed by Brazos as to alternative routes that do not adjoin either side of the SH 121 Tollway.

As to the 5th paragraph on page 2, Route 17 would also “have a major negative impact on the community values of the properties” on the north side of the SH 121 Tollway, east of Stacy Road and west of McKinney Place Drive. This further demonstrates that additional non-adjoining SH 121 Tollway routes need to be considered.

As to the 6th paragraph on page 2, most of the same statements can be made as to Route 17. Therefore, neither route is preferable east of Stacy Road and again supports the need for additional non-adjoining SH 121 Tollway routes to be considered.

The Wines agrees completely with page 3, Section II as to its property on both the north and south sides of the SH 121 Tollway and strongly believes these items should be required by the PUC to be addressed adequately by Brazos.

As to page 4, Section IV, the Wines strongly supports this position as it applies to both sides of the SH 121 Tollway.

As to page 5, Section IV A, first paragraph, the Wines strongly supports the statements made in this Section except that the same statements also apply along the SH 121 northern corridor between Stacy Road and McKinney Place Drive in McKinney, Texas and is contrary to the community values of the City of McKinney, its residents, and the Wines.

As to page 5 Section IV A, second paragraph, the property owned on the north side of the SH 121 Tollway by the Wines east of Stacy Road and west of McKinney Place Drive have, for almost 30 years, been zoned and included in McKinney’s Comprehensive Plan as being for Class A, high-rise office, hotel and other commercial uses. All of this property has been zoned for up to 15 stories for many years.

The Wines agrees that development is in the final phase where Class A, high-rise development will occur in the very near future. In fact, the owner of the 36 acres at the northeast corner of Stacy Road and the SH 121 Tollway had a contract for just such a development, said contract having recently expired because, in the opinion of the owner, the developer realized its development would not be appropriate if overhead transmission lines run next to the SH 121 Tollway. This owner estimates the potential developer/buyer has spent approximately \$500,000 in lost deposits and fees and other costs during the process of obtaining new zoning specific to its development. The only item remaining for new zoning approval was landscaping before the developer/buyer terminated the new contract.

As to page 5, Section IV A, third paragraph as to the properties on the north side of the SH 121 Tollway east of Stacy Road and west of McKinney Place Drive, the McKinney Comprehensive Plan has also “preserved continuously through the decades in order to insure the final element was present in the community when the time for that development came.”

As to page 6, second paragraph, item 1, these same statements can be made regarding the over ½ mile of SH 121 Tollway frontage on the north side of the SH 121 Tollway EAST of Stacy and WEST of McKinney Place Drive as to the City of McKinney.

As to page 6, item 2, first paragraph, the same statements can be made by the City of McKinney as to the properties EAST of Stacy Road and WEST of McKinney Place Drive.

Because of the approximate ½ mile of SH 121 Tollway frontage on the north side owned by the Wines' 30 acres, it is all appropriate for Class A, high-rise development because developers pay large premiums to obtain SH 121 Tollway direct access and exposure. In fact, unlike larger developments without such a large amount of direct access and exposure to the SH 121 Tollway, this 30-acre tract is actually far more valuable on a per square foot basis than large tracts.

As to page 7, item 3, the Wines agrees with all of these statements as they also apply to the north side of the SH 121 Tollway, east of Stacy Road and west of McKinney Place Drive.

As to page 7, item 4, the properties owned by the Wines on the east side of Stacy and west of McKinney Place Drive represent the best of the land in McKinney on the north side of the SH 121 Tollway for such Class A, high-rise, commercial development.

If the lines are installed above ground along the north side of the SH 121 Tollway, east of Stacy Road and west of McKinney Place Drive, the City of McKinney and "its residents will suffer from the lack of a robust employment center necessary to provide the entire area's residents with increased job opportunities," cause a significant loss of property and sales tax base, and create a huge eyesore that will be very visible to anyone traveling along the SH 121 Tollway or its service roads.

As to page 8, item 5, the Johnson/Hines proposed development at the southeast corner of Alma and the SH 121 Tollway is an illustration of the type of development that can occur in this area IF there are not overhead transmission lines separating the SH 121 Tollway and its service roads from the development of the properties. The same is true of

the properties on the north side of the SH 121 Tollway east of Stacy and west of McKinney Place Drive.

On page 9, second and third paragraphs, the Wines also knows the presence of overhead transmission lines adjoining the north side of the SH 121 Tollway and its service roads will literally destroy the value of their properties and prevent the type of Class A, high-rise, office, hotel and commercial development that is envisioned.

As to page 10, item C, the right-of-way cost, including damages to remaining property for the property owned by the Wines and for Route 17 will almost certainly exceed any per square foot right-of-way costs, including damages to remaining property, of other right-of-way costs along either side of the SH 121 Tollway due to the fact that so much frontage on the SH 121 Tollway can be obtained by purchasing fewer acres.

The Wines agrees with the remainder of item C except to add that it appears Brazos has also not adequately, if at all, considered the very significant damages that will occur to the remainder of the properties on which the right-of-way will occur. Brazos should be required to perform these studies and obtain more adequate data before charging in and destroying the economic development property tax base of the area, as well as creating a very visible eyesore to the approximate 400,000 cars per week that use this portion of the SH 121 Tollway. The SH 121 Tollway Authority has already announced that it will expand the SH 121 Tollway from six lanes to eight lanes beginning in 2018 due to the rapidly increasing traffic on the SH 121 Tollway.

However, the Wines disagree with the last sentence of Section C on page 11 as to the part of Route 17 that affects the properties on the north side of the SH 121 Tollway

between Stacy Road and McKinney Place Drive. The correct conclusion is that overhead lines should not be approved for any route that adjoins the SH 121 Tollway.

As to Section VI beginning on page 13, the Wines agrees with all of its contents except that Route 17 as it applies to the properties east of Stacy Road and west of McKinney Place Drive would certainly not be a “least expensive route” by any stretch of the imagination.

The Wines again argue that a route other than along the SH 121 Tollway should be selected for all of the reasons stated herein. It is noted that the Conclusion is listed as Section VI when it should be Section VII.

III. REPLY TO COMMISSION STAFF

The Wines reply to filing under item #659 by the Commission Staff.

As to page 1, Section IA first paragraph, the Wines agrees with this paragraph except as to the last sentence wherein it is stated that Route 11 is the route that best meets the Commission’s routing criteria. We believe a route other than adjoining the SH 121 Tollway would be the best route and that routes that are not being currently considered that are north of those currently being considered would be much better.

As to page 1, Section B, first paragraph, the Wines agrees with this paragraph except we would add the fact that the total cost for right-of-way (including damages to remaining property) would cause the ratepayers to have to bear an unnecessary burden of higher rates than if the route selected does not adjoin the SH 121 Tollway. In addition, these non-Tollway routes would cause far less decrease in the property tax base of the area, increased employment in the area, and result in an eyesore that is far less visible in the community.

As to page 2, Section B, first paragraph, the Wines disagrees again that Route 11 is the best route for the reasons included in this filing.

As to page 5, first paragraph, item 2, the estimated cost of \$25.5 million for Route 11 is not the least costly overall. The \$25.5 million does not consider the tens of millions of dollars that will have to be paid by the ratepayers for the damages to the remaining property on which the right-of-way will be purchased. Damages to remaining property will be far less on non-Tollway routes.

As to page 5, second paragraph, the incredible eyesore that will be created by overhead transmission lines on the SH 121 Tollway that currently has over 400,000 cars per week will certainly greatly reduce the shared appreciation of the area. To our knowledge, no owner or resident has expressed that they are in favor of these overhead transmission lines on any route in this area other than owners and cities wanting to move the lines to other owners or another city.

As to Page 8, first item in the table, this table only shows routes that adjoin the SH 121 Tollway which currently have over 400,000 cars passing the sites weekly. In addition, this part of SH 121 Tollway will begin adding two additional lanes in 2018 because of the rapidly increasing traffic. There are other routes being considered that do not adjoin the SH 121 Tollway as well as routes not currently being considered off the SH 121 Tollway to the north that would have far less negative visual impact to the communities.

As to page 9, Section B2, as stated above, the \$25.5 million does not consider the tens of millions of dollars of damages that will have to be paid to the property owners for the resulting decrease in the value of the remaining property on which the right-of-way

will be located. If these damages and right-of-way costs are properly considered, any route that includes any part adjoining the SH 121 Tollway will be far more expensive for the ratepayers than other routes.

As to page 9, Section B3, Routes that adjoin the SH 121 Tollway will have far greater visibility than other routes and will decrease the value and economic development in the area far greater than routes that are not along the SH 121 Tollway. The esthetics of the area is also much less negatively affected by routes that are not along the SH 121 Tollway.

As to page 9, Section B4, Routes adjoining the SH 121 Tollway that have such a high traffic count indicates that routes should be preferred that do not have such visibility to reduce the impact of such a large eyesore as overhead transmission lines.

As to page 11, item 6, this paragraph does not consider the thousands of individuals who will be working in buildings next to the transmission lines along Route 11.

As to page 12, Section IV A, Routes adjoining the SH 121 Tollway should be more properly eliminated or placed at the bottom of the most favorable list because when the total cost is considered, including damages to remaining property on which the right-of-way will be located, the total cost of these SH 121 Tollway routes is far greater than other non-Tollway routes. The ratepayers will not be well served if they have to pay for the increased cost of having the route along any part of the SH 121 Tollway.

As to pages 12 to 19 fail to consider the very large decrease in the “need” in this area if routes that run along any part of the SH 121 Tollway are selected. Overhead lines along either side of the SH 121 Tollway will result in “garbage type, low-rise

development” as opposed to Class A high-rise development. These routes will greatly reduce employment in the area and thereby automatically reduce the electricity “need” in the surrounding area.

As to page 13, second paragraph, Brazos’s Application should also be denied because it did not properly indicate the cost of significant damages to the value of the remaining property on which the right-of-way will be located. These damages will be far less on non-SH 121 Tollway properties.

As to pages 13-18, a more thorough study needs to be done of the possibility of serving this area by selecting routes that are north of (and do not adjoin) the SH 121 Tollway. These routes would have the benefit of greatly reduced visibility and cost.

As to page 18, Section C, any route that does not adjoin the SH 121 Tollway would have a far less negative impact on landowners by greatly reducing the loss of value and the related greatly decreased employment in the area by causing less “garbage type development” in areas that would otherwise include Class A high rise employment centers. In addition, any route that does not adjoin the SH 121 Tollway would have far less visibility to the community.

As to page 19, Section C, last sentence, Commission Staff says “it is not aware at this time of the status of any conversations between Brazos and any landowners who might have made or committed to making financial contributions to offset any incremental cost associated with alternative routes or facility configurations.” This has to be a false statement since there have been conversations and testimony by landowners that they would forego net payments for right-of-way, including damages to remaining properties, if, but only if, the lines are underground along the SH 121 Tollway. However,

this will still result in the routes adjoining the SH 121 Tollway being far more expensive than other routes since Brazos will have to pay to construct the lines underground.

As to page 21, Section VI, this is incorrectly listed in the index on page 2 as well as page 21 as Section VI. It should be Section V.

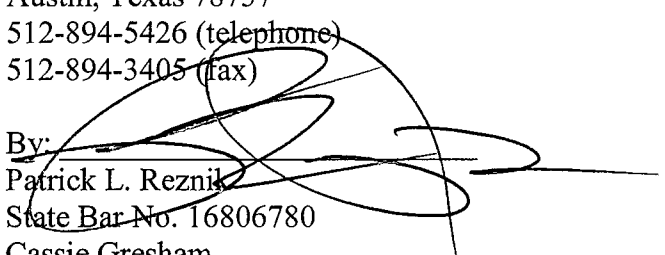
IV. CONCLUSION

The Wines property on the north side of SH 121 Tollway will be equally adversely affected as the Wines property on the south side if the transmission lines are constructed above ground along the north side of SH 121 Tollway. Wines respectfully request that the ALJs' Proposal for Decision ("PFD") recommend, and ultimately the Commission's Final Order deny the Application and deny approval of any proposed routes unless Brazos has met its burden of proof on need; otherwise, only approve Routes 7, 8, 11, 17 or 25 if underground construction of the lines is ordered

Respectfully submitted,

BRAUN & GRESHAM, PLLC

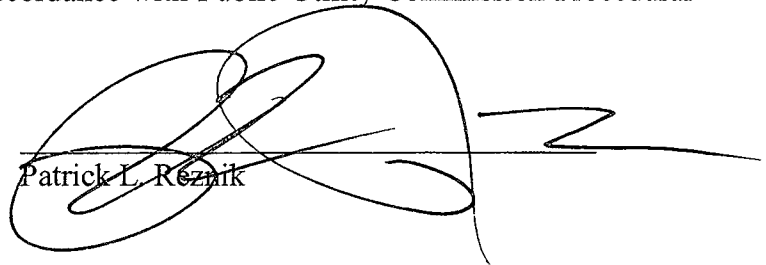
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**ATTORNEYS FOR THE WINES
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CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on this the 30th day of August, 2017, in accordance with Public Utility Commission Procedural Rule 22.74.


Patrick L. Reznik