

Control Number: 47884



Item Number: 177

Addendum StartPage: 0

APPLICATION OF RAYBURN § BEFORE THE STATE OFFICE  
COUNTRY ELECTRIC COOPERATIVE, §  
INC. TO AMEND ITS CERTIFICATE OF §  
CONVENIENCE AND NECESSITY FOR § OF  
THE LOWER BOIS D'ARC WATER §  
TREATMENT PLANT 138-KV §  
TRANSMISSION LINE IN FANNIN AND §  
HUNT COUNTIES, TEXAS § ADMINISTRATIVE HEARINGS

**RAYBURN COUNTRY ELECTRIC COOPERATIVE, INC.'S  
POST-HEARING REPLY BRIEF**

**TABLE OF CONTENTS**

I. INTRODUCTION ..... 3  
II. REPLY TO INITIAL BRIEFS ..... 4  
    A. Preliminary Order Issue No. 2 ..... 4  
    B. Preliminary Order Issue Nos. 4 & 5..... 5  
III. CONCLUSION..... 7  
CERTIFICATE OF SERVICE ..... 8

**SOAH DOCKET NO. 473-18-2500  
DOCKET NO. 47884**

<b>APPLICATION OF RAYBURN</b>	<b>§</b>	<b>BEFORE THE STATE OFFICE</b>
<b>COUNTRY ELECTRIC COOPERATIVE,</b>	<b>§</b>	
<b>INC. TO AMEND ITS CERTIFICATE OF</b>	<b>§</b>	
<b>CONVENIENCE AND NECESSITY FOR</b>	<b>§</b>	<b>OF</b>
<b>THE LOWER BOIS D'ARC WATER</b>	<b>§</b>	
<b>TREATMENT PLANT 138-KV</b>	<b>§</b>	
<b>TRANSMISSION LINE IN FANNIN AND</b>	<b>§</b>	
<b>HUNT COUNTIES, TEXAS</b>	<b>§</b>	<b>ADMINISTRATIVE HEARINGS</b>

**RAYBURN COUNTRY ELECTRIC COOPERATIVE, INC.'S  
POST-HEARING REPLY BRIEF**

TO THE HONORABLE ADMINISTRATIVE LAW JUDGE HARVEL:

Initial post-hearing briefs were filed in this docket by:

- Rayburn Country Electric Cooperative, Inc. (“Rayburn”);
- Staff (“Staff”) of the Public Utility Commission of Texas (“PUC” or “Commission”);
- Jeremiah Gilliland;
- Huan Yang;
- the Northern Alliance (Paul Gant; Billy R. Gant, Trustee; James Stone, III; Robert W. Irish, Jr.; Ron Wahlquist; T.W.M. Long, III; and Robert Peace);
- the Eastern Alliance (Bill Hardin; Janee Lindsey Paul; Alan McDonald; and the Goodman Family Living Trust);
- the South Intervenors (Ben Dyer; Frances Hickman; Jack Norman; and Jay Norman); and
- the Route Mod L Alliance (Linda Lee Leslie; Hot House Plants Limited Partnership; Hank Mastellar; Mark and Phyllis Morgan; William Roberts; and Ray Jack Roberts).

In reply to those initial briefs, Rayburn respectfully submits this Post-Hearing Reply Brief (“Reply Brief”). Pursuant to SOAH Order No. 8, this reply brief is timely filed.

## I. INTRODUCTION

On January 5, 2018, Rayburn filed an Application to Amend a Certificate of Convenience and Necessity (“CCN”) for the Lower Bois d’Arc Water Treatment Plant 138-kV Transmission Line in Fannin and Hunt Counties, Texas (the “Project”). The Project will connect a planned substation to be constructed by Rayburn’s member-cooperative, Fannin County Electric Cooperative, Inc. (“Fannin County”) to a proposed switch/meter station located along an existing 138-kV transmission line owned by Oncor Electric Delivery Company, LLC. The record evidence conclusively establishes the need for the Project and overwhelmingly supports approval of Rayburn’s Application.

Each party filing initial briefs addressed issues identified in the Order of Referral and Preliminary Order for this proceeding. Of the issues addressed in initial briefing, the central issue concerns the routing for the Project. Despite some parties’ challenges to particular segments or opposition to proposed route alternatives, the uncontroverted record evidence confirms that all 17 routes under consideration address the need for the Project and are viable and constructible. All parties filing briefs supported Route Mod L, Route Mod L-23A, or both.

Rayburn’s Initial Post-Hearing Brief (“Initial Brief”) addresses: (1) the Order of Referral and Preliminary Order issues identified by the Commission; and (2) the record evidence demonstrating that the Project is needed and that the Application should be approved. This Reply Brief addresses the initial briefs of the other parties only as necessary to clarify the record on matters of routing. There is little dispute between the parties on routing, and no dispute on any other issue. To the extent a particular subject is not covered by this Reply Brief, Rayburn relies on the discussion in its Initial Brief and the record evidence cited therein.

## II. REPLY TO INITIAL BRIEFS

### A. Preliminary Order Issue No. 2

No party challenged the need for the Project. But, Rayburn would like to clarify the record evidence of projected load requirements of the North Texas Municipal Water District (“NTMWD”) water treatment plant as compared to the projected growth of Fannin Electric’s peak system load, generally. The primary driver of need is the projected load requirements at NTMWD’s new water treatment plant and not normal load growth on Fannin Electric’s system.<sup>1</sup> The projected load requirements for NTMWD’s water treatment plant are approximately 17.07 MW by 2020 for Phase I, 34.14 MW by 2025 for Phase II, 55.13 MW by 2030 for Phase III, and 85.57 MW by 2035 for Phase IV.<sup>2</sup> This water treatment plant load will be added to Fannin Electric’s existing and projected peak system load, which was approximately 45 MW in 2017, and is expected to increase to 49 MW by 2020, 55 MW by 2025, 68 MW by 2030, and 78 MW by 2035.<sup>3</sup> Adding NTMWD’s water treatment plant load to Fannin Electric’s peak system load results in total anticipated load of 66.07 MW by 2020 (17.07 MW + 49 MW), 89.14 MW by 2025 (34.14 + 55 MW), 123.13 MW by 2030 (55.13 MW + 68 MW), and 163.57 MW by 2035 (87.57 MW + 78 MW).<sup>4</sup> As discussed in Rayburn’s Initial Brief, the NTMWD water treatment plant load alone adds substantial, concentrated load to the Fannin Electric system, such that the system will not be able to reliably serve the NTMWD water treatment plant load without the Project.

---

<sup>1</sup> Tr. 39:6–10 (Natti Cross).

<sup>2</sup> Application, RCEC Ex. 1 at 17; Direct Testimony of Satish Natti, PhD, RCEC Ex. 4 at 8; Tr. 38:9–39:5 (Natti Cross).

<sup>3</sup> RCEC Ex. 4 at 8.

<sup>4</sup> RCEC Ex. 1 at Attachment 6, p. 4. In its Initial Brief, Staff correctly states that the “total load need will rise to nearly 85 MW by 2035 as a result of the new water treatment facility,” but the total projected load for 2035 is 163.57 MW—87.57 MW attributed to the water treatment plant and 78 MW attributed to Fannin Electric’s general system. See Commission Staff’s Initial Brief (“Staff Brief”) at 17.

## B. Preliminary Order Issue Nos. 4 & 5

As an initial matter, Rayburn notes that certain intervenors' initial briefs focus on specific characteristics of individual segments rather than end-to-end routes when discussing which proposed route is the best alternative under the factors set forth in the Public Utility Regulatory Act<sup>5</sup> ("PURA") § 37.056(c) and 16 TEX. ADMIN. CODE ("TAC") § 25.101(b)(3)(B).<sup>6</sup> Rayburn does not endorse the comparison of individual segments in isolation in evaluating potential route alternatives, given that factors such as disparate segment lengths often render such comparisons generally unhelpful in identifying a route from endpoint to endpoint that satisfies the need for the Project. Segment differences should be viewed in light of how they affect route comparisons overall.

All intervenors filing initial briefs support Route Mod L, Route Mod L-23A, or both.<sup>7</sup> Route Mod L and Route Mod L-23A have many similarities,<sup>8</sup> and Rayburn believes both Route Mod L and Route Mod L-23A satisfy the Commission's routing criteria. Commission Staff supports the adoption of Route Mod L.<sup>9</sup> According to Commission Staff, "Route Mod L best balances the desire to select a route exhibiting reasonable quantitative criteria, while also exhibiting qualitative features consistent with the community values expressed by multiple parties and residents."<sup>10</sup> Specifically, Commission Staff argues that as compared to Route Mod L-23A,

---

<sup>5</sup> TEX. UTIL. CODE §§ 11.001–66.017.

<sup>6</sup> See Initial Post-Hearing Brief of Intervenor Huan (Cathy) Yang ("Yang Brief") at 1–2.

<sup>7</sup> The Texas Parks and Wildlife Department recommended Route D as "the route having the least potential to impact fish and wildlife resources." Compare Direct Testimony of John Poole, Staff Ex. 1 at Exhibit JP-3 (Page 4 of Letter), with Staff Brief at 11.

<sup>8</sup> For example, the routes have the same: (1) number of road/highway crossings (9); (2) estimated length of right-of-way ("ROW") in the foreground visual zone of parks/recreational areas (2.2 miles); length of ROW crossing bottomland/riparian woodland (0.12 miles) and wetlands (0.07 miles); and number of cultural resources sites crossed by ROW (1) or within 1,000 feet of the ROW centerline (2). See Table 6-1A, RCEC Ex. 11. Rayburn would also point out that while neither route crosses parks/recreational areas or has parks/recreational areas within 1,000 feet of the ROW centerline, see RCEC Ex. 11, there are three parks/recreational areas in the study area. See RCEC Ex. 1 at 11.

<sup>9</sup> Staff Brief at 20.

<sup>10</sup> *Id.* at 5.

Route Mod L better addresses community values, impacts fewer habitable structures, is shorter, and is less expensive.<sup>11</sup>

Rayburn agrees with Commission Staff that Route Mod L best balances the Commission's routing factors. Route Mod L has tremendous intervenor support,<sup>12</sup> is the third-least-expensive route with an estimated cost of \$9,165,063.44,<sup>13</sup> is the third-shortest route (12.98 miles),<sup>14</sup> and impacts the third-fewest number of habitable structures (16).<sup>15</sup> Comparatively, Route Mod L-23A is the seventh-least-expensive route with an estimated cost of \$9,883,573.60,<sup>16</sup> is the third-shortest route (13.09 miles),<sup>17</sup> and impacts the ninth-most habitable structures (21).<sup>18</sup> The potential benefit Route Mod L-23A has over Route Mod L is that Route Mod L-23A avoids bisecting property owned by intervenor Huan "Cathy" Yang.<sup>19</sup> But, the benefit of avoiding Ms. Yang's property comes at an increased cost (\$590,455.07 more than Route Mod L) and greater impact to habitable structures (5 more affected habitable structures than Route Mod L).<sup>20</sup>

Route Mod L uses Segment 22, which diagonally crosses Ms. Yang's property.<sup>21</sup> Ms. Yang's property is currently used for growing corn.<sup>22</sup> As explained by Rayburn's routing consultant, Lara Zuzak, Segment 22 was routed this way to avoid impacts to habitable structures and water features in the area.<sup>23</sup> Route Mod L-23A uses Segment 23A, which avoids crossing Ms. Yang's property by mostly paralleling Hwy 78, except for several angle diversions to move farther

---

<sup>11</sup> *Id.* at 6–7, 12 & 20.

<sup>12</sup> *See* Rayburn's Initial Post-Hearing Brief ("Initial Brief") at 17 n.83.

<sup>13</sup> Rebuttal Testimony of Stephen Geiger, P.E., RCEC Ex. 5 at Exhibit SG-2R.

<sup>14</sup> RCEC Ex. 11.

<sup>15</sup> *Id.*

<sup>16</sup> RCEC Ex. 5 at Exhibit SG-2R.

<sup>17</sup> RCEC Ex. 11.

<sup>18</sup> *Id.*

<sup>19</sup> *See* Yang Brief at 1–2.

<sup>20</sup> *See* RCEC Ex. 11; RCEC Ex. 5 at Exhibit SG-2R.

<sup>21</sup> Tr. 28:24–29:5; 34:6–35:7 (Zuzak Cross).

<sup>22</sup> Tr. 53:3–18 (Yang Cross).

<sup>23</sup> Tr. 33:2–25 (Zuzak Cross).

from the additional habitable structures along Segment 23A.<sup>24</sup> The added length and angle diversions increase cost to Route Mod L-23A.<sup>25</sup> Whether mitigating impacts to Ms. Yang justifies the added cost and impact to habitable structures associated with Route Mod L-23A is a policy decision the Commission must consider in this case.

Given the Commission's prior emphasis on costs and habitable structures, Rayburn asserts that Route Mod L is the route that best addresses the requirements of PURA and the PUC's Substantive Rules.

### III. CONCLUSION

As explained in Rayburn's Initial Brief, Route Mod L better satisfies the factors set forth in PURA § 37.056(c)(4) and 16 TAC § 25.101(b)(3)(B) than does Route Mod L-23A. Route Mod L and Route Mod L-23A are similar in most respects, including length and potential environmental impacts. But Route Mod L better addresses community values, is less expensive, and mitigates impacts to habitable structures. For these reasons, Rayburn continues to believe that its Application should be approved on Route Mod L in accordance with Rayburn's proposed findings of fact and conclusions of law.<sup>26</sup> Ultimately, Rayburn can and will construct this Project on any proposed alternative route selected by the Commission, including Route Mod L-23A.

Respectfully submitted,



---

Carl R. Galant  
State Bar No. 24050633  
Campbell McGinnis  
State Bar No. 13630500  
Brytne D. Kitchin

---

<sup>24</sup> Tr. 35:10–36:2 (Zuzak Cross).

<sup>25</sup> Tr. 37:6–38:8 (Geiger Cross).

<sup>26</sup> See Rayburn's Initial Brief at Attachment 1 (Proposed Final Order).

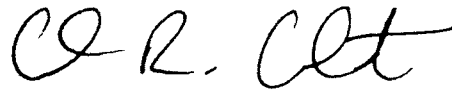


State Bar No. 24079973  
MCGINNIS, LOCHRIDGE & KILGORE, LLP  
600 Congress Ave., Ste. 2100  
Austin, Texas 78701  
Phone: (512) 495-6083  
Fax: (512) 505-6383  
[cgalant@mcginnislaw.com](mailto:cgalant@mcginnislaw.com)

**ATTORNEYS FOR RAYBURN COUNTRY  
ELECTRIC COOPERATIVE, INC.**

**CERTIFICATE OF SERVICE**

I hereby certify that a true and complete copy of the above and foregoing document was served on all parties of record in this proceeding as required by order or in accordance with P.U.C. PROC. R. § 22.74 on September 21, 2018.



---

Carl R. Galant