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**SOAH DOCKET NO. 473-22-2695
DOCKET NO. 53601**

APPLICATION OF ONCOR ELECTRIC	§	BEFORE THE STATE OFFICE
DELIVERY COMPANY, LLC FOR	§	OF
AUTHORITY TO CHANGE RATES	§	ADMINISTRATIVE HEARINGS

**JOINT MOTION FOR EXTENSION OF THE PROCEDURAL SCHEDULE
AND REQUEST FOR EXPEDITED RULING**

TO THE HONORABLE ADMINISTRATIVE LAW JUDGES:

Pursuant to 16 Texas Administrative Code §§ 22.4(b) and 22.77, East Texas Electric Cooperative, Inc. (“ETEC”) and Rayburn Country Electric Cooperative, Inc. (“Rayburn”) (collectively, “Joint Movants”) submit this Joint Motion for Extension of the Procedural Schedule and Request for Expedited Ruling in the above-captioned proceeding before the Public Utility Commission of Texas (“PUC” or “Commission”). Despite the Joint Movants efforts to diligently develop their case in accordance with the discovery procedures established by the presiding administrative law judges (“ALJs”) in Order No. 1¹ and the procedural schedule set forth in Order No. 2,² the Joint Movants have been unable to secure full and complete discovery responses from Oncor Electric Delivery Company, LLC (“Oncor”).

The information requested in discovery by the Joint Movants is relevant to the Commission’s determination of whether Oncor’s proposed 213.3 percent increase for distribution line service (“DLS”) and 158.6 percent increase for substation transformation service (“XFMR”) are just and reasonable in accordance with section 36.003 of the Public Utility Regulatory Act (“PURA”). ETEC and Rayburn are wholesale customers that take DLS and XFMR service from

¹ Docket No. 53601, *Application of Oncor Electric Delivery Company, LLC for Authority to Change Rates*, Order No. 1 (May 17, 2022).

² Docket No. 53601, *Application of Oncor Electric Delivery Company, LLC for Authority to Change Rates*, Order No. 2 (June 24, 2022).

Oncor. In light of the excessive rate increases proposed by Oncor, the Commission must consider whether the costs related to DLS and XFMR could, and should be, directly assigned to the wholesale customer classes that use the applicable distribution facilities.

Accordingly, as described herein and for good cause shown, the Joint Movants respectfully request that the ALJs enter an Order expeditiously and extend the August 26, 2022 deadline for the Intervenor's Direct Testimony to a date 10 days after Oncor fully complies with the discovery orders and adopt the Modified Procedural Schedule, attached hereto as Attachment A.³ In the alternative, the Joint Movants request that the ALJs grant the Joint Movants leave to file limited Supplemental Intervenor Direct Testimony after Oncor has complied fully with its discovery obligations in this proceeding.

I. REQUEST FOR EXTENSION OF TIME

Good cause exists to grant this joint motion to extend the procedural schedule because Oncor has obstructed the Joint Movants' discovery efforts to obtain data that are germane to the issue of whether Oncor's proposed rates are just and reasonable and not unreasonably preferential, prejudicial, or discriminatory. Specifically, Oncor has failed to respond fully to the Joint Movants' discovery requests, including Requests for Information ("RFIs") and corporate depositions, that pertain to the issue of whether costs should be directly assigned to Oncor's wholesale customers.

As the ALJs will recall from Joint Movants' prior pleadings, Oncor completely failed to file as part of its Application information and data that supports and justifies the exorbitant wholesale rate increases, nor did Oncor file data from which a direct assignment study could be developed. Joint Movants were therefore left with the task of obtaining that information through

³ Due to the impending August 26, 2022 deadline for Intervenor's Direct Testimony, Joint Movants were unable to survey all participants as to their respective positions on the relief requested in this motion. Joint Movants aver that no party will be prejudiced by the relief requested herein.

discovery. Unfortunately, since the commencement of this proceeding, Oncor has repeatedly hampered the Joint Movants' efforts to develop their case by engaging in dilatory discovery tactics and procedural gamesmanship. On May 27, 2022, ETEC issued its first set of RFIs to Oncor. ETEC's discovery sought data that is essential to the preparation of a direct assignment study as it concerns the costs to serve wholesale customers. After Oncor failed to submit timely responses to ETEC's first set of RFIs, ETEC filed a motion to compel on June 17, 2022.⁴ On July 11, 2022, the ALJs issued Order No. 6, granting in part and denying in part ETEC's motion to compel. Relevant to the instant motion, the ALJs recognized that the Joint Movants:

have shown that the requested information is relevant to the issue of whether Oncor's proposed rates are just and reasonable and . . . [t]he requested information is also necessary for those parties to analyze the direct assignment issue, as shown by the Commission's prior cases requiring Oncor to maintain and provide such information.⁵

The ALJs directed Oncor to "make a good faith effort to provide the responsive information it possesses in its native or another usable format."⁶ Oncor has yet to fully respond to ETEC's outstanding RFIs, despite Order No. 6's explicit instructions.

Nonetheless, the Joint Movants continued to pursue good faith efforts to obtain the data needed to analyze the direct assignment issue by propounding three additional sets of RFIs to Oncor and deposing Oncor's corporate representative. To date, Oncor has failed to produce any

⁴ East Texas Electric Cooperative, Inc.'s Motion to Compel Responses to its First Set of Requests for Information to Oncor Electric Delivery Company LLC, Docket No. 53601 (June 17, 2022). Rayburn filed a response in support of ETEC's Motion to Compel on June 27, 2022. Rayburn Country Electric Cooperative, Inc.'s Response in Support of East Texas Electric Cooperative, Inc.'s Motion to Compel, Docket No. 53601 (June 27, 2022).

⁵ Docket No. 53601, *Application of Oncor Electric Delivery Company, LLC for Authority to Change Rates*, Order No. 6 at 8 (July 11, 2022).

⁶ *Id.* at 3.

information that is responsive to ETEC's requests related to direct assignment. As discussed in Order No. 6, the Commission ordered Oncor in PUC Docket No. 35717 to:

maintain data adequate for the direct assignment of costs to those wholesale classes and to prepare a direct assignment study for those classes for consideration in a future project to evaluate whether direct assignment should be used for allocating costs to the wholesale classes of customers or for consideration in Oncor's next rate proceeding.⁷

The information Oncor is required to maintain should be responsive to ETEC's requests related to direct assignment and would not necessitate the production of additional analyses. Given that Oncor has been ordered by the Commission to maintain adequate data for the direct assignment of costs, responding to ETEC's RFIs seeking such data should not be unduly burdensome on Oncor.

Further frustrating the Joint Movants' discovery attempts, Oncor produced a "corporate representative" that had no knowledge of Oncor's corporate financial data maintenance practices and procedures. Rather than facilitating a full and transparent deposition, Oncor counsel refused to permit the deposition witness to respond to general questions regarding the deponent's pre-filed testimony.⁸ When the Joint Movants requested to depose an Oncor representative that could testify about data related to direct assignment, Oncor claimed that it could not produce such a representative before the August 26, 2022 Intervenor Direct Testimony deadline.

Oncor has contravened the Commission's procedural rules and clear directives in Order No. 6 by delaying for over two months the production of data and documents that the Joint Movants have properly and timely requested in the course of discovery. The Joint Movants and other parties to this case should be afforded sufficient time to fully review the discovery that Oncor is required

⁷ *Id.* at 20 FOF 174A.

⁸ *See* Attachment B (excerpt of deposition).

to produce pursuant to Order No. 6 and utilize such discovery in the preparation of direct testimony.

Under the current procedural schedule, Intervenor Direct Testimony is due on August 26, 2022. Even if Oncor were to produce all of the required information today, which is unlikely, there is simply not enough time for the Joint Movants to review and analyze the requested information and prepare their testimony under the current procedural schedule.

The only acceptable remedy to address the discovery delays caused by Oncor is to extend the procedural schedule. Good cause exists to extend the procedural schedule deadline for Intervenor Direct Testimony to prevent irreparable harm to the Joint Movants and to allow for the development of a full and complete record for consideration by this Commission. In the alternative, the Joint Movants request that the ALJs grant the Joint Movants leave to file limited Supplemental Intervenor Direct Testimony addressing the direct assignment issue that incorporates outstanding data that Oncor is already obligated to produce. The Commission's procedural rules are designed to ensure fair play and transparency; Oncor's unilateral actions have seriously and detrimentally interfered with Joint Movants' rights and ability to adequately prepare and present their case. The Commission cannot condone Oncor's blatant and deliberate strategy to impede Joint Movants' discovery and ignore and defy previous discovery orders entered by the ALJs. Joint Movants have expended all reasonable efforts to obtain the discovery needed to prepare their case, and have no other option but seek such relief through this motion and enforcement of prior discovery orders.

II. CONCLUSION

For the reasons stated herein, the Joint Movants request that the ALJs extend the deadline for Intervenor Direct Testimony, as proposed in the Modified Procedural Schedule in Attachment

A. Joint Movants also request that the ALJs further order Oncor to provide the requested discovery without additional delay. The Joint Movants further request any other relief to which they have shown themselves to be justly entitled. Given that the deadline for filing Intervenor Direct Testimony is rapidly approaching, the Joint Movants respectfully request that the ALJs expeditiously rule on this motion.

Respectfully submitted,

/s/ Emma F. Hand

Emma F. Hand
Justin J. Mirabal
State Bar No. 24074731
Clarence R. Hawkes III
Dentons US LLP 1900 K Street NW
Washington, DC 20006 (202) 408-7094
emma.hand@dentons.com
justin.mirabal@dentons.com
clarence.hawkes@dentons.com

COUNSEL FOR RAYBURN COUNTRY
ELECTRIC COOPERATIVE, INC.

/s/ Mark Davis

Mark C. Davis
State Bar No. 05525050
Mark.Davis@hklaw.com
Adrianne M. Waddell
State Bar No. 24098556
Adrianne.Waddell@hklaw.com
Jacob J. Lawler
State Bar No. 24076502
Jacob.Lawler@hklaw.com
HOLLAND & KNIGHT, LLP
98 San Jacinto Blvd., Suite 1900
Austin, Texas 78701
(512) 472-1081
(512) 472-7473 FAX

COUNSEL FOR EAST TEXAS ELECTRIC
COOPERATIVE, INC.

CERTIFICATE OF SERVICE

I certify that, unless otherwise ordered by the presiding officer, notice of the filing of this document was provided to all parties of record via electronic mail on August 25, 2022, in accordance with the Second Order Suspending Rules, issued in Docket No. 50664.

/s/ Jacob Lawler
Jacob Lawler

Attachment A

The Joint Movants propose the following Modified Procedural Schedule:

Modified Procedural Schedule

Event	Scheduled Date	Proposed Date
Intervenor's Direct Testimony	August 26, 2022	10 days after Oncor's production of the information requested through discovery
Staff's Direct Testimony	September 2, 2022	To be determined based on date(s) above.
Deadline for written discovery on Intervenor's Direct Testimony	September 5, 2022	To be determined based on date(s) above.
Deadline for written discovery on Staff's Direct Testimony; Objections to Intervenor's and Staff's Direct Testimony	September 6, 2022	To be determined based on date(s) above.
Intervenor's and Staff's Cross-Rebuttal Testimony; Oncor's Rebuttal Testimony	September 16, 2022	To be determined based on date(s) above.
Deadline for Statements of Position	September 20, 2022	To be determined based on date(s) above.
Deadline for written discovery on Oncor's Rebuttal Testimony and Intervenor's and Staff's Cross-Rebuttal Testimony; Response to Objections to Intervenor's and Staff's Direct Testimony; Objections to Oncor's Rebuttal Testimony and Intervenor's and Staff's Cross-Rebuttal Testimony	September 21, 2022	To be determined based on date(s) above.
Deadline for Prefiling Hearing Documents (see requirements below) and Statement Regarding Settlement Discussions	September 22, 2022	To be determined based on date(s) above.
Deadline for written and/or oral response at hearing on the merits to objections to	September 26, 2022	To be determined based on date(s) above.

Event	Scheduled Date	Proposed Date
Oncor's Rebuttal Testimony and Intervenor's and Staff's Cross-Rebuttal Testimony		
Hearing on the Merits (via Zoom videoconference)	September 26, 2022 – October 5, 2022	To be determined based on date(s) above.
Initial Briefs	October 14, 2022	To be determined based on date(s) above.
Reply Briefs and Proposed Findings of Fact, Conclusions of Law, and Ordering Paragraphs	October 28, 2022	To be determined based on date(s) above.

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APPLICATION OF ONCOR) BEFORE THE STATE OFFICE OF
ELECTRIC DELIVERY COMPANY,)
LLC, FOR AUTHORITY TO)
CHANGE RATES) ADMINISTRATIVE HEARINGS

ORAL DEPOSITION OF

DANE WATSON

Wednesday, August 24, 2022

(Via Zoom Videoconference)

ORAL DEPOSITION of DANE WATSON, produced as a witness at the instance of East Texas Electric Cooperative, Inc. and duly sworn, was taken in the above-styled and numbered cause on Wednesday, August 24, 2022, from 2:04 p.m. to 3:05 p.m., before Kim Pence, Certified Shorthand Reporter in and for the State of Texas, reported remotely by computerized stenotype machine at the witness' location in Indianapolis, Indiana, pursuant to the Texas Rules of Civil Procedure and the provisions stated on the record or attached hereto.

APPEARANCES

FOR EAST TEXAS ELECTRIC COOPERATIVE, INC.:

Mr. Jacob J. Lawler
Ms. Adrienne M. Waddell
HOLLAND & KNIGHT, LLP
98 San Jacinto Boulevard, Suite 1900
Austin, Texas 78701
Telephone: 512.472.1081 - Fax: 512.472.7473
email: jacob.lawler@hklaw.com
adrienne.waddell@khlaw.com

FOR ONCOR ELECTRIC DELIVERY COMPANY, LLC:

Howard V. Fisher
ONCOR ELECTRIC DELIVERY COMPANY, LLC
1616 Woodall Rodgers Freeway
Dallas, Texas 75202
Telephone: 214.486.2000

-- AND --

Mr. Tab R. Urbantke
Ms. Lauren Freeland
Hunton Andrews Kurth, LLP
1445 Ross Avenue, Suite 3700
Dallas, Texas 75202
Telephone: 214.979.3095 - Fax: 214.880.0011
email: turbantke@huntonak.com
lfreeland@huntonak.com

FOR RAYBURN COUNTRY ELECTRIC COOPERATIVE, INC.:

Ms. Emma F. Hand
Mr. Justin J. Mirabal
Dentons US, LLP
1900 K Street NW
Washington, D.C. 20006
Telephone: 202.408.7094
email: emma.hand@dentons.com
justin.mirabal@dentons.com

APPEARANCES

FOR HUNT ENERGY NETWORK, LLC:

Ms. Marty Hopkins
Eversheds Sutherland
One American Center
600 Congress Avenue, Suite 2000
Austin, Texas 78701
Telephone: 512.721.2691
email: martyhopkins@eversheds-sutherland.com

FOR TEXAS INDUSTRIAL ENERGY CONSUMERS:

Mr. Michael A. McMillin
O'Melveny & Meyers, LLP
303 Colorado Street, Suite 2750
Austin, Texas 78701
Telephone: 737.261.8600
email: mmcmilllin@omm.com

ALSO PRESENT: Karen Ponder, Mike Sherburne,
Ivan Velasquez, Frank Lewis,
Roslyn Dubbers, Jim Daniel,
MariaElena Eick

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ETEC DEPOSITION EXHIBITS

NO.	DESCRIPTION	MARKED
1.	46957 - DLS Study - FINAL Submission StudyID 6220735	14
2.	1-20 Native File 1 Supplement 08-4-2022 StudyID 6220735	17
3.	53601 - Oncor Response to ETEC 3rd RFIs	NOT USED
4.	53601 - Depo Notice	28

1 THE REPORTER: This is the court reporter.
2 It is 2:49 p.m., and we are off the record.

3 (Recess: 2:49 p.m. to 2:54 p.m.)

4 THE REPORTER: It is 2:54 p.m., and we are
5 back on the record.

6 Q (BY MR. LAWLER) Mr. Watson, returning to your
7 discussion of the previous depreciation study that you
8 conducted for the Direct Assignment Study in the 2017
9 rate case, I know you said it took weeks.

10 Do you have an estimate of approximately
11 how many hours or the cost of that study?

12 A No, I don't.

13 Q Okay. And do you believe -- is it possible
14 that the study would take less time to repeat the study
15 than it took the first time now that you have, you know,
16 a basis from which to work and you've done it once?

17 A Possibly to some degree. I would -- I would
18 suggest it would probably be -- it's still in the weeks,
19 but less than the last one simply because of, you know,
20 some efficiencies we'd get this time.

21 MR. LAWLER: Okay. And we pass the
22 witness.

23 MR. MIRABAL: This is Justin Mirabal on
24 behalf of Rayburn Country Electric Cooperative. We
25 would like to ask the witness a few follow-up questions.

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EXAMINATION

BY MR. MIRABAL:

Q Good afternoon, Mr. Watson.

A Good afternoon.

Q I want to start by repeating some of the instructions that Mr. Lawler gave you earlier. We will not go off the record today unless I instruct the court officer to pause. However, I will go off the record if you or your attorney ask me to.

If you do not understand my question, please ask me to repeat the question. If you answer my question, then I will assume you understood the question. If you realize that one of your answers is incomplete, please stop me and I will go back to the question that you would like to respond to, and I will remind you that you're still under oath.

Do you understand that you're still under oath, Mr. Watson?

A I do.

Q What were you instructed to do in connection with Oncor's rate case in this proceeding?

A To develop a depreciation study for Oncor's assets as of Year End 2021, I believe, and to assist in some of the schedules, the E schedules and B schedules,

1 as necessary.

2 Q Were you given any background materials about
3 Oncor's prior rate cases before preparing your
4 testimony?

5 A I do not believe so since we were involved in
6 the last rate case.

7 Q Do you have a copy of your prepared testimony
8 with you, Mr. Watson?

9 A I do.

10 Q Do you also have a copy of the rate study that
11 you prepared, which is marked as DAW-2?

12 A I do.

13 Q Did anyone assist you in preparing your
14 testimony in this case?

15 A Yes, my senior staff; primarily Dr. Ponder.

16 Q Anyone else besides from Dr. Ponder?

17 A I don't recall if any of -- my office manager
18 probably did a lot of the formatting for me. I don't
19 recall if any other of my staff assisted in the
20 preparation.

21 Q How did Dr. Ponder assist you?

22 A She -- I mean, we worked together to develop
23 the individual Q&As, and she would draft and I would
24 edit, as appropriate, for my final review of it.

25 Q Who assisted you in preparing the depreciation

1 study that was marked as DAW-2?

2 A Dr. Ponder as well, and I think some of my
3 other staff were brought in to do various life runs or
4 building the net salvage database, various things where
5 we could have lower level staff do some of the -- the
6 data work. I don't remember if other senior staff were
7 involved in that or not. They may have been

8 MR. FISHER: Mr. Mirabal, where are you
9 going with these questions? This is outside the scope
10 of the noticed deposition.

11 MR. MIRABAL: I'm just probing how the
12 study was developed, and depreciation is -- was noticed
13 in the deposition, and this is -- goes to the witness'
14 depreciation study.

15 MR. FISHER: No, the depreciation study
16 was not noticed. The depreciation, ETEC 3, Third Set,
17 was noticed, and the second bullet point, which Oncor
18 objected to, likewise is not just a general depreciation
19 study notice.

20 So if you would like to -- this is not a
21 deposition on depreciation studies in general where
22 Mr. Watson -- for the rate case. If you would limit
23 your questions to the noticed deposition topics, then I
24 would appreciate it, or else I will instruct the witness
25 to not answer.

1 MR. MIRABAL: Understood.

2 Q (BY MR. MIRABAL) What data did Oncor provide
3 you for your depreciation study?

4 MR. FISHER: I would instruct the witness
5 to not answer the question.

6 Q (BY MR. MIRABAL) Did Frank Lewis provide that
7 data?

8 MR. FISHER: Once again, I would instruct
9 the witness to not answer. It's outside the scope of
10 the noticed deposition.

11 Q (BY MR. MIRABAL) Is the data used in your
12 depreciation study publicly available?

13 MR. FISHER: Once again, I would instruct
14 the witness not to answer.

15 Q (BY MR. MIRABAL) Mr. Watson, did you verify
16 the accuracy of the data that you were provided from
17 Oncor for your depreciation study?

18 MR. FISHER: Once again, I would instruct
19 the witness not to answer.

20 Q (BY MR. MIRABAL) Mr. Watson, do you know where
21 depreciation data is maintained at Oncor?

22 MR. FISHER: Once again, I'm going to
23 instruct the witness not to answer.

24 Q (BY MR. MIRABAL) Mr. Watson, what accounting
25 systems does Oncor use to maintain its depreciation

1 data?

2 MR. FISHER: Once again, I'm going to
3 instruct the witness not to answer. If you'd like to
4 get more detailed as to specific matters within the
5 scope of the deposition, I'd be happy to have you
6 continue.

7 Q (BY MR. MIRABAL) Mr. Watson, do you have
8 personal knowledge of Oncor's accounting procedures?

9 MR. FISHER: Once again, I believe this
10 has already been asked. I allowed Mr. Lawler to ask
11 those questions without interruption, but I don't think
12 we need to do it again.

13 MR. MIRABAL: We have no further
14 questions.

15 THE REPORTER: Mr. Lawler, we cannot hear
16 you.

17 MR. LAWLER: Thank you. If other parties
18 have questions, I think now might be the time, you know,
19 assuming they do, but if not -- you know, we have no
20 further questions and would reserve any other questions
21 for the hearing.

22 And thank you, Mr. Watson.

23 THE WITNESS: Thank you.

24 THE REPORTER: Do we need to go off the
25 record at this time? I'm not seeing anyone else.

1 (No response)

2 THE REPORTER: It is 3:05 p.m., and we are
3 off the record.

4 (Deposition concluded at 3:05 p.m.)

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6 (Signature waived in an off-the-record
7 discussion)

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1 SOAH DOCKET NO. 473-22-2695

2 PUC DOCKET NO. 53601

3 APPLICATION OF ONCOR) BEFORE THE STATE OFFICE OF
4 ELECTRIC DELIVERY COMPANY,))
5 LLC, FOR AUTHORITY TO)
CHANGE RATES) ADMINISTRATIVE HEARINGS

6
7 REPORTER'S CERTIFICATE

8 ORAL DEPOSITION OF DANE WATSON

9 Wednesday, August 24, 2022

10
11 I, KIM PENCE, Certified Shorthand Reporter in and
12 for the State of Texas, hereby certify to the following:

13 That the witness, DANE WATSON, was duly sworn and
14 that the transcript of the deposition is a true record
15 of the testimony given by the witness;

16 That examination and signature of the witness to
17 the deposition transcript was waived by the witness with
18 the agreement of the parties at the time of the
19 deposition;

20 That I was located in Paige, Texas for the taking
21 of this deposition, and the witness was located in
22 Indianapolis, Indiana;

23 That the original deposition was delivered to
24 Mr. Jacob Lawler, Custodial Attorney.

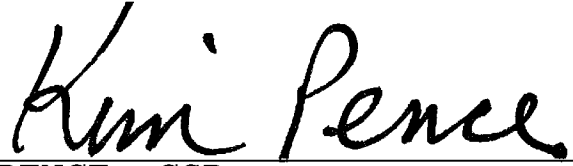
25 That pursuant to information given to the

1 deposition officer at the time said testimony was taken,
2 the following includes all parties of record and the
3 amount of time used by each party at the time of the
4 deposition:

5
6 Mr. Jacob J. Lawler (47m)
Attorney for East Texas Electric
7 Cooperative, Inc.
8 Ms. Adrienne M. Waddell (no time)
Attorney for East Texas Electric
9 Cooperative, Inc.
10 Mr. Howard V. Fisher (no time)
Attorney for Oncor Electric Delivery
11 Company, LLC
12 Mr. Tab R. Urbantke (no time)
Attorney for Oncor Electric Delivery
13 Company, LLC
14 Ms. Lauren Freeland (no time)
Attorney for Oncor Electric Delivery
15 Company, LLC
16 Mr. Justin J. Mirabal (8m)
Attorney for Rayburn Country Electric
17 Cooperative, Inc.
18 Ms. Emma F. Hand (no time)
Attorney for Rayburn Country Electric
19 Cooperative, Inc.
20 Ms. Marty Hopkins (no time)
Attorney for Hunt Energy Network, LLC
21 Mr. Michael A. McMillin (no time)
Attorney for Texas Industrial Energy
22 Consumers

23 I further certify that I am neither counsel for,
24 related to, nor employed by any of the parties in the
25 action in which this proceeding was taken, and further
that I am not financially or otherwise interested in the
outcome of this action.

1 Certified to by me on this 25th day of
2 August, 2022.

3 
4

5 KIM PENCE, CSR
6 Certified Shorthand Reporter
7 CSR No. 4595 - Expires 12/31/24

8 Firm Registration No. 276
9 Kennedy Reporting Service, Inc.
10 100 E. Whitestone Blvd., Ste. 148
11 Cedar Park, Texas 78613
12 512.474.2233
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