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<b>APPLICATION OF ONCOR ELECTRIC</b>	<b>§</b>	
<b>DELIVERY COMPANY LLC TO</b>	<b>§</b>	<b>BEFORE THE STATE OFFICE</b>
<b>AMEND ITS CERTIFICATE OF</b>	<b>§</b>	
<b>CONVENIENCE AND NECESSITY FOR</b>	<b>§</b>	<b>OF</b>
<b>THE RAMHORN HILL – DUNHAM 345</b>	<b>§</b>	
<b>KV TRANSMISSION LINE IN DENTON</b>	<b>§</b>	<b>ADMINISTRATIVE HEARINGS</b>
<b>AND WISE COUNTIES</b>	<b>§</b>	

**TOWN OF NORTHLAKE’S INITIAL POST-HEARING BRIEF**

Intervenor Town of Northlake (“Northlake”) files this initial post-hearing brief by the due date of September 7, 2023. As discussed herein, the route that best meets the applicable routing criteria is Route 179C with combined alternative route adjustments 1 and 2 proposed by La Estancia Investments, L.P. (“La Estancia”). Accordingly, Northlake supports this route and requests that the Commission approve it.

**I. INTRODUCTION**

The applicant Oncor Electric Delivery Company LLC (“Oncor”) has explained in detail why its proposed Route 179 “best fits” the Commission’s applicable transmission line routing criteria.<sup>1</sup> Commission Staff has explained why its proposed Route 179C, which revises the far western portion of Route 179, is a better alternative than Oncor’s originally recommended Route 179.<sup>2</sup> La Estancia has explained why use of Link C23 which is part of Route 179C should be avoided.<sup>3</sup> Northlake has explained why the use of Links C7, E2 and E1 should be avoided due to the near completion of the Liviano Canyon Falls apartment complex located on Links C7 and E2.<sup>4</sup>

In order to accommodate the need to avoid Links C23 and C7, La Estancia proposed an Alternate Route 1 which avoids these two links by having the transmission line move diagonally southwest on La Estancia’s property paralleling an existing railroad right-of-way so as to connect

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<sup>1</sup> See, e.g., Oncor Exh. No. 4, Exhibit BJP 5 (Alternative Routes Evaluation, May 23, 2023) and direct testimony of Brenda J. Perkins at pgs. 8 – 12.

<sup>2</sup> See Commission Staff Exh. 2 at pgs. 24 – 25; 28 – 30; 37 – 38; 39 – 42; 43 – 48.

<sup>3</sup> See La Estancia Exh. 1 at pgs. 5 – 6; La Estancia Exh. 2 at pgs. 5 – 6.

<sup>4</sup> See Northlake Exh. 4, testimony of Mayor David Rettig at pgs. 8 – 10.

Link C21 to Link C3. La Estancia proposed an additional alteration called Alternate Route 2 to move Link E6 slightly north and directly along the southern right-of-way of F.M. 1171 and to move Links G5 and F1 directly along the right-of-way of IH-35W. An evaluation of all applicable routing criteria shows that Route 179C as modified by La Estancia's Alternative Routes 1 and 2 is the most optimal and cost-effective route.

## **II. EVALUATION OF APPLICABLE CRITERIA**

Oncor Exhibit 25 lists all applicable routing criteria for Route 179, Route 179C, Route 179C including La Estancia's first alternate route modification ("Route 179C/La Estancia Alt. 1"), and Route 179C including La Estancia's first and second alternate route modifications ("Route 179C/La Estancia Alts. 1&2"). Oncor Exhibit 25 shows the following about Route 179C/ La Estancia Alts. 1&2:

- It is objectively superior to the other three routes on the more significant routing criteria of (i) total cost; (ii) length of route parallel to existing public roads and highways; (iii) length of route parallel to apparent property boundaries; and (iv) length of route parallel to pipelines.
- It is the best, or tied for the best, of all four routes with respect to length of route parallel to existing electric transmission lines.
- It is tied for the best of all four routes with respect to number of parks or recreational areas within 1,000 feet.
- It is clearly better than Route 179, and not significantly different than Route 179C and Route 179C/La Estancia Alt. 1, with respect to length of route.
- It is better or not significantly different than the other three routes with respect to all of the other more important routing criteria except for number of habitable structures within 500 feet.

With respect to the number of habitable structures within 500 feet, Oncor Exhibit 25 shows that Route 179C/La Estancia Alts. 1&2 and Route 179C/La Estancia Alt. 1 have 136 habitable structures within 500 feet whereas Route 179 and 179C have 97 and 98 habitable structures, respectively. While this may seem like a significant difference, these numbers do not account for the 300-unit Liviano Canyon Falls apartment complex located at 12000 F.M. 1171 on Links C7

and E2 which will be fully constructed and occupied by the end of the year.<sup>5</sup> As shown in the site plan for the Liviano Canyon Falls apartment complex<sup>6</sup>, at least 100 apartment units would directly face the transmission line on two sides and most of the 300 units are located within 500 feet of the transmission structures centerline. Because Routes 179 and 179C did not account for the completion of this major new apartment complex, the number of habitable structures impacted would be at least 108 and 109 based on the eleven apartment buildings comprising the apartment complex<sup>7</sup> which were not counted as habitable structures in Oncor's routing analysis. More notably, if the multi-family occupancy of the Liviano Canyon Falls apartment complex is considered, the well-over 300 residents of the apartment complex vastly increases the number of residents located within 500 feet of Routes 179 and 179C.

Oncor's justification for not considering the Liviano Canyon Falls as habitable structures is the Commission's policy on new development described in the Commission's Order on Rehearing in Docket No. 45866 (PUC Interchange Item No. 1626).<sup>8</sup> Oncor's primary routing specialist Brenda J. Perkins cites that Commission order for the proposition that the Commission is reluctant to consider future development and has not granted proposed development the same weight as existing transmission line constraints.<sup>9</sup> However, when cross-examined by the undersigned attorney, Ms. Perkins acknowledged that the Commission's discounting of future development in its Order on Rehearing in Docket No. 45866 was actually referring to "*hypothetical future development*". She also acknowledged that Conclusion of Law No. 11A in that Order on Rehearing states: "...*alleged future development that has not been initiated will not be granted the same consideration as existing constraints.*" When asked whether the near-fully-constructed Liviano Canyon Falls apartment complex should be considered "hypothetical future development" or "alleged future development", Ms. Perkins and Oncor's engineering firm's senior project manager Russell J. Marusak both agreed that the Liviano Canyon Falls apartment complex should not be so considered.<sup>10</sup> Therefore, the record evidence in this case fully supports the Commission's consideration of the number of structures and people comprising the Liviano Canyon Falls apartment complex on Routes 179 and 179C.

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<sup>5</sup> Northlake Exh. 4, testimony of Mayor David Rettig at pg. 9.

<sup>6</sup> Northlake Exhibit 3 (site plan for Liviano Canyon Falls apartment complex).

<sup>7</sup> Northlake Exh. 3.

<sup>8</sup> Oncor Exh. 14, rebuttal testimony of Brenda J. Perkins at pg. 8.

<sup>9</sup> *Id.*

<sup>10</sup> [citation to hearing transcript to be provided when transcript is available].

### III. TEXAS PARKS & WILDLIFE DEPARTMENT COMMENTS

The Texas Parks and Wildlife Department (“TPWD”) did not intervene in this case but did submit two comments letters the second of which recommended Route 137 based solely on consideration of impacts on fish and wildlife resources.<sup>11</sup> In making that recommendation, TPWD stated that Route 137 utilizing Links C22, C8, C9, and E8 crosses 502 feet of the Canyon Falls Club recreational area, but TPWD believes that this recreational area “*exhibits low wildlife value compared to natural area*”.<sup>12</sup> To the contrary however, the Canyon Falls recreational area is a public park and greenbelt with 16 miles of constructed trails allowing public access to heavily wooded areas of Canyon Falls<sup>13</sup> the extensive nature of which trails Oncor’s route evaluation team was not aware of as they did not enter the area to personally view it.<sup>14</sup> The Canyon Falls recreational area is known habitat for over 100 species of animals and birds such as deer, bobcats, coyotes, beavers, turtles, ducks, great blue herons, and red tail hawks.<sup>15</sup>

While TPWD improperly discounted the ecological values of the Canyon Falls recreational area, TPWD accorded significant ecological value to Links C6 and E6 (which are components of Route 179C/La Estancia Alts. 1&2) based on the existence of “native Mollisol Blackland Prairie that is mapped in the Texas Natural Diversity Database”.<sup>16</sup> To the contrary however, Links C6 and E6 are located on F.M. 1171 which is highly valuable commercial frontage and is expected to be clear cut for commercial and industrial development leaving little to no tree cover or natural habitat.<sup>17</sup> Indeed, there are currently sewer and gas lines located on Link C6 with substantial amounts of visibly disturbed soils and when Russell Marusak was asked whether this area looked to him like native prairie land, he answered “no”.<sup>18</sup> Not only should TPWD’s recommendation of Route 137 be accorded little weight since it is based only on impacts to fish and wildlife resources, TPWD is clearly wrong in believing that the Canyon Falls recreational area has less ecological value than the south frontage F.M. 1171 on Links C6 and E6.

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<sup>11</sup> TPWD comments letter of July 19,2023 at pg. 5.

<sup>12</sup> *Id.* at pg. 6.

<sup>13</sup> Northlake Exh. 4, testimony of David Rettig at pg. 9.

<sup>14</sup> [citation to hearing transcript to be provided when transcript is available].

<sup>15</sup> *Id.* at pgs. 9 – 10.

<sup>16</sup> TPWD comments letter of July 19,2023 at pg. 6.

<sup>17</sup> Northlake Exh. 4, testimony of David Rettig at pg. 10.

<sup>18</sup> [citation to hearing transcript to be provided when transcript is available].

#### IV. CONCLUSION

The Parties in this case have reached what appears to be near unanimous agreement that Route 179C/La Estancia Alts. 1&2 is acceptable. But more importantly, Route 179C/La Estancia Alts. 1&2 best complies with all of the Commission's applicable routing criteria as discussed herein. In particular, of the four "179 routes" addressed in Oncor Exhibit 25, Route 179C/La Estancia Alts. 1&2 is the least costly (\$2,932,000 less costly than Route 179; \$718,000 less costly than Route 179C/La Estancia Alt. 1; and \$468,000 less costly than Route 179C). Since Route 179C/La Estancia Alts. 1&2 has the lowest cost of all the "179 routes" and since it ranks as better or on par with all "179 routes" on the other routing criteria, the only significant difference not favoring 179C/La Estancia Alts. 1&2 is the supposed lower number of habitable structures on Routes 179 and 179C. But if the newly constructed Liviano Canyon Falls 11-building, 300-unit apartment complex is considered, the number of habitable structures on Routes 179 and 179C increase by 11, and the 300 to 500 apartment complex occupants affected by Routes 179 and 179C greatly outnumber the occupants of the habitable structures on Route 179C/La Estancia Alts. 1&2. Accordingly, all applicable routing criteria favor Route 179C/La Estancia Alts. 1&2 and the Commission should approve this route.

Respectfully submitted,

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#### CERTIFICATE OF SERVICE

The undersigned hereby certifies 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 September 7, 2023 in accordance with the Order Suspending Rules issued in Project No. 50664.

/s/ Stephen C. Dickman

Stephen C. Dickman