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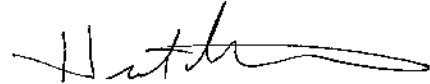
APPLICATION OF ONCOR ELECTRIC	§	BEFORE THE STATE OFFICE
DELIVERY LLC TO AMEND ITS	§	
CERTIFICATE OF CONVENIENCE AND	§	
NECESSITY FOR THE RAMHORN	§	OF
HILL – DUNHAM 345-KV	§	
TRANSMISSION LINE IN DENTON	§	
AND WISE COUNTIES	§	ADMINISTRATIVE HEARINGS

**GRBK EDGEWOOD LLC AND GBTM SENDERA LLC’S
INITIAL POST-HEARING BRIEF**

September 7, 2023

Respectfully submitted,

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APPLICATION OF ONCOR ELECTRIC DELIVERY LLC TO AMEND ITS CERTIFICATE OF CONVENIENCE AND NECESSITY FOR THE RAMHORN HILL – DUNHAM 345-KV TRANSMISSION LINE IN DENTON AND WISE COUNTIES	§ § § § § § §	BEFORE THE STATE OFFICE OF ADMINISTRATIVE HEARINGS
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**INITIAL POST-HEARING BRIEF OF
GRBK EDGEWOOD, LLC AND GBTM SENDERA, LLC**

GRBK Edgewood LLC (“GRBK”) and GBTM Sendera LLC (“GBTM”) file this Initial Post-Hearing Brief following the hearing on the merits in the above-captioned docket. By agreement of the parties and as ordered at the hearing, initial post-hearing briefs are to be filed by September 7, 2023. Therefore, this brief is timely filed.

I. EXECUTIVE SUMMARY

Oncor Electric Delivery Company, LLC (“Oncor”) proposes to construct the Ramhorn Hill to Dunham 345-kV transmission line in Denton and Wise Counties using proposed Route 179. Alternatively, GRBK and GBTM, along with Commission Staff and a number of other intervening parties to this proceeding, recommend that the Administrative Law Judges (“ALJs”) approve Route 179-C as the route that best meets the factors set forth in PURA¹ § 37.056 and 16 TAC § 25.101(b)(3)(B).² Route 179-C ranks fourth in the number of habitable structures impacted and, of the routes that directly affect fewer habitable structures, Route 179-C is shorter in length and

¹ Public Utility Regulatory Act, Tex. Util. Code §§ 11.001-66.016.

² The following parties have agreed to support (or, as indicated below, not oppose) this recommendation are: Edgar Brent Watkins and Mary Ann Livengood, Co-Trustees of the Watkins Family Trust; Bill Beverly Jr.; Bobby Norris; David Bratton and Jerry Bratton; Denton County Land & Cattle LP and Denton County Land & Cattle 2; GFAT, I.L.C; H3M Property Holdings LP (not opposed); Margaret and Antonio Chavez; Martin Rojas; Matthew A. Spaeth; New Dimension Investment II, LLC (Steve Elis); Rama Prasad Chalasani; Wayne and Norma Wilkerson; Alliance West LP; Ross Brewer (not opposed); and GRBK and GBTM (the “Western Parties”).

less expensive.³ Further, of the three routes that impact fewer habitable structures than Route 179-C, those routes either (1) parallel apparent property boundaries or utilizes existing compatible rights-of-way (“ROWS”) to a lesser extent or (2) cross parks and recreational areas.⁴ Finally, compared to Route 179, Route 179-C impacts only one additional habitable structure and is approximately \$2.4 million cheaper. For these reasons, which are discussed in further detail below, GRBK and GBTM respectfully request that the ALJs recommend Route 179-C to the Commission as the route that best meets the factors set forth in Texas Utilities Code § 37.056 and the Commission’s rules.

If the ALJs determine that Route 179-C is not the best meets route, GRBK and GBTM respectfully request that the ALJs recommend that the Commission approve an alternative route that does not utilize Segment M3 as it would have a significant detrimental impact on GRBK’s and GBTM’s future development plans for their respective properties and slow the construction of much needed housing in the state. Finally, if the ALJs were to recommend a route that uses Segment M3, then GRBK and GBTM respectfully request the Commission to order Oncor to build the portion of M3 that crosses GRBK and GBTM property exactly as proposed in the application, without deviation, in order to allow final platting of the developments on those properties to continue.

³ Commission Staff Ex. 2 (Errata to the Direct Testimony of John Poole) at 51-52.

⁴ Commission Staff Ex. 2 at 51.

II. PRELIMINARY ORDER ISSUE NOS 8, 9, AND 10: ROUTING

A. Route 179-C is Superior to Route 179 and is the Route That Best Meets the Factors Set Forth in PURA § 37.056 and the Commission's Rules.

Commission Staff has determined that Route 179-C is the route that best meets the factors set forth in PURA § 37.056 and the Commission's substantive rules.⁵ However, Oncor determined in its Application that Route 179 is the best-meets route.⁶ Compared to Route 179, Route 179-C is \$2.4 million less expensive,⁷ impacts only one more habitable structure,⁸ at 110,373 feet, is 4,525 feet shorter than Route 179,⁹ and parallels or uses existing compatible ROWs and property boundaries to a greater extent.¹⁰ Oncor received numerous comments from community members about their concerns and preferences for the project and those comments expressed an "overwhelming" preference for, among other things, maximizing distances relative to residences and recreational areas.¹¹ Route 179-C crosses within 500 feet of 98 habitable structures, which is only five more than Route 164, the route that impacts the fewest habitable structures at 93.¹² However, compared to Route 164, 179-C is both 5,109 feet shorter and over \$21.5 million cheaper.¹³ Overall, Route 179-C ranks fourth when compared to the 84 potential routes in avoiding habitable structures.¹⁴ Further,

⁵ Commission Staff Ex. 2 at 17.

⁶ Application of Oncor Electric Delivery LLC to Amend Its Certificate of Convenience and Necessity for the Ramhorn Hill - Dunham 345 kV Transmission Line in Denton and Wise Counties, ("Application") at 000024 ("Oncor then evaluated the alternative routes and selected Route 179 as the route that best addresses the requirements of PURA § 37.056(c)(4)(A)-(D) and 16 TAC § 25.101").

⁷ Commission Staff Ex. 2 at 40.

⁸ Commission Staff Ex. 2 at 49.

⁹ Commission Staff Ex. 2 at 46.

¹⁰ *Id.*

¹¹ Commission Staff Ex. 2 at 26.

¹² Commission Staff Ex. 2 at 49.

¹³ Commission Staff Ex. 2 at 41 and 45-46.

¹⁴ Commission Staff Ex. 2 at 49.

Route 179-C does not cross any recreational areas or parks and it only comes within 1,000 feet of four such areas, that is only one more than the routes with the fewest number of recreational areas or parks within 1,000 feet of the centerline of the project.¹⁵ Therefore, based on the overwhelming preference of the community that the project avoid residences and recreational areas and the other factors outlined in PURA § 37.056(c), Route 179-C is superior to Route 179 as it impacts nearly the same number of habitable structures while costing nearly \$2.4 million less.

In addition to the community's overwhelming preference to avoid impacting residences and recreational areas, community members also expressed the concern that the transmission line be as short as possible and affect aesthetics as little as possible.¹⁶ Of the 84 proposed routes, Route 179-C ranks 29th in terms of length, but is less than one mile longer than the shortest route, Route 16. However, Route 16 crosses within 500 feet of 191 habitable structures, over double the number of habitable structures impacted by Route 179-C.¹⁷ Further, Route 16 crosses recreational areas and parks while Route 179-C does not.¹⁸

It is difficult to quantify the effects that a route will have on aesthetics, but a route that parallels or uses existing compatible ROWs and property boundaries is less likely to negatively affect the aesthetic value of the property impacted and is also less likely to affect future development of the land.¹⁹ The Commission's substantive rule, 16 TAC § 25.101(b)(3)(B), reflects this idea by requiring that, in addition to the criteria outlined in PURA § 37.056(c), a new transmission line must be routed to the extent reasonable to moderate the impact on the affected

¹⁵ *Id.*

¹⁶ Commission Staff Ex. 2 at 28.

¹⁷ Commission Staff Ex. 2 at 50.

¹⁸ Commission Staff Ex. 2 at 48.

¹⁹ Commission Staff Ex. 2 at 30.

community and landowners. The Commission's rule accomplishes this by requiring that the Commission consider whether the routes parallel or utilize existing compatible ROWs for electric facilities, including the use of vacant positions on existing multiple-circuit transmission lines; whether the routes parallel or utilize other existing compatible ROWs, including roads, highways, railroads, or telephone utility ROWs; and whether the routes parallel property lines or other natural or cultural features.²⁰ Route 179-C parallels existing compatible ROWs for 23.25 percent of its length, compared to 22.68 percent for Route 179.²¹ In addition, all but two of the routes that parallel or use more existing compatible ROWs and property boundaries directly affect more habitable structures than Route 179-C.²² However, those two routes, Route 164 and Route 164-R, are approximately \$25 million more expensive than Route 179-C.²³ Ultimately, there is no route that is cheaper, crosses within 500 feet of fewer habitable structures, and also parallels or utilizes more existing compatible ROWs and property boundaries than Route 179-C.

Commission Staff, as well as the Western Parties, support Route 179-C as the route that best meets the criteria outlined in PURA § 37.056(c) and 16 TAC § 25.101(b)(3)(B). Furthermore, Oncor has indicated that it considers Route 179-C to be a viable and constructible route and is not opposed to the Commission selecting it as the best meets route and Route 179-C mitigates the concerns expressly outlined to Oncor by members of the community.²⁴ Overall, Route 179-C best addresses the criteria to be considered and is superior to Route 179. Therefore, GRBK and GBTM

²⁰ 16 TAC § 25.101(b)(3)(B).

²¹ Commission Staff Ex. 2 at 46.

²² Commission Staff Ex. 2 at 45-47 and 49-51.

²³ Commission Staff Ex. 2 at 40-41.

²⁴ Commission Staff Ex. 2 at 25-30.

respectfully request that the ALJs proposal for decision recommend that the Commission approve Route 179-C as the best meets route.

B. If Route 179-C is Not Approved, the Commission Should Approve a Route That Does Not Utilize Segment M3.

GRBK and GBTM respectfully request that the ALJs recommend Route 179-C as the best meets route; however, if another route is to be recommended, then GRBK and GBTM respectfully request that the ALJs recommend a route that does not use segment M3 for the reasons described in detail below.

Route Segment M3 bisects the GBTM Property and would materially and adversely impact the planned development in and around the property. The construction of the proposed transmission line along Route Segment M3 would cause substantial damage to the valuable economic and developmental interest GBTM has in its property. In June 2021, GBTM obtained approval of the GBTM Plat, which is a preliminary plat consisting of approximately 3,487 residential lots, of which GBTM owns 2,579 residential lots.²⁵ GBTM subsequently obtained final plat approval and has completed the horizontal lot development for Phase 1 and is actively developing Phases 2 and 16, along with an extension of Sendera Ranch Boulevard.²⁶ GBTM has also completed the preparation of the civil plans for Phase 10, which pre-submission has been made to the City of Fort Worth (“City”) and is projected to be approved by November 2023, and the final plat and civil plans for Phase 11 are in progress with a projected approval in the first quarter of 2024.²⁷ Consequently, the approval of any route that utilizes Segment M3 will cause substantial damage to GBTM’s economic and development interests in its property. The proposed

²⁵ GRBK/GBTM Ex. 1 (Direct Testimony of Bobby Samuel) at 000005.

²⁶ *Id.*

²⁷ *Id.*

alignment of Segment M3 traverses the GBTM Property for an approximate distance of 8,928 feet, covering roughly 20.49 acres and impacting approximately 195 residential lots.²⁸ Based on current market conditions and expectations of GBTM, the loss of these lots and future home sales amounts to a loss to GBTM in excess of \$25 million.²⁹ As a result, locating Segment M3 on the GBTM Property significantly reduces the overall value of the property from an active and future residential development standpoint. Finally, the negative impact from the presence of the transmission line to the subdivision and neighborhood GBTM is currently developing on the GBTM Property, including not only the construction and future maintenance but the proximity to the habitable structures soon to be built, would be substantial and would significantly hinder interest in the residential planned development.

Further, the impact of Segment M3 to the GRBK Property is equally severe. GRBK obtained approval of a comprehensive development agreement with the City in November 2022, which included approval of a land plan for the GRBK Property, as well as approval of the engineering studies related to the proposed development of the GRBK Property.³⁰ GRBK submitted a preliminary plat for the GRBK Property to the City, which is consistent with the approved land plan in the GRBK agreement with the City, in June 2023 consisting of approximately 1,405 residential lots.³¹ The City of Fort Worth Planning Commission approved the GRBK plat on August 23, 2023. Approval of the final plat and civil plans for Phase 1 is expected in the first quarter of 2024.³² The proposed alignment of Segment M3 traverses GRBK's property

²⁸ *Id.* at 000006.

²⁹ *Id.*

³⁰ *Id.* at 000007.

³¹ *Id.*

³² *Id.*

for an approximate distance of 3,447 feet, impacting roughly 7.91 acres and approximately 63 residential lots.³³ Based on current market conditions, the loss of these lots and future home sales amounts to a loss to GRBK in excess of \$8.5 million.³⁴ As a result, locating Segment M3 on GRBK's property significantly reduces the overall value of the property from an active and future residential development standpoint.

There are routes that are shorter, cheaper, or parallel or use more existing compatible ROWs and property boundaries than those that use Segment M3. For example, Route 16 is the shortest route and doesn't utilize Segment M3, and Route 117 parallels or uses the most existing compatible ROWs and property boundaries and does not use Segment M3. In fact, of the 22 routes that are less expensive than Route 179, including Route 179-C, only one uses Segment M3.³⁵ GRBK and GBTM respectfully request that the ALJs recommend that the Commission approve Route 179-C as the best meets route. However, for the reasons outlined above, if the ALJs intend to recommend a route other than Route 179-C, GRBK and GBTM respectfully request that the ALJs recommend a route that does not utilize Segment M3.

C. If the ALJs recommend a Route Utilizing Segment M3, Oncor Should be Required to Construct Segment M3 Along the Proposed Alignment Without Deviation.

While GRBK and GBTM respectfully request that the ALJs recommend Route 179-C as the best meets route, if the ALJs determine that a route utilizing Segment M3 is the best meets route, GRBK and GBTM respectfully request that the ALJs also recommend that the Commission

³³ *Id.*

³⁴ *Id.*

³⁵ Oncor Ex. 4 (Direct testimony and Exhibits of Brenda J. Perkins) at Routing Memorandum of Brenda Perkins Part 4. (Routes 1, 16, 19, 29, 36, 41, 42, 65, 67, 68, 72, 86, 94, 96, 103, 142, 143, 146, 191, 192, and 219 are all listed in Attachment 7 to the Application as less expensive than Route 179. Only Route 29 uses Segment M3: A0-A4-B1-B5-B8-C3-C6-F6-G1-G3-G6-H3-I5-I8-J3-K1-L5-L4-L3-L2-M1-M2-M3-R4-V2-Z)

order Oncor to construct the portion of the M3 segment that crosses GRBK's and GBTM's property along the proposed alignment in Oncor's Application without deviation.

As discussed in detail above, if a route utilizing the M3 segment is approved, it will have a significant adverse impact on GRBK's and GBTM's property development. However, if GRBK and GBTM can rely on Oncor to construct the line as proposed, then GRBK and GBTM can immediately initiate the process to replat the development of the properties to account for the existence of the transmission line bisecting both properties. Currently, the Commission's final orders in transmission line certificate of convenience and necessity ("CCN") proceedings typically include an ordering paragraph allowing for the utility to make "minor deviations" from the proposed routing segments if needed and in conjunction with the landowner. This language introduces uncertainty for GBTM and GRBK when Oncor begins final design and construction of the transmission line as Oncor may deviate from the M3 segment location as proposed. This uncertainty regarding the final location of the M3 segment introduces the potential for further delays and potentially significant cost in reengineering and platting the development of the GBTM and GRBK Properties.³⁶ Making even minor deviations from the proposed alignment of Segment M3 on GRBK's or GBTM's property would render the time, effort, and resources expended to replat those properties virtually worthless. Requiring Oncor to construct Segment M3 as proposed will allow development of the properties to move forward accounting for the alignment of the transmission line if the ALJs recommend that the Commission approve a route that utilizes Segment M3.

Oncor has confirmed that, as to the portion of Segment M3 that crosses GRBK's and GBTM's properties, the natural gas wells and infrastructure in close proximity to Segment M3 are

³⁶ GRBK/GBTM Ex. 1 at 000008.

not an impediment to constructing the segment as proposed.³⁷ Oncor has also confirmed that, as to the portion of Segment M3 that crosses over GRBK's and GBTM's properties, no impediments to constructing Segment M3 as proposed have been identified since the application was filed.³⁸ Finally, at the hearing on the merits, Oncor confirmed that it knows of no impediment to constructing Segment M3 on the GRBK and GBTM properties as proposed by Oncor in its application.³⁹ Therefore, GRBK and GBTM respectfully request, if a route utilizing Segment M3 is to be recommended, that the ALJs recommend that the Commission require Oncor to construct the portion of Segment M3 that bisects GRBK's and GBTM's properties as proposed in the Application without deviation.

III. CONCLUSION

For the reasons outlined above, GRBK and GBTM respectfully request that the ALJs recommend that the Commission approve Route 179-C as the route that best meets the criteria set forth in PURA § 37.056 and 16 TAC § 25.101(b)(3)(B). In the alternative, GRBK and GBTM respectfully request that the ALJs recommend that the Commission approve a route that does not utilize Segment M3. If the ALJs recommend a route that utilizes Segment M3, GRBK and GBTM respectfully request that Oncor be required to construct Segment M3 as proposed in its Application without deviation.

³⁷ GRBK/GBTM Ex. 3 (Oncor's Response to GRBK/GBTM's First Set of RFI's) at 000005.

³⁸ *Id.* at 000004.

³⁹ Tr. Vol. 2 at 80:7-16. (Oncor Rebuttal Panel Cross).