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**SOAH DOCKET NO. 473-23-21216  
PUC DOCKET NO. 55067**

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

**THE CITY OF JUSTIN'S  
INITIAL BRIEF**

**SEPTEMBER 7, 2023**

**THE CITY OF JUSTIN'S  
INITIAL BRIEF**

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**THE CITY OF JUSTIN’S INITIAL BRIEF**

TO THE HONORABLE ADMINISTRATIVE LAW JUDGES (ALJs), STATE OFFICE  
OF ADMINISTRATIVE HEARINGS (SOAH):

COMES NOW, the City of Justin (Justin or City) and files this Initial Brief in the above-styled and numbered docket. Pursuant to SOAH Order No. 2, this brief is timely filed.<sup>1</sup> In support thereof, Justin shows the following:

**I. INTRODUCTION**

On June 8, 2023, Oncor filed its Application to Amend its Certificate of Convenience and Necessity for the Ramhorn-Hill Dunham 345 kV Transmission Line in Denton and Wise Counties.<sup>2</sup> In its application, Oncor proposed seventy-four (74) alternative routes.<sup>3</sup> Forty-six (46) or 62% of these routes run through the City of Justin. Oncor has acknowledged that the study area is a high growth area.<sup>4</sup> Part of this high growth is contained in the City of Justin. As stated in the Direct Testimony of James Clark, Mayor of Justin (Mayor Clark), Justin is growing and will continue to grow significantly, by 2027 the population is expected to be 9,327 which is a 33% increase.<sup>5</sup> A transmission line bisecting the City would be detrimental to this growth, resulting in harm to the City of Justin and its citizens.

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<sup>1</sup> SOAH Order No. 2 – Memorializing Prehearing Conference; Finding Notice and Application Sufficient; Adopting Procedural Schedule; Setting Hearing on the Merits (Jun. 28, 2023).

<sup>2</sup> 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, Oncor Ex. No. 1.

<sup>3</sup> Oncor Ex. No. 1 at Bates 697.

<sup>4</sup> Direct Testimony of Russell J. Marusak, Oncor Ex. No. 2 at Bates 7.

<sup>5</sup> Direct Testimony of James Clark, Justin Ex. 1 at Bates 7.

Although the City is experiencing, and will continue to experience, exponential growth, it still maintains and values the small town atmosphere allowing it to preserve the City's strong sense of community. This sense of community was shown by the mass of concerned citizens that are taking part in this matter. Not only did the City of Justin see its highest attended Town Hall when the project was discussed,<sup>6</sup> but a total of approximately 100 protests and 55 motions to intervene were filed by residents of the City of Justin.<sup>7</sup> Many of these residents participated in the hearing on the merits. The active participation of the residents of Justin attests to the strong community of Justin and the severe impact the transmission line will have if the Commission were to choose one of the sixty four routes that bisect the City of Justin.

The City of Justin respectfully requests that Your Honors do not recommend the preferred Route 179 and instead recommend the use of Modified Route 179 as discussed below or any other viable routes in the study area that do not use Links J3 or J4.

## **II. ARGUMENT**

### **A. Under the well-established factors in the Public Utility Regulatory Act and Texas Administrative Code, Oncor's preferred Route 179 is not the best available route.**

The Public Utility Regulatory Act (PURA) and Commission substantive rules provide the Commission with factors it must consider in selecting a route and approving a utility's CCN application for a transmission line project.<sup>8</sup> In addition to the adequacy of the existing service, need for additional service, and effect of granting the certificate on the recipient of the certificate and any electric utility service the approximate area, PURA lays out additional factors including community values, recreational and park areas, historical and aesthetic values, and environmental integrity that the Commission must take into consideration.<sup>9</sup> Under the substantive rules, the Commission must also review engineering constraints and costs.<sup>10</sup> The substantive rules explicitly state that "the line must be routed to the extent reasonable to moderate the impact on the affected community and landowners unless grid reliability and security dictate otherwise."<sup>11</sup> The

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<sup>6</sup> *Id.* at Bates 15.

<sup>7</sup> *Id.*

<sup>8</sup> Tex. Util. Code § 37.056 (PURA); 16 Tex. Admin. Code (TAC) § 25.101.

<sup>9</sup> PURA § 37.056(c).

<sup>10</sup> 16 TAC § 25.101(b)(3)(B).

<sup>11</sup> *Id.*

substantive rules further require evaluation of whether the routes parallel or utilize existing compatible rights-of-way for electric facilities, roads, highways, railroads, or telephone utility right-of-ways; whether the routes parallel property lines or other natural or cultural features; and whether the routes conform with the policy of prudent avoidance.<sup>12</sup> Prudence avoidance is defined as “the limiting of exposures to electric and magnetic fields that can be avoided with reasonable investments of money and effort.”<sup>13</sup>

Halff Engineering and Oncor completed a review of all of the factors discussed above that the Commission would take into consideration as required in PURA and the Commission substantive rules in order to find viable alternative routes.<sup>14</sup> Through this process, 74 routes were selected to include in the application.<sup>15</sup> These 74 routes were further analyzed and Route 179 was selected as the preferred route.<sup>16</sup>

Oncor Witness, Brenda Perkins stated that “given the balance of the factors, I selected Route 179 as the route that best meets the requirements of Texas Utilities Code § 37.056(c)(4)(A)-(D) and 16 TAC § 25.101.”<sup>17</sup> Ms. Perkins then described why she picked the route using three factors; cost, length, and habitable structures.<sup>18</sup> Significantly, when looking at these factors, Route 179 was not the shortest, least expensive, nor had the least amount of habitable structures within 500 feet of its centerline.<sup>19</sup> As proposed, Route 179 is 21.8 miles long which is 1.9 miles longer than the shortest alternative route and only 1.1 miles shorter than the longest alternative route.<sup>20</sup> The estimated cost of Route 179, as corrected in Oncor’s errata, is \$253,607,000.<sup>21</sup> This correction increased the estimated cost of Route 179 by approximately \$3.5 million,<sup>22</sup> resulting in Route 179

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<sup>12</sup> *Id.*

<sup>13</sup> 16 TAC § 25.101(a)(6).

<sup>14</sup> Oncor Ex. No. 1 at Bates 23-24.

<sup>15</sup> *Id.* at Bates 697.

<sup>16</sup> *Id.* at Bates 697-699.

<sup>17</sup> Direct Testimony of Brenda J. Perkins, Oncor Ex. No. 4 at Bates 9.

<sup>18</sup> *Id.* at 10.

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> Oncor’s Notice of Errata, Oncor Ex. No. 24 at Bates 17.

<sup>22</sup> *Id.*

to be the 28<sup>th</sup> cheapest route.<sup>23</sup> Route 179 has 97 habitable structures within 500 feet of its centerline which is four more than the route with the lowest number of habitable structures within 500 feet of the route's centerline.<sup>24</sup> None of these factors show strong support in favor of Route 179 being the best route available.

Additional significant factors that led to the selection of Route 179 are listed by Ms. Perkins in the Alternative Routes Evaluation Memo.<sup>25</sup> Many factors evaluated indicated that Route 179 is not the best route. In addition to not being the shortest, least expensive, nor having the least amount of habitable structures, Route 179 crosses 20,248 feet of cropland/hay meadow and 71,051 feet of rangeland pasture.<sup>26</sup> Other routes only crossed 12,347 feet to 36,231 feet of cropland/hay meadow and 46,548 feet to 76,381 feet of rangeland pasture.<sup>27</sup> Therefore, Route 179 is also not the route that would cross the least amount of cropland/hay meadow or rangeland pasture. In order to cross the route through this land, Oncor would need to establish a right-of-way through this land which would alter the state of the cropland/hay meadow or rangeland pasture, as well as access to the land as needed which may affect the grazing of livestock on the land. The best route should affect as little cropland/hay meadow and rangeland pasture as possible.

Additionally, Route 179 crosses over 10,126 feet of upland woodlands.<sup>28</sup> This is only 5,834 feet less than the route that crosses through the most upland woodlands.<sup>29</sup> Choosing a route that crosses through less woodlands would be beneficial to the environmental integrity of the area since 100 feet of right-of-way is needed for the transmission line. In order to build on upland woodlands, Oncor would have to clear 100 feet of right-of-way which would lead to the destruction of many trees. It also would result in more effort to clear this land as opposed to other more compatible and already existing rights-of-way. Route 179 crosses 27 streams and 1,704 feet of the route cross over lakes or ponds.<sup>30</sup> In addition, Route 179 also runs 1,351 feet parallel to

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<sup>23</sup> Errata to the Direct Testimony of John Poole, Staff Ex. 2 at Bates 40.

<sup>24</sup> Oncor Ex. 4 at Bates 10.

<sup>25</sup> *Id.* at Bates 34-35.

<sup>26</sup> *Id.* at Bates 34.

<sup>27</sup> *Id.*

<sup>28</sup> *Id.*

<sup>29</sup> *Id.*

<sup>30</sup> *Id.* at Bates 34-35.

streams.<sup>31</sup> Crossing and paralleling streams, lakes, or ponds would lead to destruction of vegetation around the water feature, destruction of the natural habitat for wildlife, and erosion. If the water feature is located near cities, such as Trail Creek or Catherine Branch Creek in the City of Justin, the transmission line would take away from the natural aesthetic and recreational use of the stream that the community uses.

The City of Justin acknowledges that when evaluating the 74 routes, there are many factors that must be reviewed. However, based on Ms. Perkins testimony and routing memo, there is no compelling evidence or substantial factors that cause Route 179 to be the best route. The City of Justin encourages the ALJs review all routes to find a route that would be less harmful to the environmental integrity of the areas as much as Route 179 would.

**B. The impact of Link J3 in Oncor's preferred Route 179 on the City of Justin would be detrimental to the City's continuing growth.**

As stated above, the City of Justin is growing exponentially.<sup>32</sup> Route 179 contains link J3 which bisects the City of Justin, running alongside the eastern boundary of a residential community, then stair stepping in a northwestern direction between neighborhoods and crossing Catherine Branch Creek multiple times. Link J3 then moves westerly bisecting multiple plots of land that have already been platted for future development. The location of Link J3 would be near habitable structures causing property values of those structures to go down, as well as causing safety and aesthetic concerns due to the transmission line being located so close to homes which may result in landowners struggling to sell their homes. Additionally, the transmission line is projected to bisect platted land for future development causing development plans to be altered and lessening the value of the homes due to aesthetic and safety concerns. As the City of Justin grows it is essential that development continue, and property values continue to grow in order to support the needed infrastructure to run the City.

In addition to the negative impacts on growth in and around the City of Justin, Link J3 would go against factors laid out in PURA that the Commission must take into consideration. These factors include community values, recreational and park areas, historical and aesthetic values, and environmental integrity.<sup>33</sup> As evidenced in Mayor Clark's testimony, the City of

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<sup>31</sup> *Id.* at Bates 34.

<sup>32</sup> Justin Ex. 1 at Bates 7.

<sup>33</sup> PURA § 37.056(c).



Justin's community values include culture, community, and identity.<sup>34</sup> These things all make up what the City of Justin is; the City of Justin is a growing community that strives to maintain its small town feel, the City of Justin is an Arbor City committed to preserving its remaining trees as well as planning and maintaining new trees moving forward, and the City of Justin is connected through its natural areas for the community to come together and enjoy.<sup>35</sup>

The neighborhoods on both sides of Catherine Branch Creek will be directly affected by the transmission line. Link J3 stair steps between these two neighborhoods. Twenty-six (26) habitable structures have backyards that would directly face the transmission line,<sup>36</sup> and sixty-two (62) habitable structures are within 520 feet from the transmission line.<sup>37</sup> The total number of habitable structures on Route 179 is ninety-seven (97),<sup>38</sup> which means about 64% of the habitable structures are found along Link J3 in the City of Justin. The proximity of these habitable structures to the centerline of the transmission line ranges from 65 feet to 503 feet.<sup>39</sup> This length is not from the centerline to the property boundary, but from the centerline to the habitable structure itself.<sup>40</sup> The height of the proposed poles in this application, as responded to by Ms. Zapletal during cross examination, is between 120 and 175 feet tall.<sup>41</sup> This results in some of the residential properties being less than half the length of the proposed transmission poles height away from the poles themselves. Many of these homes are filled with families who have children who use their backyards to play. The proximity of the transmission line to where these children play, and families enjoy their backyard is even closer than the table within the environmental study shows.

The transmission line, as proposed in Link J3, placed so close to the homes along the Catherine Branch Creek would destroy the natural aesthetic and views the families who have lived there have gotten to enjoy, and will instill safety concerns amongst the families.<sup>42</sup> This will not

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<sup>34</sup> Justin Ex. 1 at Bates 6.

<sup>35</sup> *Id.* at Bates 5-6.

<sup>36</sup> Oncor Ex. 1 at Bates 650.

<sup>37</sup> *Id.* at Bates 859-882.

<sup>38</sup> Staff Ex. 2 at Bates 49.

<sup>39</sup> Oncor Ex. 1 at Bates 868-869.

<sup>40</sup> Tr. at 179:9-13 (Cross Zapletal) (Aug. 28, 2023).

<sup>41</sup> Tr. at 172:15-23 (Cross Zapletal) (Aug. 28, 2023).

<sup>42</sup> Justin Ex.1 at Bates 10-11, Bates 14.

only ruin the enjoyment of the families' backyards but will ruin the use and enjoyment of Catherine Branch Creek itself. Additionally, the transmission line being placed close to habitable structures results in a substantial decrease in the property value of the homes.<sup>43</sup> Moreover, these homes, as well as the community of Justin, share a retention pond that is maintained by the City of Justin for the community to enjoy.<sup>44</sup> As Mayor Clark discusses in his testimony, the "pond is used by the community in a multitude of ways such as fishing and bird watching."<sup>45</sup> A concern of Mayor Clark is that construction of the transmission line would not only ruin the benefit of the pond but would also destroy the natural integrity of the pond and natural habitat to wildlife that the pond provides.<sup>46</sup>

Link J3 not only affects homes that are already built, but also future construction of habitable structures. From the intersection of Link J3 to Boss Range Road to where Link J3 intersects at the corner of Links K22 and K1, there are multiple plots of land that have already been platted for future construction of habitable structures. As Mayor Clark states in his testimony, "the transmission line bisecting these plats would greatly reduce the property value of the homes, the enjoyment of the land, and raise safety concerns to those moving into the homes."<sup>47</sup> The negative impact the transmission line brings to newly platted plots of land could inhibit the growth around the City of Justin.

Link J3 would not only affect current and future families of the City of Justin, but also the environmental integrity seen in the area and the natural aesthetic of the creek that so many families enjoy. This results in a negative impact on community values and growth of the City of Justin. Link J3 would, therefore, be detrimental to the growth and success of the City. In summary the City of Justin requests the ALJs recommend a route other than Oncor's preferred Route 179, or any alternative route that contains Link J3.

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<sup>43</sup> Justin Ex. 1 at Bates 15-16.

<sup>44</sup> *Id.* at Bates 10.

<sup>45</sup> *Id.*

<sup>46</sup> *Id.*

<sup>47</sup> *Id.* at Bates 11.

**C. A modified version of Route 179 that would use Link J22 instead of Link J3 should be adopted.**

The City of Justin urges the ALJs recommend a modified version of Route 179 (Modified Route 179) that would use Link J22 instead of Link J3. The Modified Route 179 would replace Links I8-J3-K1-L5-L4-L3 (J3 Links) with Links I6-J1-J21-J22-L1 (J22 Links), all of which are in the central division of Route 179.

As discussed in the rebuttal testimonies of Russell J. Marusak and Brenda J. Perkins, when Halff and Oncor reviewed the alternative routes to find the best route option, they reviewed factors holistically.<sup>48</sup> As evidenced in PURA and the Commission Substantive Rules there are many factors the Commission must take into consideration when deciding which route is the best option. Using Oncor's response to DHL Supply Chains' request for information for environmental data on the links of the viable alternative routes to evaluate the J3 and J22 Links,<sup>49</sup> the links modifying Route 179 would be a better option when doing a holistic review of all factors. For example, Modified Route 179 links are shorter than the proposed Route 179. Modified Route 179 runs parallel to railroads and pipelines more than the proposed Route 179. Additionally, the proposed Route 179 has more upland woodlands that are crossed by the route than the Modified Route 179, and the proposed Route 179 crosses rangeland pasture longer than the Modified Route 179. Paralleling railroads and pipelines are beneficial because they already have rights-of-way with cleared trees and vegetation. Utilizing a route that parallels land that is already cleared rather than a route that crosses through woodlands and rangeland pastures would not only save money and time in not having to clear the land but would preserve the environmental integrity of the areas that would have to be cleared for the route.

As proposed, Route 179 moves across and parallels more streams, lakes, or ponds. Building a transmission line near water features would likely result in the destruction of trees and vegetation, affecting the natural habitat of wildlife as well as causing erosion. It also affects the natural aesthetic that communities in the surrounding area enjoy. After reviewing the J3 Links and J22 Links, there are clear direct and indirect benefits to selecting the Modified Route 179 over the proposed Route 179.

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<sup>48</sup> Rebuttal Testimony and Exhibits of Russell J. Marusak, Oncor Ex. 11 at Bates 12; *see also* Rebuttal Testimony and Exhibits of Brenda J. Perkins, Oncor Ex. 13 at Bates 2.

<sup>49</sup> Oncor Response to DHL Supply Chain RFI 1-03, Ex. DHL-4.

It is worth noting that the Modified Route 179 would not undermine the discussions and agreements made between intervenors in the eastern and western division during settlement discussions and at the Hearing on the Merits. Therefore, the only intervenors who should have issue would be those who intervened and participated in the matter along the J3 Links and J22 Links. As seen in the number of protests, interventions, and central division participants at the hearing, there is a substantial majority of parties who opposed the proposed Route 179 using Link J3 to those who oppose the use of Link J22. The City of Justin alone had residents who filed over 100 protests and 55 motions to intervene in opposition of the preferred Route 179 or the use of Links J3 or J4.<sup>50</sup> By the time of the hearing, there were six represented parties in the central division who participated in the hearing and two pro se intervenors who actively participated in the hearing. Not only does the City of Justin oppose Route 179 and support the use of Link J22, but two additional intervenors, Dudley Realty and TCCI Range-Mead LLC, have similar positions.<sup>51</sup> In the Direct Testimony of David A. Retting, on behalf of the Town of Northlake, Mr. Retting states Northlakes' general support of Route 179, but opposition to certain links; these links being H5, H6, G5, F3, E5, E8, C7, C8, and C9.<sup>52</sup> DHL Supply Chain also supports Route 179, but in the Direct Testimony of Geoffrey A. Meyer on behalf of DHL Supply Chain, Mr. Meyer indicates DHL Supply Chain's opposition to the use of Link I5.<sup>53</sup> Although the City of Northlake and DHL Supply Chain support Route 179, the links each of these parties oppose would not be effected by the Modified Route 179. This leaves only one represented party in the central division that would be in direct opposition of the Modified Route 179: Hillwood Parties. Hillwood Parties are also affected by links in the eastern and western division.

Based on the benefits of altering the routes to pass through Link J22 instead of Link J3 as well as the clear opposition by multiple intervenors and citizens of Justin, the ALJs should recommend the Modified Route 179 instead of the current, proposed Route 179.

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<sup>50</sup> Justin Ex. 1 at Bates 30-196.

<sup>51</sup> *See* Direct Testimony of Tommy Cansler on Behalf of Intervenor TCCI Range-Mead 2021 LLC, Ex. TCCI-1 at 3-11; *see also* Direct Testimony of Scott Dudley on Behalf of Dudley Realty, LLC, Dudley Realty Ex. 1 at 2-5; *see also* Map of Opposed and Proposed Alternate Routes, Dudley Realty Ex. 2.

<sup>52</sup> Direct Testimony of David A. Rettig for Town of Northlake, Northlake Ex. 4 at 8-9.

<sup>53</sup> Direct Testimony of Geoffrey A. Meyer, Ex. DHL-2 at 8-10.

**D. If the Modified Route 179 is not adopted then an alternative route should be chosen that does not include Links J3 or J4.**

If Modified Route 179 is not selected, alternatively, the City of Justin urges the ALJs to recommend an alternative route that does not include Links J3 or J4. As discussed above, the preferred route or any alternative route using Link J3 would negatively impact current and future families of the City of Justin, as well as the environmental integrity of the area and the natural aesthetic of the Catherine Branch Creek that many families enjoy, resulting in a negative impact on community values and growth of the City of Justin.

In addition to the harm a route using Link J3 would bring, a route using Link J4 would also be harmful to the City of Justin. Link J4 traverses through a highly wooded area, nearing Justin Cemetery, crossing Trail Creek between Justin Town Square, multiple parks, a retention pond, and current and future residential areas.

According to Attachment 9 of the Environmental Assessment, there are 103 habitable structures that are 520 feet or less from the centerline of the transmission line.<sup>54</sup> However, these 103 habitable structures do not fully encompass the amount of residential units that are within 520 feet. The table in Attachment 9 of the Environmental Assessment, indicates which residences are single family versus multifamily, but it does not indicate how many units are within the multifamily habitable structures. Therefore, the multifamily habitable structures were counted by Halff, under direction made by Oncor,<sup>55</sup> as one habitable structure even though multiple residential units are inside the habitable structure. By using this method to calculate the habitable structure on a link or route, the totality of residences is not being taken into consideration according to Oncor. Link J4 effects 103 habitable structures. However, seven (7) of the structures indicated are the Bishop Gardens Apartment Complex buildings which have multiple units for residents to live.<sup>56</sup> Counting each unit as a unique habitable structure increases the total number of habitable structures effected by Link J4.

Many of the habitable structures along Link J4 are within 200 hundred feet from the centerline of the transmission line, but some are as little as 58 feet away. The structure that is 58

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<sup>54</sup> Oncor Ex. 1 at Bates 859-882.

<sup>55</sup> Tr. at 176:22-177:16 (Cross Marisak) (Aug. 28, 2023).

<sup>56</sup> *Bishop Gardens*, Bishop Gardens Apartment Photos, <https://apartmentsinjustin.com/photos/> (last visited Sep. 7, 2023).

feet away is one of the Bishop Gardens Apartment Complex buildings.<sup>57</sup> Although Oncor identifies this as one habitable structure, all units of this building are extremely close to the line. In fact the Bishop Gardens Apartment Complex is closer to Link J4 than any of the other 1,000 habitable structures potentially impacted by this application are to any other link.<sup>58</sup> As discussed earlier, the height of a proposed transmission line poles in this application are between 120 and 175 feet tall.<sup>59</sup> Poles at these heights would affect not only the ground level units by decreasing the value of the unit, reducing the aesthetic view, and exposing residents to electric and magnetic fields (EMFs), but the higher up units as well. Therefore, it is important that these units are also taken into consideration when determining the total effect of the transmission line on habitable structures.

Allowing an alternative route that uses Link J4 would go against factors laid out in PURA that the Commission must take into consideration. These factors include community values, recreational and park areas, historical and aesthetic values, and environmental integrity.<sup>60</sup> As discussed above, the City of Justin's community values include culture, community and identity. Many of these community values are tied to the recreational and park areas that Justin has worked to develop and maintain. These community values and recreational and park areas would be directly affected by a transmission line along Link J4.

Link J4 runs westerly following the banks of Trail Creek, through the City of Justin. The banks of Trail Creek and the surrounding areas are filled with dense, wooded land. Many of the trees and other natural vegetation would be destroyed by construction of a transmission line which requires a right-of-way of 100 feet.<sup>61</sup> Many residents of the City of Justin use the surrounding parks, retention pond, and banks along Trail Creek. As evidenced in Mayor Clark's testimony "the City of Justin has begun construction of a bridge that will connect Justin Community Park and Reatta Ridge to allow the paths within Community Park and trails running through Reatta Ridge to merge."<sup>62</sup> The City of Justin has already spend about \$100,000 on a Veterans Memorial in

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<sup>57</sup> Oncor Ex. 1 at Bates 650.

<sup>58</sup> Tr. at 175:5 – 176:3 (Cross Marusak) (Aug. 28, 2023).

<sup>59</sup> Tr. at 172:15-23 (Cross Zapletal) (Aug. 28, 2023).

<sup>60</sup> PURA § 37.056(c).

<sup>61</sup> Oncor Ex. 1 at Bates 5.

<sup>62</sup> Justin Ex. 1 at Bates 13.

Bishop Park, a park that also contains a historical landmark and is home to many of the City's oldest trees.<sup>63</sup> Residents use the park and the stairs that descend to the creek as an entrance to enjoy the creek.<sup>64</sup>

The 100 foot right-of-way would destroy much of the natural aesthetic and environmental integrity of these areas. Ms. Perkins attempts to combat this concern in her rebuttal testimony by stating "transmission line easements are commonly used as hike and bike trails within a park or recreation area."<sup>65</sup> Although this may be true in other areas, the pictures provided by Ms. Perkins show hike and bike trails under transmission lines, but the pictures also show the lack of trees and vegetation on the right-of-way, which is in stark contrast to the densely wooded areas that Link J4 would disrupt. Link J4 would diminish the value of these natural aesthetic features used by the community of Justin as well as the plans and construction of structures, like the bridge, to enhance the natural aesthetic and community the parks and creek provide. Moreover, the City of Justin currently deals with erosion issues along the banks of Trail Creek.<sup>66</sup> As proposed, the transmission line will be constructed along the banks of Trail Creek. Construction of the transmission line and clearing of the vegetation for the transmission line's right-of-way will result in an increase in erosion and continual maintenance needed to support the poles by Oncor.

A transmission line would not only interfere with the natural aesthetic of the town and the community's enjoyment of the area, but it would also impact the efforts of the City of Justin in building Justin Town Square. Justin Town Square, which is already under construction, will include the placement of Justin Town Hall and many other commercial developments. Despite its growth, one of the values of the City of Justin is the sense of small town feel. Having Justin Town Square located near Bishop Park, residences, and Trail Creek would allow the community to gather in one location. The location of Justin Town Square to encourage community gatherings is one of the ways in which the City is working to maintain that small town feel. Allowing the transmission line to run near Justin Town Square will take away from the natural aesthetic of the park and creek around it and will reduce enjoyment of the property.

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<sup>63</sup> *Id.* at Bates 12.

<sup>64</sup> *Id.*

<sup>65</sup> Oncor Ex. 13 at Bates 4.

<sup>66</sup> Justin Ex. 1 at Bates 12.

For the reasons stated above, the City of Justin urges the ALJs to approve a route that does not contain Link J4.

### **III. CONCLUSION**

For the reasons discussed in this brief, as well as concerns raised by numerous protestors and Intervenor, the City of Justin requests that Your Honors reject routes that include Link J3 and J4. The City of Justin requests any other relief to which it has shown itself entitled.

Respectfully submitted,

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### **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 September 7, 2023 in accordance with Project No. 50664.



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THOMAS L. BROCATO