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

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

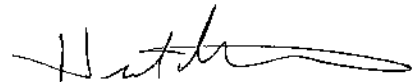
**DENTON COUNTY LAND & CATTLE LP AND
DENTON COUNTY LAND & CATTLE 2'S**

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 DENTON COUNTY LAND & CATTLE LP AND
DENTON COUNTY LAND & CATTLE 2**

Denton County Land & Cattle LP and Denton County Land & Cattle 2 (“Denton”) 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, Denton, 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

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; GRBK Edgewood, LLC and GBTM Sendera, LLC; GFAT, LLC; H3M Property Holdings LP (not opposed); Margaret and Antonio Chavez; Martin Rojas; Matthew A. Spaeth; New Dimension Investment II, LLC (Steve Ellis); Rama Prasad Chalasani; Wayne and Norma Wilkerson; Alliance West LP; and Ross Brewer (not opposed); Denton County Land & Cattle LP and Denton County Land & Cattle 2 (the “Western Parties”).

directly affect fewer habitable structures, Route 179-C is shorter in length and 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 only impacts one additional habitable structure and is approximately \$2.4 million cheaper. Denton has also proposed minor modifications to Segments M1 and M5 which Oncor has determined are viable and constructible.⁵ For the reasons discussed in further detail below, Denton respectfully requests that the ALJs recommend Route 179-C to the Commission, with Denton’s proposed modifications to Segments M1 and M5, 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, Denton respectfully requests 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 Denton’s future development plans for its property. Finally, if the ALJs were to recommend a route that uses Segment M3, then Denton respectfully requests that the ALJs recommend that the Commission adopt the modification to Segment M3 proposed by Denton and considered viable and constructible by Oncor.⁶

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

⁴ Commission Staff Ex. 2 at 51.

⁵ See DCLC Ex. 5 at 4 and 6 (Oncor responses to DCLC’s First RFI’s).

⁶ See DCLC Ex. 5 at 9-10.

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

A. The ALJs Should Recommend That the Commission Approve Route 179-C, With Denton's Proposed Modifications, Because It 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.⁷ However, Oncor determined in its Application that Route 179 is the best-meets route.⁸ Compared to Route 179, Route 179-C is \$2,464,000 cheaper,⁹ impacts only one more habitable structure,¹⁰ at 110,373 feet, is 4,525 feet shorter than Route 179,¹¹ and parallels or uses existing compatible ROWs and property boundaries to a greater extent.¹² 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.¹³ Route 179-C crosses within 500 feet of 98 habitable structures, which is only five more Route 164, the route that impacts the fewest habitable structures at 93.¹⁴ However, compared to Route 164, 179-C is both 5,109 feet shorter and over \$21,500,000 cheaper.¹⁵ Overall, Route 179-C

⁷ Commission Staff Ex. 2 at 17.

⁸ 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").

⁹ Commission Staff Ex. 2 at 40.

¹⁰ Commission Staff Ex. 2 at 49.

¹¹ Commission Staff Ex. 2 at 46.

¹² Commission Staff Ex. 2 at 46.

¹³ Commission Staff Ex. 2 at 26.

¹⁴ Commission Staff Ex. 2 at 49.

¹⁵ Commission Staff Ex. 2 at 41 and 45-46.

ranks fourth when compare to the 84 potential routes in avoiding habitable structures.¹⁶ Further, Route 179-C does not cross any recreational areas or parks, and it only comes within 1,000 feet of four such areas.¹⁷ 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 over \$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.¹⁸ Of the 84 proposed routes, Route 179-C ranks 29th in terms of length, but is not even 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.¹⁹ Also, Route 16 crosses recreational areas and parks while Route 179-C does not.²⁰

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 property values and the future development of the land than a route that does not.²¹ 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

¹⁶ Commission Staff Ex. 2 at 49.

¹⁷ Commission Staff Ex. 2 at 49.

¹⁸ Commission Staff Ex. 2 at 28.

¹⁹ Commission Staff Ex. 2 at 50.

²⁰ Commission Staff Ex. 2 at 48.

²¹ Commission Staff Ex. 2 at 30.

moderate the impact on the affected 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 rights of-way, including roads, highways, railroads, or telephone utility ROWs; and whether the routes parallel property lines or other natural or cultural features.²² Route 179-C parallels existing compatible ROWs for 23.25 percent of its length, compared to 22.68 percent for Route 179.²³ 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.²⁴ However, those two routes, Route 164 and Route 164-R, are approximately \$25 million more expensive than Route 179-C.²⁵ 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.

Lastly, as a property owner whose land is bisected by Route 179-C, Denton proposed modification to Segments M5 and M1 in order to minimize the adverse impact to Denton's property while accommodating the transmission line. As can be seen from the illustration below, these two minor alterations reduce the overall negative impact to Denton while simultaneously maintaining Route 179-C as a less expensive route than Route 179.

²² 16 IAC § 25.101(b)(3)(B).

²³ Commission Staff Ex. 2 at 46.

²⁴ Commission Staff Ex. 2 at 45-47 and 49-51.

²⁵ Commission Staff Ex. 2 at 40-41.



Oncor has confirmed that alternative Segment M1 is viable and constructible, and in its evaluation made a slight alteration to alternative Segment M5, which is represented in the illustration below, Oncor has concluded that with this minor alteration the alternative Segment M5 is also viable and constructible.²⁶ All necessary land use and environmental data to facilitate the construction of these modifications have been provided and are in the evidentiary record.²⁷



²⁶ DCLC Ex. 5 at 5.

²⁷ *Id.*

Based on Oncor's evaluation, the cost associated with alternative Segment M1 is \$247,129, and the cost associated with alternative Segment M5 as adjusted by Oncor is \$484,303.²⁸ This makes the total cost difference associated with both modifications \$731,432 and maintains Route 179-C as a less expensive route than Route 179 by over \$1.7 million.

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.²⁹ Route 179-C mitigates the concerns expressly outlined to Oncor by members of the community, and overall, Route 179-C best addresses the criteria to be considered and is superior to Route 179. Therefore, Denton respectfully requests that the ALJs proposal for decision recommend that the Commission approve Route 179-C, with the modifications outlined above to Segments M5 and M1, as the best-meets route.

B. If the ALJs Do Not Recommend Route 179-C Is Not Approved, the ALJs Should Recommend a Route That Does Not Utilize Segment M3.

Denton respectfully request that the ALJs recommend Route 179-C, with Denton's proposed modifications to Segments M1 and M5, as the best-meets route. However, if the ALJs refuse to recommend Denton's proposed modifications, Denton still prefers Route 179-C over any route that utilizes Segment M3. If a route other than Route 179-C is to be recommended, then Denton respectfully requests that the ALJs recommend a route that does not use Segment M3 for the reasons described in detail below.

²⁸ DCLC Ex. 5 at 4.

²⁹ Watkins Ex. 8 at 23 (Response of Oncor to Watkins' First Request for Information).

Segment M3 bisects Denton's property and would materially and adversely impact the development of valuable business interests in and around the property and would cause substantial damage to the economic and development value of the property and the surrounding area. While the property is currently undeveloped, its location makes it highly valuable for future commercial development. Constructing Segment M3 on Denton's property as proposed by Oncor would stifle future development, render Denton's existing engineering and land use development plans virtually worthless, and would require Denton to reengineer the platting and development of the property to avoid the placement of the transmission line, which is substantially detrimental to Denton as well as surrounding developers and landowners in terms of time, resources, and cost.³⁰ Specifically, light industrial facilities and public infrastructure improvements, including a four lane road, are part of the development plans at the location of the proposed Segment M3. The inclusion of Segment M3 in the approved route would adversely impact Denton and its plans to develop the property as the transmission line would result in lost access points to the property and an overall reduction of the area that is capable of being developed.

Further, the adverse land use impact and economic loss that would result from the placement of the transmission line on the proposed Segment M3 alignment would be significant from an investment perspective, including but not limited to lost square footage for commercial buildings, significant division of the property and the resulting inefficiency of infrastructure, and a significant reduction in the attractiveness of the commercial development to potential tenants due to necessary adjustments that will have to be made to account for the existence of the

³⁰ See GRBK/GBTM Ex. 1 (Direct Testimony of Bobby Samuel) at 5. (Discussing the impact of Segment M3 on the platting process and the cost associated with replatting and re-engineering development around Segment M3.)

transmission line in Denton's original concept plan and engineering models, which were developed at significant expense.

Finally, the proposed M3 segment appears to be aligned directly over an existing natural gas well head currently located on the property which indicates that the proposed placement of the M3 segment is not a viable option. This also introduces uncertainty in the construction phase as Oncor may be forced to 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 costs associated with yet another reengineering and platting for the development of the property.

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 M3.³¹ Denton respectfully requests that the ALJs recommend that the Commission approve Route 179-C with Denton's modifications as the best-meets route. However, for the reasons outlined above, if the ALJs intend to recommend a route other than Route 179-C, Denton respectfully requests that the ALJs recommend a route that does not utilize Segment M3.

³¹ 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-E6-G1-G3-G6-H3-I5-I8-J3-K1-L5-L4-L3-L2-M1-M2-M3-R4-V2-Z)

C. If the ALJs Recommend a Route Utilizing Segment M3, Denton's Proposed Modifications to Segment M3 Should Also Be Recommended.

Denton requests that the ALJs recommend Route 179-C as the best-meets route. However, if the ALJs determine that a route utilizing Segment M3 is the best-meets route, Denton respectfully requests that the ALJs also recommend that the Commission order Oncor to construct the portion of the M3 segment that crosses Denton's property according to the modifications requested by Denton below.

As discussed in detail above, if the ALJs recommend a route utilizing the M3 segment, it will have a significant adverse impact on Denton's property development. However, Denton proposed an alternative Segment M3 across Denton's property which reduces the overall negative impact to Denton. Oncor made slight modifications to Denton's proposed alternative Segment M3 to avoid certain constraints on the property and has confirmed that M3 Alternate 1 or M3 Alternate 2, shown in the illustration below, are viable and constructible.



Oncor also provided cost data for these alternative segments, determining that M3 Alternate 1 would cost approximately \$542,986 more than Segment M3 as proposed by Oncor while M3 Alternate 2 would cost \$792,126 less than Segment M3 as proposed.³² Consequently, if M3 Alternate 2 were recommended by the ALJs it would reduce the cost of Segment M3; however, Route 179-C, with Denton's proposed modifications, would still be significantly less expensive than Route 179. Therefore, Denton respectfully requests that if the ALJs recommend a route utilizing Segment M3, then they also recommend that Oncor be required to construct the portion of Segment M3 that bisects Denton's property utilizing one of the proposed modifications outlined above.

III. CONCLUSION

For the foregoing reasons, Denton respectfully requests 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) with the modifications proposed by Denton to Segments M1 and M5. In the alternative, Denton respectfully requests that the ALJs recommend that the Commission approve Route 179-C without Denton's proposed modifications. Further, Denton requests that if Route 179-C is not recommended by the ALJs as the best-meets route, the ALJs recommend a route that does not utilize Segment M3. Finally, if the ALJs recommend a route that utilizes Segment M3, Denton respectfully request that Oncor be required to construct Segment M3 utilizing one of the M3 Alternate proposals outlined above.

³² DCLC Ex. 5 at 8.