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

EDGAR BRENT WATKINS AND MARY ANN LIVENGOOD’S REPLY BRIEF

Intervenors Edgar Brent Watkins and Mary Ann Livengood, Co-Trustees of the Watkins Family Trust (collectively referred to herein as “Watkins”) submit this Reply Brief in connection with the Application of Oncor Electric Delivery Company, LLC (“Oncor” or “Applicant”) for the above-captioned Certificate of Convenience and Necessity (“CCN”) (the “Application”). Watkins prays that the Administrative Law Judges (“ALJs”) issue a Proposal for Decision (“PFD”) recommending the Texas Public Utility Commission (“PUC” or “Commission”) approve Route 179-C.

I. INTRODUCTION AND SUMMARY

Now that the ALJs have the benefit of the parties’ initial briefs, these briefs confirm that Route 179-C is supported or not opposed by the overwhelming majority of parties in this case, including Oncor,¹ PUC Staff,² Jason Buntz (DHL Supply Chain’s routing expert)³ and Brian Almon (Watkins’ routing expert).⁴ Watkins continues to recommend approval of Route 179-C because it best addresses the requirements of PURA and the PUC Substantive Rules. Route 179-C is a significant improvement to original Route 179 for a number of reasons, including but not

¹ Watkins Ex. 10; TR (Vol. 1), Page 214.

² Staff Ex. 1, Pages 24-25.

³ TR (Vol. 1), Page 239.

⁴ Watkins Ex. 2; Watkins Ex. 3.

limited to: (1) Route 179-C is \$2,464,000 less expensive than Route 179, Route 179-C is 0.86 miles (4,525') shorter than Route 179, Route 179-C only affects one more habitable structure than Route 179, and Route 179-C parallels compatible corridors for a greater percentage of its length than Route 179.⁵ Even if the ALJs or Commission are favorably inclined to adopt the La Estancia alternative routes in the eastern study area, those alternative routes will have no impact on the path Route 179-C follows in the western study area⁶ or how Route 179-C differs from Route 179 in the western study area (the only differences between Route 179 and Route 179-C are in the western study area).⁷

II. WATKINS' REPLIES TO THE FILED POST-HEARING BRIEFS

Watkins offers the following replies to the filed post-hearing briefs.

A. Todd Family Holdings, L.P. ("Todd")

Todd's position in this case should be given no weight because Todd has offered no testimony or evidence and the hypothetical future development of its property is wholly speculative. Todd alleges in its initial brief that Link V3, "bisects the Todd Family Holdings land in a dog-leg pattern that renders it substantially unusable for most commercial or residential purposes."⁸ However, this statement is not supported by any testimony or evidence in the record.⁹ In fact, based on a cursory review of the environmental and land use constraints maps contained in Oncor's Application, it appears there are many commercial and residential tracts in the study area of similar size to the portions of the Todd property on either side of Link V3.¹⁰

⁵ Watkins Ex. 11.

⁶ The "western study area" consists of all links west of and including Link L2.

⁷ Watkins Ex. 2, Page 18, Lines 10-13; Pages 33-34.

⁸ Todd Initial Brief, Page 3.

⁹ Todd only filed a Statement of Position in this case.

¹⁰ See Oncor Ex. 1, Pages 650-653.

The ALJs and Commission should not consider Todd's unsubstantiated statement regarding hypothetical future development of its property in making its routing determination. In Oncor witness Brenda Perkins' rebuttal testimony, she stated that "the Commission has historically been reluctant to consider future development and has not granted proposed future development the same weight as existing constraints."¹¹ A more accurate restatement of the Commission's view of the weight to be given to future development is that the Commission has been "reluctant to consider *hypothetical* future development in making" routing decisions.¹² In Todd's case, any development of the property is purely hypothetical and unsubstantiated by the record evidence.

In contrast, the testimony and evidence from GRBK Edgewood LLC ("GRBK") and GBTM Sendera LLC ("GBTM"), both of which support Route 179-C and are opposed to Route 179 in the western study area, shows that the development underway on these properties is absolutely not hypothetical.¹³ The GRBK and GBTM properties would be significantly adversely affected by any route utilizing Link M3 (Link M3 is part of Route 179 but not Route 179-C). According to the undisputed testimony of Bobby Samuel on behalf of GBTM and GRBK, both the GBTM and GRBK properties are "under active development."¹⁴ Mr. Samuel's direct testimony as well as GRBK's and GBTM's Initial Brief detail the active development on their properties which includes but is not limited to approved plats, completed horizontal lot development, completed civil plans, and an approved comprehensive development agreement with the City of Fort Worth.¹⁵

¹¹ Oncor Ex. 13, Page 8.

¹² Order on Rehearing, Application of LCRA Transmission Services Corporation to Amend a Certificate of Convenience and Necessity for the Round Rock – Leander 138-kV Transmission Line in Williamson County (July 23, 2017), Hillwood Ex. 4, Pages 7-8 (emphasis added). Ms. Perkins acknowledged on cross-examination that the Order to which she referred in her pre-filed Rebuttal testimony indeed included the more restrictive language. See TR (Vol 2), Page 57.

¹³ GRBK-GBTM Ex. 1.

¹⁴ *Id.*, Page 4 (Page 2 of 10 according to the page numbering in the original document).

¹⁵ *Id.*, Pages 7-10 (Pages 5-8 according to the page numbering in the original document); GRBK-GBTM Initial Brief, Pages 8-10.

Developments at the stages described by GRBK and GBTM are not hypothetical. Therefore, the selection of Route 179-C is in alignment with the Commission's previous approach: future development that is more than hypothetical should be given its due weight in making routing decisions.

Todd alleges in its Initial Brief that, "routes using Link V2, rather than Link V3, will not only avoid the Todd Family Holdings land, they will avoid bisecting the currently-under-construction Reunion Texas residential neighborhood."¹⁶ However, the owner of the Reunion Texas property, PMB Rolling V Land, LP, has been an active intervenor in this case and has spoken for itself when it specifically stipulated on the record that it is *not* opposed to the use of Link V3 across its property.¹⁷ Here is the stipulation verbatim from the transcript:¹⁸

| | |
|----|---|
| 13 | JUDGE McCABE: Okay. Oh, okay. Sorry. I |
| 14 | thought you were still working it out. I understand you |
| 15 | now. You just need to announce the stipulation on the |
| 16 | record? |
| 17 | MR. TAYLOR: Correct. |
| 18 | JUDGE McCABE: Okay. |
| 19 | MR. TAYLOR: If I may, so the only point |
| 20 | we wanted to clarify with PMBT was that they have no |
| 21 | opposition to the Links 2, V4, and V3 that are used on |
| 22 | Route 179-C. And, Mr. Moss, if you can please speak to |
| 23 | that. |
| 24 | MR. MOSS: That is correct. I believe the |
| 25 | one that mainly affects PMB Rolling V is Link V3. And |

¹⁶ Todd Initial Brief, Page 3.

¹⁷ TR (Vol. 1), Pages 241-242.

¹⁸ *Id.*

1 my client has authorized me to represent that they do
2 not oppose the line coming in on Link B3.
3 JUDGE McCABE: Okay. So I understand the
4 stipulation to be that there is no opposition to
5 Links Z, B4 or B3. Is that correct?
6 MR. MOSS: That is correct from PMB
7 Rolling V.
8 JUDGE McCABE: Correct. Correct.
9 And from Oncor, that's the stipulation you
10 sought?
11 MR. TAYLOR: Yes, Your Honor. And with
12 that we have no questions for the PMBT witness and he
13 can be released.

NOTE: The transcript erroneously references Link B3 but should read “V3” instead. Link B3 does not exist.

The PMB Property is an approximately 3,650-acre tract,¹⁹ and PMB “expects the PMB Property to take roughly 30 years to develop.”²⁰ The portion of the PMB Property that is currently under construction is much further north near Links W3 and W4.²¹ In fact, PMB states that it “intervened in this docket because two of the links proposed by Oncor – Links W3 and W4 – would have a disproportionately negative affect on the PMB Property.”²² Here is an excerpt from the EA specifically discussing PMB’s preferred options and showing the PMB’s future

¹⁹ PMB Ex. 1, Page 4.

²⁰ *Id.*

²¹ See PMB Ex. 1, Pages 6-7; See Oncor Ex. 1, Page 181-184.

²² PMB Initial Brief, Page 3.

development plans around Links Z-V4-V3 are “somewhat fluid at this juncture” and “can be reconfigured without much loss of rentable square footage”.²³

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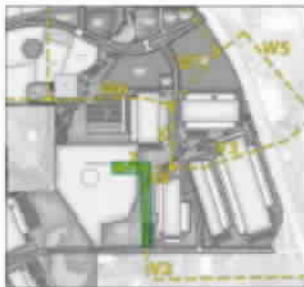
²³ Oncor Ex. 1, Page 181.



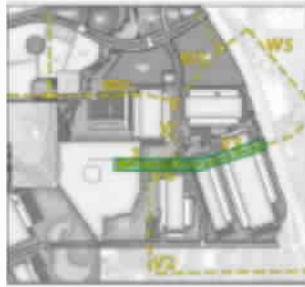
PMB Capital Investments

Rolling V Ranch is an approximately 3,700-acre planned development that will be located southwest of SH 114/US 287 near the City of Rhome. The first two phases of the development have recently been completed. Ultimate build-out will include residential, industrial, retail, and office space. As shown in graphics prepared by PMB Capital Investments shown below, the proposed Ramhorn Hill Switch was integrated into the original ranch master plan. The following progressions to the Link Z terminus were identified as the preferred options for the landowner, along with supporting reasons provided in the correspondence.

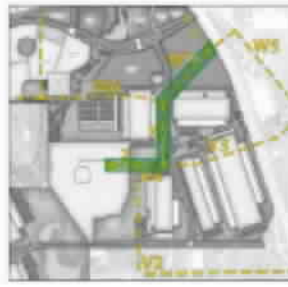
Links Z-V2



Links Z-V4-V3



Links Z-V4-X-W7-W5



Note: Provided notes for each area are summaries excerpted from landowner feedback.

- They will cause the least amount of disturbance since they are the furthest from existing development activity and new homeowners.
- Oncor's contractors can easily access these areas from US 287 and Ramhorn Hill Road during construction.
- The specific building footprints of the industrial structures depicted in this area are still somewhat fluid at this juncture. The Owner feels it can reconfigure these buildings around one of the three preferred Transmission Line routes without much loss of rentable square footage.

B. Oncor

Oncor's Initial Brief quotes a party and a witness who supported Route 179 before they had the opportunity to consider Route 179-C. After that party and witness considered Route 179-C, they also supported it. Oncor makes the statement in its Initial Brief that "Route 179 is supported by most of the parties who provided evidence at the Hearing on the Merits, with the Hillwood Parties testifying that Route 179 does "a good job of threading the needle" in balancing the numerous factors at play in the study area and PURA's routing factors."²⁴ However, to clarify, Hillwood Parties' direct testimony from which Oncor quoted was filed before Hillwood Parties had the opportunity to review Route 179-C because Route 179-C was developed during the pendency of this case. In fact, while Hillwood Parties still support Route 179, Hillwood Parties has now made it very clear in its Initial Brief that it also supports Route 179-C²⁵ and notes that "during the course of the Hearing on the Merits a broad—if not quite unanimous—consensus of support emerged around two relatively minor adjustments to Route 179" (i.e., Route 179-C and the La Estancia modifications) and that these adjustments "are supported by the record as well as the vast majority of the intervenors in this proceeding."²⁶

Oncor makes a similar statement regarding environmental consultant, Jason Buntz, who testified on behalf of DHL Supply Chain. Oncor quotes Buntz' direct testimony that Route 179 best meets the requisite criteria, largely "because it minimizes, among other criteria, impacts to combined natural resources—upland woodlands, riparian areas, potential wetlands, and lakes/ponds—relative to other routes."²⁷ However, to again clarify, Mr. Buntz' direct testimony from which Oncor quoted was filed before Mr. Buntz had the opportunity to review Route 179-C.

²⁴ Oncor Initial Brief, Page 5.

²⁵ Hillwood Parties' Initial Brief, Page 4.

²⁶ *Id.*, Page 3.

²⁷ Oncor Initial Brief, Page 5.

Mr. Buntz testified at the Hearing on the Merits that he can also support Route 179-C in light of what he had learned since about Route 179-C.²⁸ The Initial Brief filed by DHL Supply Chain makes this exact point.²⁹

III. DHL'S RECOMMENDATION

In his direct testimony, DHL's expert witness, Jason E. Buntz, evaluated both Route 179 (Oncor's "best meets" route) and Route 137 (TPWD's recommended route)²⁷ and determined that Route 179 "ranks better than Route 137 in terms of cost¹⁸ and the number of habitable structures within 500 feet of the centerline."¹⁹ As a result of this, Mr. Buntz concluded his direct testimony by recommending "Route 179 be approved as best meeting the Commission's criteria."²⁰ However, as seen below, after Mr. Buntz had the opportunity to evaluate Route 179-C, he ultimately decided that he could support it.²¹

It is worthy to note that DHL's Initial Brief persuasively argues for and recommends the selection of Route 179-C with La Estancia's combined Alternatives 1 & 2.³⁰ As some of the reasons for its recommendation, DHL specifically references Route 179-C's cost savings and better use of compatible rights-of-way when compared to Route 179.³¹

Oncor mentions in its Initial Brief that Route 179 parallels existing compatible corridors for a greater distance than Route 179-C and uses this fact as support for Route 179, but this focus on length alone obscures the fact that Route 179-C actually has a higher percentage of its length paralleling existing compatible corridors.³² Route 179 is 0.86 miles (4,525 feet) longer than Route 179-C,³³ and when you calculate the percentage of each route that parallels existing compatible

²⁸ TR (Vol. 1), Page 239.

²⁹ DHL Initial Brief, Page 4.

³⁰ See DHL Initial Brief.

³¹ *Id.*, Pages 4-5.

³² Oncor Initial Brief, Page 23.

³³ Watkins Ex. 11.

corridors, Route 179-C actually parallels existing compatible corridors for a greater percentage of its length while also being overall shorter than Route 179.³⁴

Significantly, as this case has progressed, Oncor stipulated that Route 179-C is a “viable option for the Commission to consider” and confirmed that it can support Route 179-C.³⁵ Brenda Perkins on behalf of Oncor confirmed Oncor’s support of Route 179-C on cross examination,³⁶ and Oncor mentioned in its initial briefing no fewer than four times that Oncor does not object to or oppose the Commissions’ selection of Route 179-C.³⁷ It is clear from the record evidence, as well as the initial briefing in this case, that Oncor can support Route 179-C despite it not being an option that was available for Oncor to consider when it originally selected a “best meets” route.

C. City of Justin

The City of Justin urges in its Initial Brief that the ALJs recommend a modified version of Route 179 that would use Link J22 instead of Link J3 (“Justin’s Modified Route 179”).³⁸ Links J22 and Link J3 are located solely in the central study area. It is important to note that, despite the language recommending Justin’s Modified Route 179, the City of Justin’s brief also states, “[i]t is worth noting that the Modified Route 179 would not undermine the discussions and agreements made between intervenors at in the eastern and western divisions during settlement discussions and at the Hearing on the Merits.”³⁹ It is clear from this statement and from the City of Justin’s overall Initial Brief that the City of Justin is very opposed to the use of Links J3 and J4 in any route and prefers Link J22 instead (all of which are solely in the central study area), but is expressly

³⁴ *Id.*

³⁵ Watkins Ex. 10.

³⁶ TR (Vol. 1), Page 214.

³⁷ Oncor Initial Brief, Pages 5, 22, 23, 42.

³⁸ City of Justin Initial Brief, Page 9.

³⁹ *Id.*, Page 10.

not attempting to urge the selection of Route 179 over Route 179-C in the western study area (the only differences between Route 179 and Route 179-C are in the western study area).⁴⁰

D. Dudley Realty

Dudley Realty requests in its Initial Brief that the ALJs select Justin's Modified Route 179, or any alternative route that does not use Links I7, I8, or J3 (all of which are located solely in the central study area).⁴¹ However, as with the City of Justin's Initial Brief, Dudley Realty's Initial Brief states that, "[b]ecause the Modified Route 179 only affects the central portion of Route 179, these proposed changes would *not* undermine the positions and discussions among intervenors in the western or eastern portions of Route 179. As outlined by the City of Justin, multiple intervenors support such modifications, with minimal opposition."⁴² It is clear from this statement and from Dudley Realty's overall Initial Brief that Dudley Realty is opposed to the use of Links I7, I8 and J3 in any route and prefers Link J22 instead (all of which are in the central study area), but is expressly *not* attempting to urge the selection of Route 179 over Route 179-C in the western study area (the only differences between Route 179 and Route 179-C are in the western study area).⁴³

III. CONCLUSION

For the reasons stated in this brief and in and their Initial Post-Hearing Brief, Watkins joins the PUC Staff and the growing chorus of third-parties who recommend Route 179-C as the route that best meets the factors contained in PURA § 37.056(c) and 16 TAC § 25.101(b)(3)(B).

⁴⁰ See City of Justin Initial Brief.

⁴¹ Dudley Realty LLC Initial Brief, Page 2.

⁴² *Id.*, Page 3.

⁴³ See Dudley Realty LLC Initial Brief.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I certify a copy of this document is being filed in the Public Utility Commission's Interchange System and served on all parties of record as required by orders in this docket, the Commission's rules, and the Commission's First and Second Orders Suspending Rules issued on March 16, 2020 and July 16, 2020, in Project No. 50664.



J. Tyler Topper