



Filing Receipt

Filing Date - 2023-09-14 02:53:39 PM

Control Number - 55067

Item Number - 1809

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

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
--	--	---

NEW DIMENSION INVESTMENTS II, LLC'S REPLY BRIEF

SPENCER FANE, LLP
816 Congress Avenue, Suite 1200
Austin, TX 78701
Telephone: (512) 575-6060
Facsimile: (512) 840-4551

/s/ William A. Faulk, III

William A. Faulk, III
State Bar No. 24075674
cfaulk@spencerfane.com
Rashmin J. Asher
State Bar No. 24092058
rasher@spencerfane.com
Taylor P. Denison
State Bar No. 24116344
tdenison@spencerfane.com

**ATTORNEYS FOR NEW DIMENSION
INVESTMENTS II, LLC**

September 14, 2023

TABLE OF CONTENTS

	Page
I. EXECUTIVE SUMMARY	2
II. PRELIMINARY ORDER ISSUE NO. 8 [ROUTING]	3
A. Route Selection Overview.....	3
B. Objection to Use of Segments R6 or U1	6
C. Summary Routing Recommendation.....	8
III. FINDINGS OF FACT AND CONCLUSIONS OF LAW.....	8
IV. CONCLUSION	9

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

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
--	---------------------------------	---

**NEW DIMENSION INVESTMENTS II, LLC’S
REPLY BRIEF**

On September 7, 2023, parties to this proceeding filed their initial post-hearing briefs. New Dimension Investments II, LLC (New Dimension Investments) now files this reply brief. Pursuant to State Office of Administrative Hearings (SOAH) Order No. 2, the deadline to file reply briefs is September 14, 2023.¹ Therefore, this reply brief is timely filed, and in support, New Dimension Investments would show the following:

I. EXECUTIVE SUMMARY

- New Dimension Investments does not oppose the route identified in Oncor Electric Delivery Company LLC’s (Oncor) Initial Brief—Route 179—as the best alternative route weighing the factors set forth in Public Utility Regulatory Act² § 37.056(c) and 16 Texas Administrative Code (TAC) § 25.101(b)(3)(B).³
- New Dimension Investments does not oppose Route 179-C, the modified version of Route 179 supported by Staff⁴ of the Public Utility Commission of Texas

¹ SOAH Order No. 2 Memorializing Prehearing Conference; Finding Notice and Application Sufficient; Adopting Procedural Schedule; Setting Hearing on the Merits at 4 (Jun. 28, 2023).

² Public Utility Regulatory Act, Tex. Util. Code §§ 11.001–66.016 (PURA).

³ Oncor Electric Delivery Company LLC’s Initial Post-Hearing Brief at 4 (Sept. 7, 2023) (Oncor’s Initial Brief).

⁴ Commission Staff’s Initial Brief at 4 (Sept. 7, 2023).

(Commission) as well as by many intervenors who own property in the study area⁵,

- New Dimension Investments strongly opposes Routes 1, 41, 42, 65, 67, 72, 86, 94, 96, 103, 117, 142, 143, and 192 (Segments R6 and U1 Routes), as supported by GRBK Edgewood LLC (GRBK) and GBTM Sendera LLC (GBTM), Alliance West, LP (Alliance), and Denton County Land & Cattle LP and Denton County Land & Cattle 2 (Denton)⁶, because those routes use Segments R6 or U1, which border or bisect the CR 4840 Properties and the Iron Horse Property owned or under contract by New Dimension Investments, based on the record evidence presented in this brief.⁷

II. PRELIMINARY ORDER ISSUE NO. 8 [ROUTING]

A. Route Selection Overview

In their Initial Briefs, GRBK, GBTM, Alliance, and Denton support Route 179-C. As stated, New Dimension Investments agrees with GRBK, GBTM, Alliance, and Denton as to the reasonableness of Route 179-C. However, if Route 179-C is not selected by the Commission in this proceeding, GRBK, GBTM, Alliance, and Denton advocate for routes “that are shorter, cheaper, or parallel or use more existing compatible ROWs and property boundaries than those that use Segment M3.”⁸ Specifically, GRBK, GBTM, Alliance, and Denton state that “Route 117 parallels or uses the most existing compatible ROWs and property boundaries and does not use Segment M3.”⁹ GRBK, GBTM, Alliance, and Denton continue, “[i]n fact, of the 22 routes

⁵ “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; GFAL LLC; H3M Property Holdings LP (not opposed); Margaret and Antonio Chavez; Martin Rojas; Matthew A. Spaethe; 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’).” GRBK Edgewood LLC and GBTM Sendera LLC’s Initial Post-Hearing Brief at 3 (Sept. 7, 2023) (GRBK and GBTM’s Initial Brief).

⁶ *Id.*

⁷ New Dimension Investments Ex. 1 at 3–6.

⁸ GRBK and GBTM’s Initial Brief at 10; Alliance’s Initial Brief at 10; Denton’s Initial Brief at 11.

⁹ *Id.*

that are less expensive than Route 179, including Route 179-C, only one uses Segment M3.”¹⁰ GRBK, GBTM, Alliance, and Denton then cite to Oncor Exhibit 4, the Direct Testimony and Exhibits of Brenda J. Perkins at Routing Memorandum of Brenda Perkins Part 4, and state that 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, and that only Route 29 uses Segment M3.¹¹ While New Dimension Investments agrees that Route 179-C is a preferred route regarding the holistic approach required in selecting a transmission line route considering all criteria, it disagrees that Segments R6s and U1 Routes are appropriate for consideration in this case.

When considering all the applicable criteria, the Segments R6 and U1 Routes do not perform well and should not be selected as the final route in this proceeding. Route 117 should not be selected because it is not the route that best meets the routing criteria. While it does possess the highest percentage parallel to existing corridors (40 percent),¹² there are several factors that weigh against the selection of Route 117. Most importantly, Route 117 is the most expensive alternative route out of the 74 alternative routes proposed by Oncor.¹³ The estimated total project cost for Route 117 is \$313,460,000, compared to Route 179, which has an estimated total cost of \$253,607,000,¹⁴ and Route 179-C, which has an estimated total cost of \$251,143,000.¹⁵ Route 117 is also longer in route length (119,593 feet vs. Route 179 at 114,898 feet and Route 179-C at 110,373 feet) and has a higher number of habitable structures within 500 feet its centerline (263 habitable structures vs. Route 179 with 97 habitable structures and Route 179-C with 98 habitable structures).¹⁶ Therefore, Alternative Route 117 should not be selected.

None of the Segments R6 and U1 Routes should be selected as the final route in this proceeding because they do not best meet the routing criteria. Although these routes are less

¹⁰ *Id.*

¹¹ GRBK and GBTM’s Initial Brief at 10 n.35; Alliance’s Initial Brief at 10 n.26; Denton’s Initial Brief at 11 n.31.

¹² Oncor Ex. 1, Attachment 1—Environmental Assessment and Alternative Routing Analysis at Table 7-2.

¹³ Oncor Ex. 23—Cost Estimates (Revised).

¹⁴ *Id.*

¹⁵ Oncor Ex. 25—Environmental Data for Alternative Route Evaluation.

¹⁶ Oncor Ex. 1, Attachment 1—Environmental Assessment and Alternative Routing Analysis at Table 7-2; Oncor Ex. 25—Environmental Data for Alternative Route Evaluation.

expensive than Route 179, they are only slightly so, and there are several factors that weigh against the selection of these routes. Most notably, all these routes have considerably more habitable structures within 500 feet of their centerlines than Route 179 and Route 179-C.¹⁷ In fact, Route 192 has 400 habitable structures within 500 feet of its centerline, which is the highest number of habitable structures of any of the 74 proposed alternative routes.¹⁸ Route 192 has 303 more habitable structures than Route 179, which has 97, and 302 more habitable structures than Route 179-C, which has 98.¹⁹ The Segments R6 and U1 Routes also have more habitable structures within 500 feet of their centerlines. Figure 1 below shows the number of habitable structures within 500 feet of the centerlines of the routes proposed by GRBK, GBTM, Alliance, and Denton compared to Route 179 and Route 179-C.²⁰

Figure 1

Alternate Route	Habitable Structures
179	97
179-C	98
42	158
86	158
41	168
1	188
65	188
72	188
143	220
142	223
67	252
103	287
96	290
94	294

¹⁷ *Id.*

¹⁸ Oncor Ex. 1, Attachment 1—Environmental Assessment and Alternative Routing Analysis at Table 7-2.

¹⁹ Oncor Ex. 1, Attachment 1—Environmental Assessment and Alternative Routing Analysis at Table 7-2; Oncor Ex. 25—Environmental Data for Alternative Route Evaluation.

²⁰ *Id.*

Alternate Route	Habitable Structures
192	400

In addition to habitable structures, Routes 179 and 179-C better meet other routing criteria than the alternative routes proposed by GRBK, GBTM, Alliance, and Denton. Of the routes compared above, only one route, Route 142, has a higher length of its route parallel to existing compatible rights-of-way than Route 179, and only Routes 142 and 94 have a higher length of their routes parallel to existing compatible rights-of-way than Route 179-C.²¹ When comparing the length of the route across parks and recreational areas, Routes 179 and 179-C rank the same or better than all routes.²² Only one route, Route 94, has less length of its route crossing cropland and hay meadow than Route 179, and only five routes, Routes 41, 42, 86, 94, and 103 have less length of their routes crossing cropland and hay meadow than Route 179-C.²³ When analyzing the length of the routes across upland woodlands, riparian areas, and potential wetlands, Route 179 ranks the best.²⁴ Regarding the length of route across upland woodlands, only Routes 96 and 192 rank better than Route 179-C.²⁵ Regarding the length of route across potential wetlands, Route 179-C ranks better than or the same as all routes.²⁶ Weighing the multiple factors identified in PURA § 37.056 and 16 TAC § 25.101(b)(3)(B), Route 179 and 179-C perform better than Segments R6 and U1 Routes.

B. Objection to Use of Segments R6 or U1

New Dimension Investments strongly opposes any route that uses Segment R6 because it is proposed to be sited through the middle of two properties in the Study Area that are owned by New Dimension Investments. Specifically, New Dimensions Investments owns properties located at 525 County Road (CR) 4840, Haslet, Texas 76052 and 585 CR 4840, Haslet, Texas

²¹ See Oncor Ex. 1, Attachment 7—Routing Memorandum of Brenda J. Perkins at Table 2; Oncor Ex. 25—Environmental Data for Alternative Route Evaluation.

²² Oncor Ex. 1, Attachment 1—Environmental Assessment and Alternative Routing Analysis at Table 7-2; Oncor Ex. 25—Environmental Data for Alternative Route Evaluation.

²³ *Id.*

²⁴ Oncor Ex. 1, Attachment 1—Environmental Assessment and Alternative Routing Analysis at Table 7-2.

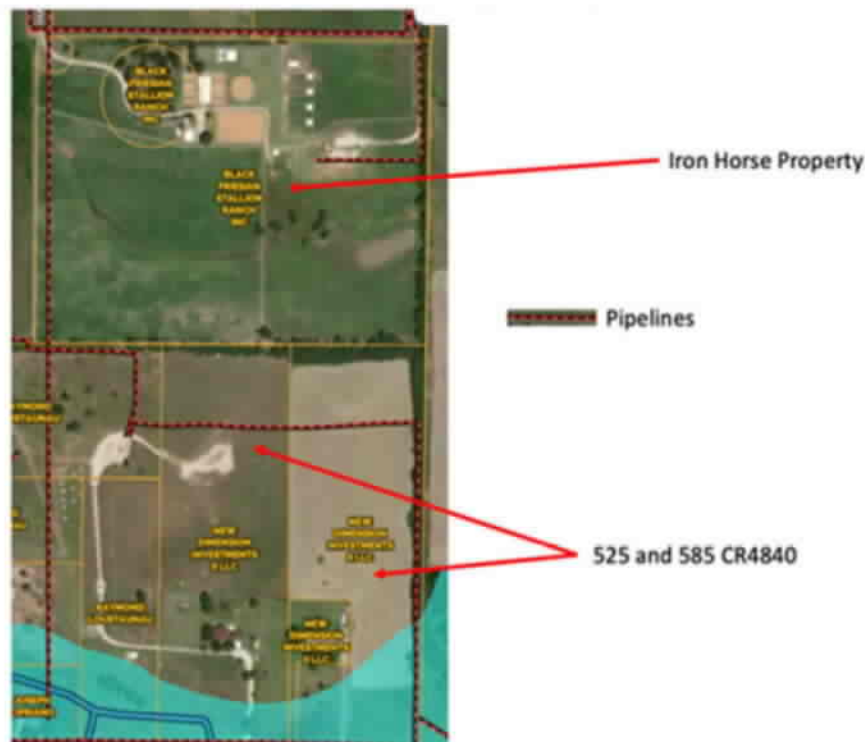
²⁵ Oncor Ex. 1, Attachment 1—Environmental Assessment and Alternative Routing Analysis at Table 7-2; Oncor Ex. 25—Environmental Data for Alternative Route Evaluation.

²⁶ *Id.*

76052 (CR 4840 Properties). Proposed Segment R6 cuts directly through the middle of the CR 4840 Properties. Additionally, the CR 4840 Properties are bordered by CR 4840 and natural gas pipelines and a flood plain on the south, and a creek to the east CR 4840. Because of the roads, gas pipelines, flood plain, and creek already on the CR 4840 Properties, proposed Segment R6 would have an extremely negative effect on the CR 4840 Properties and could inhibit the development of the CR 4840 Properties.

Furthermore, New Dimension Investments also strongly opposes proposed Segment U1. Proposed Segment U1 is proposed to be sited along the property the length of the property adjacent to the property under contract by New Dimension Investments and in close proximity to the property. This property is located at 265 Iron Horse Court, Rhome, Texas 76052 (Iron Horse Property). The Iron Horse Property was purchased for the purpose of developing the industrial space in three-to-five acre tracts intended for two to four tenants per tract to be used for business, commercial, and industrial purposes. Furthermore, as part of its development, New Dimension Investments plans to construct a road extension from the CR 4840 Properties to a city road accessing Highway 114. Figure 2 below shows the location of the CR 4840 and Iron Horse properties in reference to one another.

Figure 2
Map Showing CR 4840 Properties and Iron Horse Properties



As supported above, none of the Segments R6 and U1 Routes should be selected as the final route in this proceeding because they do not best meet the routing criteria.

C. Summary Routing Recommendation

Route 179 and Route 179-C are two of several viable routes and, on the whole, perform best when weighing the factors under PURA § 37.056(c) when compared to Route 117 and the Segments R6 and U1 Routes.

- Route 117 is more expensive (\$313,460,000) than both Route 179 (\$253,607,000) and Route 179-C (\$251,143,000).
- Route 117 is longer in route length (119,593 feet) than both Route 179 (114,898 feet) and Route 179-C (110,373 feet).
- The Segments R6 and U1 Routes all have considerably more habitable structures within 500 feet of their centerlines than Route 179 and Route 179-C, as shown in Figure 1 above.
- Only Routes 142 and 94 have a higher length of their routes parallel to existing compatible rights-of-way than Route 179 and Route 179-C.
- Routes 179 and 179-C rank the same or better than all routes when comparing the length of the route across parks and recreational areas.
- Only Route 94 has less length of its route crossing cropland and hay meadow than Route 179, and only five routes have less length of their routes crossing cropland and hay meadow than Route 179-C.
- Route 179 ranks the best compared to all routes listed above when analyzing the length of the routes across upland woodlands, riparian areas, and potential wetlands.

III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

New Dimension Investments supports the Commission adopting the Findings of Fact and Conclusions of Law filed by Commission Staff.

IV. CONCLUSION

Based on the testimony and record evidence in this case, New Dimension Investments supports Commission approval of Route 179 or Route 179-C as the proposed alternative route that best meets the criteria for granting a Certificate of Convenience and Necessity. However, if Route 179 or 179-C are not selected, New Dimension Investments strongly opposes any consideration of the Segments R6 and U1 Routes, as alluded to in the Initial Briefs of GRBK, GBTM, Alliance, and Denton, for the reasons detailed throughout this reply brief.

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 14, 2023, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/ William A. Faulk, III

William A. Faulk, III