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

APPLICATION OF ONCOR ELECTRIC	§	BEFORE THE
DELIVERY COMPANY LLC TO	§	
AMEND ITS CERTIFICATE OF	§	PUBLIC UTILITY COMMISSION
CONVENIENCE AND NECESSITY FOR	§	
THE RAMHORN HILL – DUNHAM 345	§	OF TEXAS
KV TRANSMISSION LINE IN DENTON	§	
AND WISE COUNTIES	§	

MOTION TO ADMIT ADDITIONAL EVIDENCE

La Estancia Investments, L.P. (“La Estancia”) and the Town of Northlake (“Northlake”), request that the Public Utility Commission of Texas (“Commission”) admit the affidavits attached to this Motion as Exhibits A and B into the evidentiary record of Docket No. 55067. The affidavits contain information that is probative of the issues to be addressed on rehearing, and the information provided in the affidavits could not have been offered into evidence at the hearing on the merits.

La Estancia has conferred with other parties, including Oncor Electric Delivery Company, LLC (“Oncor”), to determine whether any party opposes the relief requested in this Motion. It is La Estancia’s understanding that Oncor does not necessarily agree with all of the assertions in the affidavits.¹ No other party expressed opposition to the relief requested.

DESCRIPTION OF ADDITIONAL EVIDENCE

A. Exhibit A

In its initial filing in this case, Oncor recommended approval of Route 179. One link of that route, Link C23, ran directly through the middle of a parcel of land owned by La Estancia. Other links comprising Route 179 were within 500 feet of numerous habitable structures in or near Northlake. At the hearing on the merits, La Estancia, Northlake, and several other parties proposed

¹ Oncor will presumably outline its position in responsive pleadings.

an alternative route that turned southwest before reaching Link C23. That alternative route, which was deemed “La Estancia Alternative Route 1,” also avoided all of the habitable structures in or near Northlake. No party, including Oncor, opposed La Estancia Alternative Route 1. In the Proposal for Decision, the Administrative Law Judges recommended approval of La Estancia Alternative Route 1.

In the Order issued in this docket on February 1, 2024, the Commission rejected La Estancia Alternative Route 1 on the ground that it would have affected more habitable structures than the route approved by the Commission. Instead, the Commission approved a route labeled “Route 179-C,” with certain modifications proposed by Denton Cattle and Land Company, LLC (“DCLC”).²

La Estancia and Northlake respectfully request that the Commission admit new evidence demonstrating that the habitable structure count relied on by the Commission is no longer accurate. The habitable structure count provided as part of Oncor’s CCN application was as of the May 30, 2023 date of the Oncor routing study.³ Since the filing of that application, the Livano Canyon Falls apartment complex has opened alongside Link E2, which increases the number of habitable structures along the Commission-approved route by 132 structures. The affidavit of Livano Canyon Falls representative Tom Spies, which is attached to this Motion as Exhibit A, supports the new habitable structure count. Thus, approving Route 179-C without La Estancia Alternative Route 1 would actually *increase* the number of habitable structures affected by the transmission

² Docket No. 55067, Order at 1 (Feb. 1, 2024). According to the evidence presented by Oncor, La Estancia Alternative Route 1 would have affected approximately 38 more habitable structures than Route 179-C, with the DCLC modifications.

³ Oncor Ex. 4, Direct Testimony of Brenda J. Perkins, Ex. BJP-5.

line by approximately 94 structures, as compared to a route that includes La Estancia Alternative Route 1.⁴

La Estancia and Northlake recognize that the Commission's typical practice is to rely on habitable-structure counts as of the point in time at which the utility performs its study. In most instances, that practice makes sense because it prevents affected landowners from speculating about new habitable structures that *might* someday appear along a particular link. In this case, however, the Commission had before it evidence that the Livano Canyon Falls apartment complex was nearly complete as of the time of the hearing, and that the complex would be occupied by hundreds of residents well before the transmission line was complete:

In proposing Links E2 and C7, Oncor did not consider the Livano Canyon Falls apartment complex that is being constructed at 12000 FM 1171 in Northlake with completion expected by the end of this year. . . . At least 100 units of the apartment complex would face the transmission lines on two sides and most of the 300 units are located within 500 feet of the transmission centerline of Links E2 and C7. If the anticipated 500+ residents of this apartment complex are considered, the number of impacted persons on Links E2 and C7 will be vastly greater than the six habitable structures on Link C6 as stated in Oncor's application. . . . The project is largely complete and will be occupied later this year.⁵

La Estancia and Northlake do not seek to upend Commission precedent regarding when habitable structures are counted. As noted above, a point-in-time count makes sense in most instances. But if the purpose of the exercise is to accurately reflect the number of residents that will actually be affected by a transmission line, the Commission should make exceptions when the actual habitable-structure count has changed significantly before the Commission enters its final order. That is particularly true in this case, when the landowners that would be affected by the

⁴ Increasing the number of habitable structures by 132, less 38, results in a net increase of 94 incremental habitable structures.

⁵ Northlake Ex. 4 at 9.

alternative route are divided from the proposed transmission line by a busy six-lane highway, a screening wall, a hike-and-bike trail, and an existing set of power poles.

B. Exhibit B

During the hearing on the merits, La Estancia also proposed an alternative route labeled “La Estancia Alternative Route 2,” which would have modified Links E6 and G1 to follow FM 1171. La Estancia Alternative Route 2 was designed to avoid bisecting a La Estancia property referred to as the “South Parcel.” La Estancia acknowledged that it would need to obtain consent from the owner of Tract 801 in order for La Estancia Alternative Route 2 to be feasible, but La Estancia committed to seeking that consent.

The PFD recommended that the Commission approve La Estancia Alternative Route 2, assuming La Estancia could obtain consent from the owner of Tract 801. The Commission rejected that recommendation because it relied on a contingency that had not occurred – i.e., the consent of the Tract 801 landowner. La Estancia was unable to obtain the consent of the owner of Tract 801, so La Estancia no longer seeks Commission approval of La Estancia Alternative Route 2.

La Estancia instead requests Commission approval for Oncor to locate the transmission line in a way that is described by Exhibit B, the affidavit of Finley Ewing IV.⁶ Mr. Ewing explains that moving the transmission line further south will help preserve the value of the South Parcel, including the area at the intersection of FM 1171 and IH-35. In the affidavit, Mr. Ewing commits La Estancia to a Contribution in Aid of Construction in the amount of \$500,000 if the Commission approves the route shown in Exhibit B-1 to Mr. Ewing’s affidavit. Mr. Ewing also states that La

⁶ Exhibit B-1 to Mr. Ewing’s affidavit is a map of the alternative route that La Estancia asks the Commission to approve.

Estancia will not seek remainder damages for the South Parcel, but instead will seek to be compensated for only the market value of the easement itself.

Exhibit B also provides additional explanation regarding the effect that La Estancia Alternative Route 1 would have on incremental habitable structures. Although the evidence presented at hearing demonstrated that the incremental habitable structures affected by La Estancia Alternative Route 1 are divided from La Estancia Alternative Route 1, Mr. Ewing explains in Exhibit B that those incremental structures are also separated from La Estancia Alternative Route 1 by a screening wall, a hike and bike trail, and an existing set of power poles on the north side of FM 1171.

PRAYER

For the reasons set forth herein, La Estancia and Northlake respectfully request that the Commission admit into evidence Exhibits A and B to this Motion. La Estancia and Northlake also request any other relief to which they may be entitled.

Respectfully submitted,

WINSTEAD PC

By: /s/ Ron H. Moss

Ron H. Moss

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ATTORNEY FOR TOWN OF NORTHLAKE

CERTIFICATE OF SERVICE

It is hereby certified that a copy of the foregoing has been served by email on all parties of record who have provided an email address on this 26th day of February 2024, in accordance with the Order Suspending Rules in Project No. 50664.

By: /s/ Ron H. Moss

EXHIBIT A

SOAH DOCKET NO. 473-23-21216
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APPLICATION OF ONCOR ELECTRIC	§	BEFORE THE
DELIVERY COMPANY LLC TO	§	
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KV TRANSMISSION LINE IN DENTON	§	
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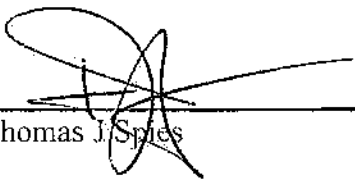
STATE OF TEXAS §
 §
COUNTY OF DENTON §

Before me, the undersigned notary public, this day personally appeared Thomas Spies, to me known, who being duly sworn according to law, deposes and says:

1. My name is Thomas Spies. I am of legal age and authorized to testify on the matters in this affidavit on behalf of Livano Canyon Falls, an apartment complex located in Northlake, Texas. I have personal knowledge of the facts stated herein, and those facts are true and correct.
2. I am an authorized representative of Northlake Residences, LLC, the owner and manager of Livano Canyon Falls. As such, I have personal knowledge of the occupancy rate of the Livano Canyon Falls complex.
3. The Livano Canyon Falls complex opened for residents in August, 2023. As of this date, the Livano Canyon Falls complex has 132 apartments leased to tenants and an additional 32 pre-leased to tenants, waiting for move-in.
4. The Livano Canyon Falls complex is located approximately 65 feet from the centerline of Link E2 of Route 179-C.

FURTHER AFFIANT SAYETH NOT.

Executed this 26th day of February 2024.



Thomas J. Spies

Alabama
STATE OF TEXAS
Jefferson
COUNTY OF DENTON

§
§
§

26th SUBSCRIBED AND SWORN TO BEFORE ME by Thomas J Spies on February 2024.



Elizabeth D. Swancey

NOTARY PUBLIC, STATE OF ALABAMA

Elizabeth D. Swancey

PRINTED NAME OF NOTARY

MY COMMISSION EXPIRES:

11/23/2025

EXHIBIT B

SOAH DOCKET NO. 473-23-21216

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APPLICATION OF ONCOR ELECTRIC	§	BEFORE THE
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KV TRANSMISSION LINE IN DENTON	§	
AND WISE COUNTIES	§	

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

AFFIDAVIT OF FINLEY EWING IV

Before me, the undersigned notary public, this day personally appeared Finley Ewing IV, to me known, who being duly sworn according to law, deposes and says:

1. My name is Finley Ewing IV. I am of legal age and authorized to testify on the matters in this affidavit on behalf of La Estancia Investments, L.P. (“La Estancia”). I have personal knowledge of the facts stated herein, and those facts are true and correct.

2. I am an authorized representative of La Estancia. I oversee the management, leasing, contracting and marketing of La Estancia’s tracts, which consist of 993.5 acres located adjacent to F.M. 1171. Members of the Ewing family have owned the property for over 60 years.

3. One of the La Estancia tracts, which I refer to herein as the “Northeast Parcel,” is located on the north side of F.M. 1171. In its initial filing in Docket No. 55067, Oncor Electric Delivery Company, LLC (“Oncor”) recommended a route in which one segment, Link C23, would have run directly through the middle of the Northeast Parcel. Because of the effect that Link C23 would have had on the value of the Northeast Parcel, La Estancia proposed an alternative route, which was labeled as “La Estancia Alternative Route 1.” In that alternative route, Link C21 turns to the southwest immediately after crossing the railroad track, instead of proceeding to Link C23

After that, La Estancia Alternative Route 1 runs parallel to the railroad track until it reaches the southern edge of the Northeast Parcel, which is F.M. 1171. It then runs along the north side of F.M. 1171 until it reaches the westward boundary of the Northeast Parcel.

4. There are no habitable structures located north of F.M. 1171 that would be affected by La Estancia Alternative Route 1. All of the habitable structures affected by La Estancia Alternative Route 1 are south of F.M. 1171, which is a very busy, six-lane divided highway. In addition to the highway, La Estancia Alternative Route 1 is separated from the habitable structures located south of FM 1171 by a screening wall, a hike and bike trail, and an existing set of power poles.

5. La Estancia commits to making a Contribution in Aid of Construction in the amount of \$250,000 to offset the incremental cost of La Estancia Alternative Route 1.

6. During the hearing on the merits, La Estancia also proposed a second alternative route labeled as “La Estancia Alternative Route 2.” That alternative route would have modified Links E6 and G1 to follow FM 1171. La Estancia’s purpose in proposing Alternative Route 2 was to avoid bisecting a La Estancia property referred to as the “South Parcel.” La Estancia acknowledged that it would need to obtain consent from the owner of Tract 801 in order for La Estancia Alternative Route 2 to be feasible, and La Estancia committed to seeking that consent. La Estancia was unable to obtain the consent of the owner of Tract 801, so La Estancia no longer seeks Commission approval of La Estancia Alternative Route 2.

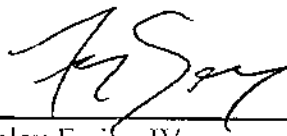
7. La Estancia instead requests Commission approval for Oncor to locate the transmission line further south within the South Parcel. Exhibit B-1 is a map that shows La Estancia’s proposed modification to Link E6, although La Estancia asks the Commission to grant Oncor the latitude to make minor adjustments within the South Parcel as necessary.

8. In order to offset potential incremental costs, La Estancia commits to making a Contribution in Aid of Construction in the amount of \$500,000 if the Commission approves the Link E6 Modification. La Estancia also agrees not to pursue damages to the remainder of the South Parcel and to seek compensation only for the land within the easement itself.

9. Moving the transmission line further south will help preserve the value of the South Parcel, including the area at the intersection of FM 1171 and IH-35. La Estancia intends to construct warehouses, retail and commercial facilities, and other structures alongside the FM 1171 right of way, and the Link E6 Modification that La Estancia asks the Commission to approve will ensure that the Oncor transmission line does not prevent that planned development.

FURTHER AFFIANT SAYETH NOT.

Executed this 26th day of February 2024.



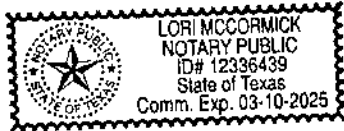
Finley Ewing IV

STATE OF TEXAS

§
§
§

COUNTY OF DALLAS

SUBSCRIBED AND SWORN TO BEFORE ME by Finley Ewing IV on February 26, 2024.



Lori McCormick

NOTARY PUBLIC, STATE OF TEXAS

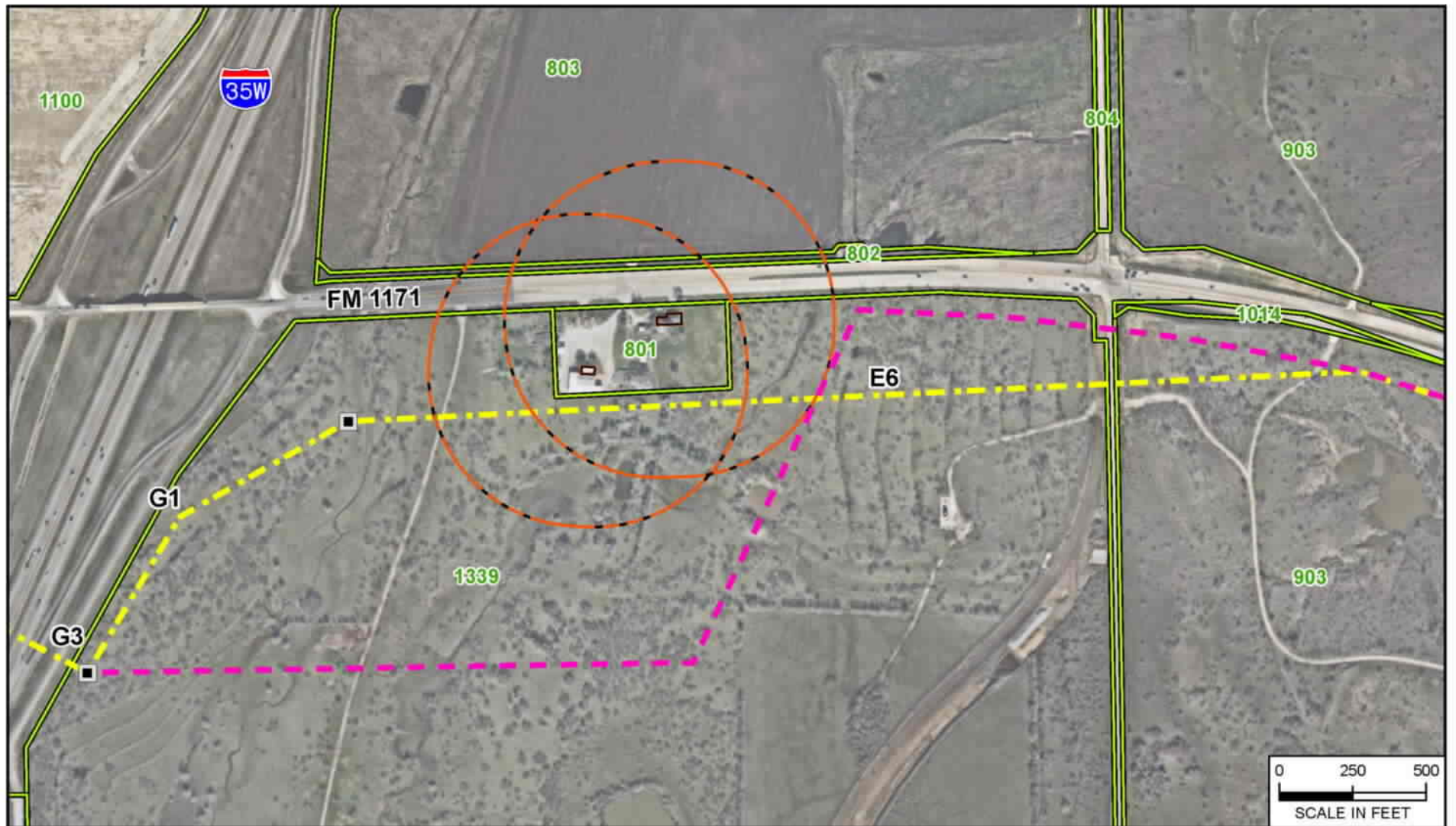
Lori McCormick

PRINTED NAME OF NOTARY

MY COMMISSION EXPIRES:

3/10/25

EXHIBIT B-1



LINK E6 AND G1 POTENTIAL MODIFICATIONS RAMHORN HILL SWITCH -- DUNHAM SWITCH 345 kV TRANSMISSION LINE PROJECT



TRACT NUMBER AND
BOUNDARY



PUC APPROVED TRANSMISSION
LINE ROUTE LINK



NODE BETWEEN ADJACENT
ROUTE LINKS



HABITABLE
STRUCTURE



HABITABLE STRUCTURE
520 FT BUFFER



LA ESTANCIA
MODIFICATION

AERIAL PHOTOGRAPHY FLOWN: 1-7-2024

EXHIBIT CREATED: 2-22-2024