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APPLICATION OF TEXAS-NEW MEXICO POWER COMPANY TO AMEND ITS CERTIFICATE OF CONVENIENCE AND NECESSITY FOR THE PROPOSED PILOT POINT 138-KV TRANSMISSION LINE PROJECT IN COLLIN, GRAYSON, AND/OR DENTON COUNTIES	§ § § § § § § §	BEFORE THE STATE OFFICE OF ADMINISTRATIVE HEARINGS
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**THE PARKS AT WILSON CREEK, L.P.'S AND
VPTM CROSS CREEK LB, LLC'S INITIAL POST-HEARING BRIEF**

The Parks at Wilson Creek, L.P. ("Parks at Wilson Creek") and VPTM Cross Creek LB, LLC ("Cross Creek") (collectively Parks at Wilson Creek/Cross Creek), hereby file their Initial Post-Hearing Brief, and in support thereof shows as follows:

I. INTRODUCTION AND SUMMARY

Parks at Wilson Creek and Cross Creek respectfully urge the Administrative Law Judges ("ALJs") not to recommend to the Public Utility Commission of Texas ("Commission") approval as the "Best Meets" route, any route whose path includes Links 3C, 3F, or 3G.¹ Use of these links would have a negative impact on the community values in and near the developments not only of the Parks at Wilson Creek and Cross Creek, but also the City of Celina, Texas.²

Regarding which route best meets the routing criteria the Commission uses to select a path for a new transmission line, Mr. Brian C. Andrews testified in this proceeding on behalf of Parks at Wilson Creek, Cross Creek, and 10,000 Celina Rd. on the merits of which route best meets Commission's routing criteria. Further, Parks at Wilson Creek and Cross Creek join in the post-hearing brief submitted by 10,000 Celina Rd. LLC ("10,000 Celina Rd."), which addresses which route best meets the Commission's routing criteria for a new transmission line. Because 10,000

¹ There are 22 routes that employ Links 3C, 3F, or 3G: Routes Nos. 18, 24, 38, 65, 80, 85, 104, 108, 127, 148, 149, 177, 204, 223, 250, 253, 266, 268, 298, 301, 325, and 342. *See* 10,000 Celina Road LLC Exh. 1 – Direct Testimony of Brian C. Andrews at 25 ("10,000 Celina Rd Exh. 1 – Andrews Dir. at ____"); and TNMP Exh. 1 at Attachment 12 (Bates pp. 1422-1424).

² Texas Utilities Code ("Tex. Util. Code") § 37.056(c) directs the Commission to consider, among other factors, community values. This directive is repeated in 16 Texas Administrative Code ("TAC") § 25.101(b)(3)(B).

Celina Rd.'s post-hearing brief speak to the issue of which route best meets the Commission's routing criteria, Parks at Wilson Creek and Cross Creek's brief does not address which route best meets the Commission's routing criteria.³

II. LINKS 3C, 3F, AND 3G NEGATIVELY IMPACT PARKS AT WILSON CREEK AND CROSS CREEK'S COMMUNITY VALUES

Parks at Wilson Creek's property is affected by Links 3C, 3F, and 3G;⁴ Cross Creek's property is affected by Link 3F.⁵ Mr. Randall Wayne McCuistion's testimony establishes that Parks at Wilson Creek has expended considerable resources to develop a master-planned community in the City of Celina, Texas resulting in development entitlements that accrue to Parks at Wilson Creek's and Cross Creek's benefit. Links 3C, 3F and 3G, if used for TNMP's transmission line, would result in material loss of monetary and aesthetic value, the entitlements it secured, and make waste of the planning that has been in process for a significant amount of time.⁶

Links 3F and 3G would be adjacent to Parks at Wilson Creek's property running adjacent to future Coit Road. Parks at Wilson Creek's property at this location has already been dedicated to the City of Celina as a part of the Public Improvement District ("PID") Agreement for the construction of Coit Road in the City of Celina.⁷ Additionally, this property already has a major water line installed along the proposed path for these two links adjacent to the road right of way along Coit Road as shown in the City of Celina's Water Master Plan.⁸

³ Parks at Wilson Creek and Cross Creek reserve the right to respond to other parties' briefs regarding the routing criteria and ultimate selection of a "best-meets" route.

⁴ Parks at Wilson Creek are Property ID Nos. 888 and 889, and CAD Parcel Nos. 2696794 and 2696795. *See* Parks at Wilson Creek/Cross Creek Exh. 2 – Direct Testimony of Randall Wayne McCuistion at 2 ("Parks at Wilson Creek/Cross Creek Exh. 2 – McCuistion Dir. at ____"); and 10,000 Celina Rd LLC Exh. 1 – Andrews Dir. at 6. Mr. Andrews presented testimony on behalf of 10,000 Celina Rd, Parks at Wilson Creek, and Cross Creek.

⁵ TNMP shows Cross Creek as Property ID No. 803, and CAD Parcel No. 1011602. *See* 10,000 Celina Rd Exh. 1 – Andrews Dir. at 6.

⁶ Parks at Wilson Creek/Cross Creek Exh. 2 – McCuistion Dir. at 2.

⁷ *Id.* at 4.

⁸ Parks at Wilson Creek/Cross Creek Exh. 2 – McCuistion Dir. at 2 and Attachment K (Bates p. 4698); K.1 (Bates p. 4700) and K.2 (Bates p. 4712). The easements that were dedicated for the Master Water Plan are shown on Attachment K.1 and K.2.

Line 3C would bisect residential, commercial, and park property as it connects to TNMP's Proposed Point of Interconnection (PPOI) D.⁹ And, all three links would necessitate the taking of property for easements that would be outside of existing easements for water lines that have already been installed adjacent to future road right of way that has already been dedicated.¹⁰

Additionally, there are numerous development improvements Parks at Wilson Creek has undertaken in accordance with the City of Celina - Master Planned Improvements some of which are in the process of completion and others completed through the construction stage that would be negatively affected by use of Links 3C, 3F, and 3G.¹¹

Crucially, Parks at Wilson Creek and Cross Creek are part of a master-planned community developed in collaboration with the City of Celina. These developments include facets financed in part through publicly issued bonds through a public improvement district.¹² Because of the creation of a PID, the Parks at Wilson Creek's project also has been approved by State, County, and City Offices and many of the improvements are financed in part through publicly issued bonds through a PID. The PID funding mechanism for the master-planned community was approved by the City of Celina on July 13, 2021.¹³ The Texas Attorney General approved the bonds for the above-mentioned improvements on December 3, 2021.¹⁴

The bond holders for the PID Bonds and those financial commitments would be materially, negatively impacted by Links 3C, 3F and 3G and would diminish the lot yield for the community as well as impact Public City Park land, not only that the bond holders expected, but equally importantly, that the State of Texas approved. The PID Bonds are issued based on the property's appraised value, and determined by property size, and potential improvement to land value. The

⁹ Parks at Wilson Creek/Cross Creek Exh. 2 – McCuiston Dir. at 4.

¹⁰ *Id.*

¹¹ Parks at Wilson Creek/Cross Creek Exh. 2 – McCuiston Dir. at Attachment A (Bates p. 8); Attachment B (Bates p. 16); Attachment C (Bates p. 90); and Attachment D (Bates p. 95).

¹² See Local Government Code, Chapter 372, §§ 372.001 *et seq* (Public Improvement District Assessment Act (PID Act)). Public Improvement Districts ("PID") are governed by the Local Government Code Chapter 372. Under the PID Act, the governing body of a municipality or county may issue and sell general obligation bonds or revenue bonds to reimburse a developer for the cost of a public improvement if certain conditions are met. See PID Act § 372.152. See, e.g., PID Act §§ 372.0035; 372.006; 372.015.

¹³ Parks at Wilson Creek/Cross Creek Exh. 2 – McCuiston Dir. at 4; see also, e.g., Parks at Wilson Creek/Cross Creek Exh. 2 – McCuiston Dir. at Attachments F.1 and F.2 (Bates pp. 151 and 2432, respectively).

¹⁴ Parks at Wilson Creek/Cross Creek Exh. 2 – McCuiston Dir. at 3; Attachment G (Bates p. 4665 – Attorney General approval of PID Bonds).

bonds are paid back via the collection of the special assessment amounts assessed against the properties in the PID.¹⁵

Further, the entitlements for Parks at Wilson Creek community have been underway since prior to 2013, with the first official action taken to transfer property to the City of Celina for a City Park.¹⁶ Since that time, entitlements have continually evolved. A Development Agreement with a land plan configuration and deal points for the entire community were agreed to in 2015.¹⁷ Additionally, the remainder of community was annexed into the City of Celina in 2016,¹⁸ and Parks at Wilson Creek's development includes the dedication of land to Celina Independent School District in 2020.¹⁹

Construction of the first phase of improvements for the bond-funded improvements began in 2021.²⁰ Right of Way was dedicated to the City of Celina for the PID, and the plat was filed dedicating easements, right of way for roads, and solidifying the land plan of this master planned community on February 9, 2023.²¹

In short, placement of a transmission line using Links 3C, 3F and 3G would have a negative effect on community and aesthetic values of the City of Celina, Parks at Wilson Creek, and Cross Creek's developments and properties. As Mr. McCuiston's un rebutted testimony states:

There are several impacts the proposed transmission line would have on PWC, LP's property. We are concerned with the likelihood of the proposed line diminishing the value of the land, developed lots and homes built on those lots, and hindering the sale of developed lots and homes on PWC, LP's property. We are also concerned with the likelihood that placement of a transmission line on or near PWC, LP's property would materially and negatively impact the PID Bondholders who rely

¹⁵ See Footnote 12, *supra*.

¹⁶ Parks at Wilson Creek/Cross Creek Exh. 2 – McCuiston Dir. at 4; *see also, e.g.*, Parks at Wilson Creek/Cross Creek Exh. 2 – McCuiston Dir. at Attachment A (Bates p. 8) and Attachment C (Bates p. 90).

¹⁷ Parks at Wilson Creek/Cross Creek Exh. 2 – McCuiston Dir. at 4; *see also, e.g.*, Parks at Wilson Creek/Cross Creek Exh. 2 – McCuiston Dir. at Attachment B (Bates p. 16).

¹⁸ Parks at Wilson Creek/Cross Creek Exh. 2 – McCuiston Dir. at 4; *see also, e.g.*, Parks at Wilson Creek/Cross Creek Exh. 2 – McCuiston Dir. at Attachment D (Bates p. 95).

¹⁹ Parks at Wilson Creek/Cross Creek Exh. 2 – McCuiston Dir. at 4; *see also, e.g.*, Parks at Wilson Creek/Cross Creek Exh. 2 – McCuiston Dir. at Attachment E (Bates p. 109).

²⁰ Parks at Wilson Creek/Cross Creek Exh. 2 – McCuiston Dir. at 5.

²¹ Parks at Wilson Creek/Cross Creek Exh. 2 – McCuiston Dir. at Attachment H (Bates p. 4668) and Attachment J (Bates p. 4692).

upon the value of the undeveloped land prior to homes being built, and the value of the homes built on the developed lots, for repayment of the PID Bonds.²²

Moreover, no party presented credible testimony or other evidence establishing that any of the routes TNMP presented in its Application that include Links 3C, 3F, or 3G, represents a good fit under the routing criteria the Commission employs to select a route for a new transmission line.

III. CONCLUSION AND PRAYER

For the forgoing reasons, Parks at Wilson Creek and Cross Creek respectfully urge the Administrative Law Judges (ALJs) to find that use of routes that employ Links 3C, 3F, or 3G would have an adverse to the community values in and near the properties owned by Parks at Wilson Creek and Cross Creek and further urge the ALJs not to recommend to the Commission approval as the “Best Meets” route, any route whose path includes Links 3C, 3F, or 3G.

Respectfully submitted,

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**ATTORNEYS FOR THE PARKS AT
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²² Parks at Wilson Creek/Cross Creek Exh. 2 – McCuiston Dir. at 5.

CERTIFICATE OF SERVICE

I hereby certify that on this the 1st day of September, 2023, a true and correct copy of ***The Parks at Wilson Creek, L.P.'s And VPTM Cross Creek LB, LLC's Initial Post-Hearing Brief*** was filed with the Public Utility Commission of Texas in accordance with the revised service requirements approved in this proceeding in SOAH Order No. 2.

By: /s/Mariann Wood
Mariann Wood