

SOAH DOCKET NO. 473-26-13152

PUC DOCKET NO. 59315

APPLICATION OF ONCOR ELECTRIC) BEFORE THE STATE OFFICE
 DELIVERY COMPANY LLC TO AMEND)
 ITS CERTIFICATE OF CONVENIENCE)
 AND NECESSITY FOR THE DINOSAUR)
 SWITCH-LONGSHORE SWITCH 765-KV)
 TRANSMISSION LINE PROJECT IN)
 BORDEN, BOSQUE, BROWN,) OF
 CALLAHAN, COKE, COLEMAN,)
 COMANCHE, EASTLAND, ERATH,)
 GLASSCOCK, HAMILTON, HOOD,)
 HOWARD, JONES, MITCHELL,)
 NOLAN, RUNNELS, SHACKELFORD,)
 SOMERVELL, STEPHENS, STERLING,)
 AND TAYLOR COUNTIES) ADMINISTRATIVE HEARINGS

HEARING ON THE MERITS

Friday, May 8, 2026

(HYBRID / IN PERSON / ZOOM VIDEOCONFERENCE)

BE IT REMEMBERED THAT at 9:00 a.m., on Friday, the 8th day of May, 2026, the above-entitled matter came on for hearing at the Austin Marriott Hotel Downtown, 304 E. Cesar Chavez Street, Austin, Texas, before PRATIBHA J. SHENOY and BRENT D. MCCABE, Administrative Law Judges, and the following proceedings were reported by computerized stenotype machine by Della M. Duett, Certified Shorthand Reporter.

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1 JUDGE SHENOY: All right. We are on the
2 record for our fifth day of hearing in SOAH Docket
3 473-26-13152, PUC Docket Number 59315. It is May 8th,
4 2026.

5 And where we stopped yesterday was with
6 questioning of the Oncor panel by Ms. Dyson. That's
7 where we'll pick up again. A few things that I want to
8 mention before I do that, though. I know a lot of folks
9 are still waiting, and you've been waiting patiently,
10 and you'd like to ask your questions. I definitely want
11 to give everyone a chance to ask questions, but I know
12 not everyone has been here all week. We have,
13 Judge McCabe and I have, and we've heard all the
14 questions. We've heard all the witnesses. We've heard
15 the answers. We will have everything written down that
16 everyone said.

17 So if I -- if I let you know that we're
18 going over questions that have already been asked,
19 please take that, you know, not as a personal thing.
20 It's just that we've already talked about those issues,
21 and we're trying to make sure that you get a chance to
22 ask the questions that are specific to you or your
23 property that nobody else would be able to ask.

24 And, again, this is the time to ask
25 questions of the panel, not to make any statements.

1 You've already got statements into evidence in your
2 testimony. And we do have those, and we read all of
3 those.

4 What I'd like to do right now is --
5 everybody who's got your hands raised, I'm going to put
6 your hands down. And what I'd like to do is I'd like
7 people to raise their hands if they think, after
8 Ms. Dyson is done, that they have five questions or
9 less. So I want to try and crank through those folks
10 first to try and let them go and do other things.

11 So, again, if you have five questions or
12 less, raise your hand, and I'll get to you, and I'm
13 going to try and get to you in roughly the same order
14 that you're on the list on my screen. So I'm going to
15 try and do all of that in coordination.

16 Another thing is that we break for lunch at
17 12:30. I'd like to be done with the panel by 12:30 so
18 that we can move on to Staff's witness. I'm not trying
19 to short anybody on time, but I'm just trying to keep us
20 focused because we also have that witness, and I know
21 a lot of folks wanted to ask that witness some questions
22 too. So the goal is to have that witness go on at 1:30.
23 Okay?

24 I think that's everything.

25 JUDGE MCCABE: And I would just say, given

1 the time that we have today, please, everybody, when it
2 comes to the Staff witness, let's look to make our
3 cross-examination focused and direct and as much as we
4 can and really narrow in on the issues.

5 JUDGE SHENOY: All right. Ms. Dyson, are
6 you ready?

7 MS. DYSON: Yes, ma'am. Can you hear me
8 again?

9 JUDGE SHENOY: Yes.

10 MS. DYSON: Okay. Do I need to reidentify
11 myself for the court reporter?

12 JUDGE SHENOY: Not for the court reporter.
13 It might help the panel. And I'll let you know that
14 Mr. Marusak has got a walking mic, and he's ready to
15 walk up to whichever map, and he's going to do that as
16 and when he needs to, no need to ask us. But, yeah,
17 maybe just remind him of the links.

18 MS. DYSON: Okay.

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1 PRESENTATION ON BEHALF OF
2 ONCOR ELECTRIC DELIVERY COMPANY LLC (CONTINUED)
3 PANEL
4 CORIN COOLEY, P.E., JARED GURLEY, P.E.,
5 RUSSELL MARUSAK, P.E., KAYLYNNE PHILLIPS, P.E.,
6 AMY ZAPLETAL, P.E.,
7 having been previously duly sworn, testified as follows:

8 CROSS-EXAMINATION

9 BY MS. DYSON:

10 Q. Okay. So, like she said, I'm Sierra Dyson, and
11 my Link is D23, specifically focused on Parcel 2263 and
12 2265.

13 A. (Marusak) We're there.

14 A. (Zapletal) We're ready.

15 Q. Okay. Perfect. Thank you.

16 Okay. So my very first question, picking
17 up -- I'm going to table where we left off yesterday,
18 and I'm going to move on to my new topic, if that's okay
19 with y'all. So this project requires clear-cutting a
20 massive right-of-way through native oak forest, if you
21 look at the aerial map view that Oncor provided of
22 Parcel 2263 and 2265.

23 A. (Phillips) Yes, that's correct.

24 Q. Okay. Because I just wanted to point out how
25 many oak trees, whenever you look at the aerial view,

1 that my property contains.

2 A. (Phillips) Okay.

3 Q. Because it's very, very densely packed.

4 So my next question would be construction
5 of these lines would require heavy machinery to tear
6 through the root systems of those native oaks to create
7 that 200-foot right-of-way that goes parallel directly
8 through the center of the two parcels; correct?

9 A. (Phillips) No. We will be using heavy
10 machinery, but for vegetation management, we do not plan
11 on taking up the root system. We will cut the trees
12 from the base above the ground.

13 Q. Okay. And is the panel aware that whenever you
14 cut trees at their base, that it leaves an open wound on
15 the trunk?

16 A. (Phillips) Yes, ma'am. We do have in our
17 habitat conservation plan, and we mentioned some in my
18 rebuttal, how we will deal with wounds. And I can talk
19 about that if that's your next question.

20 Q. Yes, ma'am. Because my concern is if oak wilt
21 spreads from your construction zone and kills the
22 remaining oak forest on my land, would Oncor, like,
23 compensate landowners for the trees if it wipes out the
24 entire grove?

25 MR. TAYLOR: Objection, Your Honor.

1 Damages are not part of this proceeding.

2 MS. DYSON: Can I respond?

3 JUDGE SHENOY: Okay.

4 MS. DYSON: Your Honor, I'm not trying to
5 litigate eminent domain dollars. I'm establishing,
6 under PURA Section 37.056, that Oncor's mitigation plan
7 needs to account for the total devastation of existing
8 property caused by their secondary environmental
9 impacts.

10 JUDGE SHENOY: Okay. And so that is beyond
11 the scope of what we can talk about here today.
12 Definitely an issue that may come up later, but not for
13 this proceeding.

14 MS. DYSON: Are we allowed to talk about
15 the plan that they might have to mitigate oak wilt?

16 JUDGE SHENOY: I believe if it's already in
17 the testimony that Ms. Phillips or one of the other
18 witnesses has filed, then it's already in the record.
19 So, you know, it's there, and we know it's there. So if
20 there's a specific question about that, then you can ask
21 that.

22 MS. DYSON: Okay. No, ma'am. I'll move
23 on. Thank you for the explanation.

24 JUDGE SHENOY: Okay.

25 Q. (BY MS. DYSON) Okay. So moving on after

1 addressing that there are a large amount of trees on my
2 property, my next question is about alternative routes.

3 So the PUCT rules strongly encourage the
4 use of existing compatible right-of-ways for new
5 transmission lines; correct?

6 A. (Marusak) Correct.

7 Q. Okay. So Link D23 ignores these established
8 corridors to cross intact generational private property;
9 correct?

10 A. (Marusak) That's incorrect. You know, the
11 substantive rule, you know, which I've, you know,
12 testified through this week, is it applies to the entire
13 route and is acknowledged in, I believe it's my rebuttal
14 testimony. We talked that, in some places, we will be
15 able to adhere to the rule. In other places, we just
16 won't be able to because it's not going to be possible
17 to parallel a corridor for every piece and on every
18 property of this project.

19 Q. I understand. But specifically pertaining to
20 Parcels 2263 and 2265, it ignores the established
21 corridors, and it's going directly across intact
22 generational land?

23 A. (Marusak) And I'm sorry, I have to disagree,
24 because part of the substantive rule says it also
25 includes apparent property boundaries, and you've just

1 established that, you know, we are on the border of two
2 distinct pieces of property. So paralleling property
3 boundaries are included in the substantive rule.

4 Q. But those two parcels retain ownership within
5 the same family; correct?

6 A. (Zapletal) I think as far as the ownership, it
7 is unique ownership, although, you know, within the same
8 family, as you're stating, but in the tax records, it
9 does show a unique and different ownership.

10 Q. But per the Comanche County tax records
11 whenever y'all filed, y'all had it incorrect -- or
12 Comanche had it incorrect in the system, and under
13 y'all's paperwork, it showed that Susan Hodges and
14 Zachary Morris co-owned both parcels at the time that
15 the routes were drawn.

16 MR. TAYLOR: Your Honor, if I can object,
17 Ms. Dyson established yesterday that the ownership is
18 divided between her and another family member, and I
19 forget the percentages, but she walked us through this
20 yesterday.

21 JUDGE SHENOY: Okay. So, Ms. Dyson, if
22 this is already something that you had asked about, I
23 think you've gotten the answers from the panel as far as
24 what they saw and how they tried to address it.

25 MS. DYSON: Okay.

1 Q. (BY MS. DYSON) I was just saying is it correct
2 that the route was drawn prior to that knowledge?

3 A. (Marusak) I don't know the answer. And,
4 again, I -- what I do know is that we identify those as
5 apparent property boundaries, and we have, you know, two
6 distinct tracts, 2263 and 2265. And, as I stated prior,
7 the -- we apply the rule -- I mean, obviously, we're
8 work -- looking at links, but, ultimately, the
9 evaluation of the rule is for the overall route, not
10 just individual links, and then furthermore, just not
11 the individual links on individual pieces of property.

12 Q. Okay. Thank you.

13 Let me go to my next section. Okay. Going
14 back to our topic from the other day, when it comes to
15 the due diligence -- and I know that this has been
16 touched on slightly. So my question might be a little
17 bit different. But if Oncor did not conduct
18 on-the-ground inspections of every affected property
19 prior to selecting routes so that routing relies heavily
20 on aerial images, how can you ensure that that aerial
21 overview of the property shows all of these springs,
22 gullies, and other attributes of the property from
23 800 feet?

24 A. (Marusak) Again, we've -- we have testified
25 throughout that we have a process, and our process is to

1 capture what environmental constraints we are able to
2 identify through that process, and it is not -- the
3 intent of the EA is not to suppose that we caught every
4 possible environmental crit- -- you know, feature that
5 could be in a study area this large.

6 Q. Okay. Thank you. So at 800-foot visibility in
7 a heavily obstructed densely wooded area, aerial
8 observation cannot reliably identify everything, and
9 that there are possibilities that things are overlooked;
10 correct?

11 A. (Marusak) Yes, I believe I just stated that.

12 Q. Okay. I just wanted to make sure I understood.
13 Thank you.

14 So if Oncor's baseline data is possibly
15 incomplete, or that there are possible things that have
16 been overlooked, then how can you fundamentally
17 recommend a best-meets route?

18 A. (Zapletal) So I think, like I said yesterday,
19 there's just the nature of the process that there just
20 has to be -- in addition to a start for the process,
21 there are different starts and stops for different
22 segments of this process, even this hearing being, you
23 know, one more step.

24 And so in order to finalize the document,
25 in order to prepare it and file it, we just have to take

1 a snapshot in time, and this becomes, you know,
2 basically, as of that day, the best of our knowledge,
3 and we file, we move forward, and we -- and the judges
4 and commissioners depend on the additional information
5 from landowners like you-all have provided to supplement
6 the record for their consideration.

7 Q. Okay. Thank you. And this -- this is a
8 question, I guess, even more specific to me, because I
9 know that y'all probably hashed it out. But the Texas
10 Utility Code 37.056, that's where it talks about how you
11 have to consider community values, recreational park
12 areas, history, environment, improvement of service,
13 existing property, and utilities; correct?

14 A. (Zapletal) Correct.

15 Q. Like, that's something -- okay. So does that
16 help validate, like -- like, you're not looking at
17 visual impacts, but you are looking at, like, the rural
18 character, the forest destruction, link concerns,
19 environmental concerns, and the community values that
20 we've discussed so far?

21 A. (Marusak) Yes. So in the EA, we have a -- we
22 have a section of the EA that addresses the aesthetics.
23 You know, it kind of describes the aesthetics and how
24 the aesthetics change as we move east to west of the
25 property. We have a section in the table, which I've

1 testified -- move your hands.

2 Q. Yeah. I'm so sorry.

3 A. (Marusak) No, it's okay. It's okay. It's
4 welcome relief.

5 We have testified to the -- you've heard me
6 refer to the visual foreground zone. We have a section
7 in the EA that talks about that, and I have testified,
8 you know, several days this week that we acknowledge
9 that these transmission line structures will be seen,
10 you know, from the study area at different points.

11 Q. Okay. Thank you. And it might not be a good
12 time to make a joke, but at least you know the school
13 cares about your tax dollars and not wasting
14 electricity. If I don't move, they will go off. Sorry
15 if that was not good.

16 A. (Marusak) No, it's okay.

17 Q. Okay. I only have about four or five more
18 questions, and then I'll let y'all go.

19 Okay. So if the underlying data used to
20 build Route D23 -- oh, let me skip that one. You just
21 answered that.

22 Okay. And that one. Okay. So once you
23 have taken your snapshot in time that you just explained
24 to me and you're going to move forward with boots on the
25 ground, why -- or is it -- like, let me -- I guess I'm

1 asking, whenever you're talking about taking a snapshot
2 in time and you want to take that data and present it, I
3 guess, to ERCOT or the hosts, or whoever we're talking
4 to now, why can't we select three routes, or, like,
5 narrow it down to a couple of routes and take the
6 boots-on-the-ground information, and then move forward
7 before selecting a final route instead of just relying
8 on the aerial view?

9 A. (Zapletal) I think to clarify a couple of
10 things, the actual CCN application template that is
11 prepared and mandated by all utilities from the
12 Commission just requests that the applicant select one
13 in their opinion. The -- I don't know if it would be
14 the complication, but the expense to actually go and get
15 the boots on the ground serving prior to Commission
16 approval of a route could be dollars spent on something
17 that does not come to fruition. And so I think there's
18 a balance there to be cautious for ratepayers.

19 But also, you know -- and Ms. Cooley can
20 add if there's anything I misspeak, but, you know, we've
21 said a number of times, once the Commission does give
22 their authorization -- or their selection of the route
23 to be constructed, things will move very quickly, and
24 those boots on -- those boots will be on the ground very
25 quickly, just as soon as we can have landowner

1 permissions. So, rest assured, that that step will come
2 later this year for sure.

3 Q. Okay. I guess I was just confused because I
4 don't understand how a route simply cannot be considered
5 the least impactful if all of the impacts have yet to be
6 identified.

7 Okay. So the boots on the ground is going
8 to be identified following the selection of the route;
9 correct?

10 A. (Zapletal) After selection of the route by the
11 PUC, yes.

12 Q. Okay. So if you have not yet completed
13 ground-level environmental, topographical, or structural
14 surveys, then you don't actually know exactly, with
15 100 percent certainty, what is on Route 552; correct?

16 A. (Zapletal) Correct.

17 Q. Okay. So if the detailed data hasn't been
18 collected yet, how can you state under oath today that
19 you feel confident that 552 is the most appropriate
20 path?

21 A. (Zapletal) As being part of this process for
22 over a year and a half now, I think we are -- there has
23 been an -- a tremendous amount of due diligence that has
24 gone into this process. And so by nature of my
25 familiarity with that and involvement in that, not just

1 even personally, but with this team and other -- a host
2 of other professionals, I do feel confident in that, for
3 Route 552, but, as I've said before, too, with the other
4 routes and links presented in the application for the
5 Commission's consideration.

6 Q. Okay. So by law, the Commission must choose
7 the route that best meets -- and that's, like, the
8 people that we're talking to now -- the routing
9 criteria. So how can Oncor ask the Commission to
10 conclude Route 552 is the best when comparative research
11 needed to prove it won't be done until after the trial
12 is over?

13 MR. TAYLOR: Objection. Your Honor, there
14 is no such requirement on the Commission. The
15 Commission can choose whichever route it chooses.

16 JUDGE SHENOY: And, Ms. Dyson, that's
17 correct. The Commission has the ability to choose
18 whichever route -- Judge McCabe and I recommend a route.
19 The Commission can choose that or not.

20 MS. DYSON: Okay. Can I ask a question, I
21 guess, Your Honor, to -- or not to you, but, like, about
22 the law?

23 JUDGE SHENOY: I can't give you legal
24 advice. I mean --

25 MS. DYSON: Okay. Can I ask the panel

1 maybe? I just -- I have a question, but I'm not sure
2 how it works.

3 JUDGE SHENOY: Well, why don't you ask the
4 question, and I'll tell you if we can answer or not.

5 MS. DYSON: So does it, like, create a
6 paradox under the Administration Procedure Act [sic]
7 that the Commission can't declare about 552 the best?

8 JUDGE SHENOY: That is the kind of question
9 that a good law student would ask, but I tell you, don't
10 go to law school. That is a great question. It's not
11 one I can answer.

12 MS. DYSON: Yes, ma'am. I understand. I'm
13 not sure what I am allowed to say and not say. So thank
14 y'all for your help and patience.

15 JUDGE SHENOY: Understood.

16 Q. (BY MS. DYSON) Okay. I have one more. To be
17 clear, so the Commission is asking for Route 552 to be
18 approved before the detailed on-the-ground surveys are
19 complete with the knowledge that people will be impacted
20 by this for the duration of the 765-kilovolt lines;
21 correct?

22 A. (Zapletal) I believe Oncor has just presented
23 Route 552 as its route that -- you know, of their -- of
24 our opinion, best meets that. So the Commission isn't
25 asking us of that yet. We just presented that as the

1 option we feel they should consider.

2 MS. DYSON: Okay. Thank y'all. I'm
3 good -- or I'm done. Thank you so much for your time
4 and explanation. I hope that everybody takes it into
5 consideration and doesn't let my fumbling get in the
6 way. But I'm ready to pass the panel.

7 JUDGE SHENOY: Thank you, Ms. Dyson.

8 THE WITNESS: (Marusak) Thank you.

9 MS. DYSON: Am I, like -- am I needed
10 anymore for this process, or am I cleared?

11 JUDGE SHENOY: You're free to go. Your
12 testimony was admitted. All of that of your family
13 group was admitted. If you have questions for the Staff
14 witness or any other witness that might come up, then
15 you would need to be there to ask the questions, but if
16 you're satisfied, then you're all set.

17 MS. DYSON: Okay. I'm all set. Thank
18 you-all, and have a good day.

19 JUDGE SHENOY: Thank you. You too.

20 Okay. I have someone on my list, Julie.

21 MS. WILLIAMS: Yes, ma'am. Julie Williams,
22 Number 216, I believe.

23 JUDGE SHENOY: Hold on just a moment.

24 (Interruption)

25 JUDGE SHENOY: Okay. We had a lot of

1 interference there. So Julie Williams. Ms. Williams,
2 are you one of the people who has less than five
3 questions?

4 MS. JULIE WILLIAMS: Yes. I have one main
5 question, and maybe a follow-on, depending on the
6 answer.

7 JUDGE SHENOY: Okay. And you were
8 Number 216 on my list. I appreciate that. If you can
9 tell the panel what links and routes you're interested
10 in.

11 MS. JULIE WILLIAMS: Yes. Thank you.

12 CROSS-EXAMINATION

13 MS. JULIE WILLIAMS:

14 Q. The route is D22, and the tract is 2846. And I
15 will just go ahead and say that your -- I get it off the
16 interactive map. I know you have yours as well, but my
17 property on the end sits right under the interactive
18 map, but it is not exactly that number.

19 But my question, real quick, goes to
20 mitigation. So once you have an approval for a route,
21 as you mitigate the issues with the other landowners who
22 are -- who have those and you miss certain obstacles or
23 whatever you called them, do you ever get outside of
24 those identified properties in your thing? And if so,
25 what does the adjacent property owner have that's not

1 been identified? If that makes sense.

2 A. (Cooley) If I understand your question
3 correctly, it's -- you're asking if when we're -- have
4 the -- when the route has been selected by the
5 Commission and Oncor is working with one landowner who
6 was identified as an effective -- affected landowner if
7 they propose a modification that then would shift the
8 alignment onto your property, what would the mitigation
9 look like? Is that the question?

10 Q. Yes, ma'am. That was beautiful. Thank you.

11 A. (Cooley) So part of the process, when you're
12 coordinating with landowners, is that any newly-affected
13 landowner would also have to sign off on the potential
14 modification as well. So even if potentially, as of
15 today, or whenever the route would be approved, you were
16 not affected, if a modification was starting to be
17 looked at, you would then be contacted and coordinate
18 with you as well.

19 MS. JULIE WILLIAMS: Okay. Thank you. I
20 have further questions.

21 JUDGE SHENOY: Thank you, Ms. Williams.

22 All right. Trying to match up my list and
23 the folks who have raised their hand, Mr. Jordan, it
24 looks like you would be next. You think you have just
25 five or fewer questions?

1 MR. JORDAN: Actually, I've got six, but if
2 I exceed six minutes, then I want someone to stop me,
3 and we'll stop at seven. Would that work?

4 JUDGE SHENOY: Why don't you go ahead and
5 tell the panel which links you're interested in, and
6 we'll start there.

7 CROSS-EXAMINATION

8 BY MR. JORDAN:

9 Q. Okay. I'm Kelly Jordan on behalf of Jordan
10 Acres; Link D6, which is one of the lower links, and
11 I've also got one of the upper links, S2.

12 JUDGE SHENOY: Oh, and you were Number 227
13 on my list. I know that there are some folks who are
14 also trying to keep track of that.

15 MR. JORDAN: Yes, it's very helpful to have
16 that number.

17 JUDGE SHENOY: Okay.

18 A. (Cooley) Mr. Jordan, what tract number, if you
19 know, are you?

20 Q. (BY MR. JORDAN) Let me see. One tract number,
21 I think, was 4505 -- oh, 5055, 5056, and it's for the D6
22 link. S2, I'm not quite sure right offhand.

23 A. (Cooley) I think that's okay. We can probably
24 field your questions now.

25 Q. Yes, I think so. We don't really have to have

1 it for that, in my opinion.

2 Is the panel ready?

3 A. (Zapletal) Yes, sir. Yes. Sorry.

4 A. (Cooley) Yes.

5 Q. Is Oncor aware that U.S. local daily newspaper
6 print circulation is down 70 percent from 2005 levels?

7 A. (Zapletal) I'm not aware of that information.

8 Q. Did Oncor use any non-newspaper public outreach
9 method or landowner methods, such as county websites,
10 county Facebook pages, direct email, text alerts, radio,
11 online maps, social media, et cetera?

12 A. (Zapletal) As part of our process, we did not
13 use those. However, the notices sent in the application
14 and -- or for public meeting did include a reference
15 website to Oncor's transmission projects website that
16 does host a number of project links with project
17 information and information in that regard as well.
18 Other than that, it was the written notifications mailed
19 to landowners and courtesy notice sent to pipelines
20 operators and associations and then published in the
21 newspapers.

22 Q. I received my S2 notice on April 8th at
23 5:30 p.m. So that made for a tough evening. It was
24 postmarked April 6th. Luckily, I already intervened on
25 D6 a month before. So that made it a little easier, you

1 know, to process. But that could affect quite a few
2 landowners if they don't get the notice in time to
3 intervene.

4 A. (Zapletal) Yes, sir. And I actually recall
5 that particular situation, because I did recognize your
6 name as an intervenor. So when it came through as a
7 return notice from the postal service, that did catch me
8 particularly off guard. When I researched it, I did
9 confirm in our Attachment 12 list of landowners that,
10 for whatever reason, it -- the records did not get
11 merged into the more succinct mailing list that you-all
12 see in the application, but the actual address that it
13 was mailed to was exactly the address on the other
14 entries. So, to be honest, Mr. Jordan, that caught me
15 particularly off guard and boggled my mind.

16 Q. Nothing's perfect. It happens. It's a numbers
17 game. Nothing's -- you know, 1 out of 1,000 might not
18 work. I understand.

19 The next question is a little different,
20 back on the D6 route, because it's already got a line.
21 So about four weeks ago, I parked my truck underneath a
22 transmission line and opened the door and experienced
23 quite a shock there for some reason. So I said to
24 myself, gosh, what happened? Don't do that again. I
25 felt a similar mild tingling, but not as severe when

1 touching an aluminum gate near the line.

2 So I want to understand what Oncor expects
3 humans to experience underneath a 765-k [sic] line if
4 we're parked underneath it or touching something nearby.
5 That was quite a shock that one day. That's just a few
6 weeks ago, and made me sort of -- how can I avoid this
7 again?

8 A. (Cooley) So I can't speak necessarily to
9 exactly the feeling that you're -- you felt. However, I
10 can tell you the electric feel of a 765 line, as defined
11 by the IEEE, has -- in consideration with our structure
12 configuration and the right-of-way width specifically,
13 we meet the recommended guideline by IEEE to have the
14 electric field managed to less than 5 kilovolts per
15 meter at the edge of the right-of-way. And so it is
16 possible, as you're stating, to feel a shock, and that's
17 a combination of -- you know, of your step potential to
18 ground, and especially to, I guess, relating to your
19 comment on the fence, a lot of metal features are
20 conductive and have the possibility to have a minor
21 shock.

22 Q. I presume one should wear gloves to help reduce
23 that impact?

24 A. (Cooley) I don't know if I can advise you. I
25 think gloves would help, but there's still a possibility

1 you might feel a shock.

2 Q. And would a 765 line be, in effect, stronger on
3 a human, at ground level?

4 A. (Cooley) So I can't -- I don't know what the
5 existing line is that is on your property that you might
6 have felt that.

7 Q. It's a 345.

8 A. (Cooley) So it would be a little bit stronger,
9 yes.

10 Q. So definitely something to totally avoid for a
11 human, then, if you're going to touch any metal, it
12 sounds like?

13 A. (Cooley) I think a lot of it can be combatted
14 with, you know, proper grounding of any sort of metallic
15 fences, those types of things.

16 Q. And how would you ground a pickup truck or
17 fences, or is that not known at this time?

18 A. (Cooley) So to your point, you can't properly
19 ground a pickup truck, especially if it's a moving
20 vehicle, but that would be a recommendation that I would
21 have, is to look at grounding options.

22 Q. Okay. That's all my questions. Thank you,
23 ma'am.

24 A. (Cooley) Thank you.

25 JUDGE SHENOY: Thank you, Mr. Jordan.

1 Looks like Ms. Kenny -- or Ms. Kenny
2 Willis, you have five or fewer questions, and it's for
3 you and Acrea Cemetery.

4 MS. WILLIS: Yes, ma'am. Actually, the
5 cemetery question has been answered. So I don't have
6 that question. But I am representing my brother, Mark
7 Kenny; my sister, Martha Kenny Marks; and myself, Sara
8 Willis, on -- this is general questions, but our link is
9 C2, Tracts 2560, 2562, and 2563.

10 CROSS-EXAMINATION

11 BY MS. WILLIS:

12 Q. My first question is how does -- how -- what do
13 you do when the -- you encounter areas of what I would
14 call unstable land, such as we have high sandstone creek
15 bluffs that basically, you think it's a rock, and you
16 pick it up, and you can just crumble it in your hand.
17 The -- if the line goes across an area like that, how do
18 you -- what do you do? Do you just go ahead and drill
19 the piers for the base anyway and hope for the best, or
20 how is that handled?

21 A. (Cooley) So those types of soil parameters
22 would be identified in our geotechnical investigation.
23 And so all of the different layers of potential soil
24 would be known and considered within our design. And
25 so, yes, we have different options of foundation designs

1 that we can utilize, but based off of my experience, a
2 drilled pier with that type of soil is still a suitable
3 option, but if during our foundation design something
4 appears, that we do have other options to look at and
5 consider.

6 Q. Can -- I'm sorry. But actually -- but not
7 actually, like, moving the line a little bit one way or
8 the other so that it doesn't actually have to have a
9 construction pier on that creek bluff?

10 A. (Cooley) That could be an option. It's hard
11 to say without, you know, having the design in hand, but
12 Oncor has done hundreds of thousands of foundations in
13 this similar type of soil that you're describing.

14 Q. Okay. Thank you.

15 Let's see. My next question is, is it
16 correct that where a transmission line makes a turn,
17 that the 200-foot easement becomes a 4- or 500-foot
18 easement?

19 A. (Cooley) No, ma'am. So there's -- will only
20 ever be a 200-foot permanent easement, but at a turn,
21 there's a -- high likely possibility for a temporary
22 construction easement that would have a larger
23 footprint, which I believe you're referencing. So it
24 would extend beyond at that angle for temporary
25 construction needs.

1 Q. Okay. Well, at the point of a turn, would
2 there be two towers that are much closer together than
3 on just the long straight stretch of line?

4 A. (Cooley) No. The structure type for a dead
5 end on a 765 line is a single tower.

6 Q. Okay. Thank you.

7 Well, it -- my next question is also about
8 the easement. I was pretty sure I thought -- it was
9 stated on Thursday by one of the Oncor panel members
10 that during the construction phase, the easement would
11 be much larger -- I mean, I'm sorry. The clear-cutting
12 would be much larger area than the 200-foot easement.
13 Is that correct?

14 A. (Cooley) No. We would only be able to clear
15 what's within the right-of-way that we're acquiring.

16 Q. So when you're -- when you're constructing the
17 right-of-way, you're -- you're not going to get out of
18 the bounds of the 200 feet in any way?

19 A. (Cooley) Only if we've also agreed with the
20 landowner that a temporary construction easement or a
21 temporary access easement would be needed, but
22 otherwise, no.

23 Q. Okay. So -- and during this phase of
24 clear-cutting and every -- does Oncor actually
25 construct, for lack of a better word, roads through our

1 property to get to, you know, the places they need to
2 be?

3 A. (Cooley) No, not typically. The right-of-way
4 itself is generally used as the point of access, and
5 then in certain situations, if -- say, for example,
6 we're crossing a creek, you want to be able to come from
7 both sides and not cross over the creek. We would find
8 temporary points of access usually utilizing existing
9 roads, and that would be a point where Oncor would
10 coordinate with the landowner to get a temporary access
11 easement to utilize an existing road.

12 Q. Okay. But if you're going across agricultural
13 fields, literally the field itself where we grow hay,
14 there aren't going to be any roads. So you're saying
15 they'll stay within the 200-foot easement up to the
16 point where they need to cut the new 200 -- the forward
17 motion of the 200-foot easement?

18 A. (Cooley) So in that situation, in -- the
19 construction crews would stay on existing right-of-way.

20 Q. Okay. Okay. Thank you.

21 My next question would be about the
22 abandoned wells that the Middle Trinity Water District
23 raised concerns about. In our property, we know there
24 are at least four abandoned wells, and actually
25 throughout Erath County, because this area was starting

1 to be settled in 1858, there are quite a few old home
2 sites around that have -- you know, there's still a well
3 there even though it's been abandoned for maybe even
4 100 years. My understanding was the concern with the
5 middle -- with the water authority was that the
6 chemicals from the -- the maintenance of the
7 clear-cutting are -- I mean, of the easement area would
8 leach into these uncapped, open, abandoned wells and
9 make their way to the aquifer. I was just wondering if
10 during, say, the boots-on-the-ground survey, as y'all
11 call it, will it be in a particular route? Will these
12 wells be sought out, and if you find one within the --
13 within the easement, do you cap it or how would that be
14 handled?

15 A. (Phillips) I can address the concern with the
16 runoff, and then I'll let Ms. Cooley discuss what we
17 would do with the well. But as I mentioned yesterday in
18 my testimony, we are not broadcast spraying herbicides
19 or pesticides. So should we need to use it in those
20 areas, it'd be very targeted, hand sprayed on a specific
21 woody noncompatible species, and there should not be
22 large amounts of runoff that could get into these wells.

23 Q. Okay. But in the -- in keeping the easements
24 clear of -- okay. I'm -- all right. I'm -- let me
25 just --

1 You did state that grasses would be allowed
2 to be -- to be grown or just come up naturally within
3 the 200-foot easement but not trees; is that correct?

4 A. (Phillips) Yes, ma'am. If they're small
5 brushes and shrubs and grass things that we call
6 compatible, they're not going to get in the power lines,
7 we do allow those to stay in the right-of-way.

8 Q. Okay. So but just -- just in case you did
9 happen to come across one of these abandoned, uncapped
10 wells, would y'all try to cap it off or what -- how
11 would you handle that, or is it just not of a concern at
12 all? You don't feel it's a concern at all?

13 A. (Cooley) So I think the answer is two-fold.
14 So usually when we're looking at our design and the
15 survey data that we get back, we -- we try to avoid
16 while -- in general and be able to span over them, and
17 one of the things, I think, we've testified before is
18 the length of these typical spans are about 1400 to
19 1500 feet, and so we're able to cover long distances.
20 So that way we can avoid any sort of unrecognized
21 well-site, at least at this point in time. We'll know
22 that more after we get that survey data back.

23 And then as far as potentially mitigating
24 those, I mean, we would work with the landowner and the
25 water district to potentially come up with a solution.

1 Q. Okay. Thank you.

2 Okay. My last question is about
3 paralleling an existing corridor or elect -- an electric
4 line that crosses our property, for example, the Brazos
5 Authority, has a 160-foot easement. And if, as
6 in pictured on the map, if y'all put your line in the
7 same field that this goes through and the -- you know,
8 same basic area, does your easement overlap with the
9 present easement, or does it butt up to the present
10 easement, or does it have to be a certain amount away
11 from the existing easement?

12 A. (Cooley) So I'm not looking at the potential
13 alignment right now, but if it were to parallel the
14 existing easement, it would abut next to it. So right
15 where one easement ends, the next would start.

16 Q. Okay. So then basically out of our -- out of
17 one field, we would, in effect, lose 360 feet, because
18 we've already lost 160. Yours would be on top of the
19 160. Is that correct?

20 A. (Cooley) It would not overlap.

21 Q. Okay. That's all the questions I have. Thank
22 you very much.

23 A. (Marusak) Thank you.

24 A. (Cooley) Thank you.

25 JUDGE SHENOY: Thank you, Ms. Willis.

1 Mr. Trinque, you have five or fewer
2 questions?

3 MR. TRINQUE: Yes, ma'am.

4 JUDGE SHENOY: Okay. And you were number
5 241 on my list. So go ahead and tell the panel which
6 links you're interested in.

7 MR. TRINQUE: Okay.

8 CROSS-EXAMINATION

9 BY MR. TRINQUE:

10 Q. My name is Lance Trinque. I'm on the C2 route
11 in Erath County, and the tract I'm interested in talking
12 about first is the 2520, if you can locate that.

13 A. (Zapletal) And, Mr. Trinque, if you'll give me
14 the numbers while Mr. Marusak is getting acclimated,
15 we'll try to be ready for you.

16 Q. Okay. The tract number is 2520.

17 A. (Zapletal) Yes. Was there another?

18 Q. Yes. My property is 2547 along the same line.

19 A. (Zapletal) Thank you.

20 Q. If you can find FM 3025, Tract Number 2520 is
21 about two miles --

22 A. (Cooley) Sir, we're ready.

23 Q. West.

24 A. (Zapletal) Yep, we're ready.

25 JUDGE SHENOY: Go ahead. Mr. Trinque,

1 they're ready for you.

2 MR. TRINQUE: Okay.

3 Q. (BY MR. TRINQUE) Okay. I'm a retired
4 firefighter in Erath County for 35 years, and the
5 quality of our emergency communication has always been
6 poor, but last year we were able to complete our new
7 co-opted -- between Erath County, Somervell County, and
8 Hood County, our new emergency communication tower, and
9 if you'll look on that tract, you'll see just south
10 on -- of 3025 on that 2520 route about a one-acre
11 square. Can you see that?

12 A. (Zapletal) I believe you're referring to the
13 tower 6 that's represented on the map?

14 Q. Yes, ma'am. And if you could see the extreme
15 closeness of the 765 line running -- I don't have one of
16 those drag devices y'all use to measure distances, but
17 it -- to me, it looks like maybe 500 feet?

18 A. (Zapletal) We can confirm that for you in the
19 application and in the EA.

20 Q. Okay.

21 A. (Zapletal) For tower 6, I'm looking in the
22 Attachment 14 to the application, Page 1 of 8, tower 6
23 being listed as approximately 1,000 feet north --

24 A. (Marusak) Two --

25 A. (Zapletal) Or two -- 1,000 -- sorry,

1 Mr. Marusak, correct --

2 A. (Marusak) Yeah, it's 1,000 feet south of the
3 link. The distances measured, the closest point is
4 north -- measured north.

5 Q. Okay.

6 A. (Marusak) So roughly a thousand feet.

7 Q. I think you can see the concern for all three
8 counties when they are very concerned about the
9 interference. This is an emergency communication tower.
10 So PD, FD, SO, EMS are all going to be affected with
11 this line that close to this tower. I can't explain why
12 that line was proposed to go that close to that tower.
13 I might could understand it if it was a mile or two
14 away, but that is extremely close for a seven -- for a
15 line of this magnitude to run that close to a tower.
16 Would you not agree?

17 A. (Marusak) I -- you know, to agree as to
18 whether it's too close, I can't do that. I do know that
19 we coordinated with -- the county gave us a set of their
20 tower locations, and I want to -- I can't remember how
21 many it was, but it was like a dozen or so, and, you
22 know, we were able to -- and my rudimentary
23 understanding is that they all kind of coordinate
24 together. And, you know, with the several that we were
25 given, I think this was the only one that we were, you

1 know, within 2,000 feet of -- you know, of that subset.
2 So -- I -- you know, the statement of, you know, should
3 be at least two to three miles away, that's a massive
4 exclusion zone, you know, when we start talking about a
5 dozen different towers. So, you know, we did our best
6 to avoid them and we were aware of their locations in
7 this particular location, and like I said, we did our
8 best, considering the other constraints in the area.

9 Q. Well, I hope you can understand the concern for
10 a three-county investment in such an important tower.

11 A. (Marusak) Yes, that's not a dismissal of the
12 concern.

13 Q. Okay. My second question, and we've talked a
14 little bit about these existing corridors, but if you'll
15 look between Morgan Mill and 3025, that same road that
16 the tower is on, about a mile and a half north of 3025's
17 intersection is a corridor, a pipeline corridor that
18 goes from Glen Rose area all the way to Desdemona. I'm
19 calculating that to be at least 50 miles, 50 miles of an
20 existing corridor that would eliminate having to use any
21 of these three northern lines. I can't understand why
22 that wasn't a consideration.

23 A. (Marusak) Respect --

24 Q. Can you see that existing pipeline corridor
25 that I'm talking about?

1 A. (Marusak) Yes, sir.

2 Q. Can you explain that to me?

3 A. (Marusak) Yes, sir. As I explained yesterday,
4 oftentimes these corridors, they come with similar
5 constraints. You might have heard me testify about the
6 I-20 corridor. There are constraints along that
7 corridor that we would have to ultimately leave that
8 corridor in several places. We talked to a gentleman
9 this morning on Link D6. We tried to parallel the
10 existing transmission line along D6, and you actually
11 see us leave that corridor several times because of the
12 constraints. And each time we leave that corridor, we
13 are impacting other people's property, getting closer to
14 habitable structures. It's a balancing act. So -- and
15 then also pipelines, especially major pipeline
16 corridors, those are also something that we do not seek
17 out to parallel or abut for substantial distances. So
18 there's multiple reasons. Hopefully that answers why we
19 didn't parallel that corridor.

20 Q. Well, it -- those reasons that you have for
21 leaving that corridor must be very large to consider
22 clearing a 200-foot easement across the length of both
23 these counties when one -- when an existing corridor
24 does exist. It's there, and it's 50 miles long, which
25 is, to me, at least a quarter of a mile of this entire

1 project, and it goes directly east to west.

2 MS. VALENCIANO: Objection, Your Honor.
3 This is Soledad Valenciano. We'd like the witness -- I
4 mean, the questioner to ask a question. He's just
5 testifying at this point.

6 MR. TRINQUE: All right. I'll move on.

7 JUDGE SHENOY: Okay.

8 Q. (BY MR. TRINQUE) As being a retired
9 firefighter, I've noticed any kind of information I've
10 tried to look up about firefighting in the immediate
11 area of these lines is fairly vague. A power line of
12 this size is something we've never had to deal with here
13 in the county, and we've had multiple wildfires that
14 would encompass in all of the -- three of the areas that
15 these lines are going through. What are the
16 recommendations of Oncor on fighting fire in these --
17 around these transmission lines?

18 A. (Cooley) Unfortunately, sir, I don't know if I
19 am able to give you an answer as far as a
20 recommendation. I would assume the practices that
21 you're using today on existing lines would also be
22 probably best practice for what we would have for
23 working around 765.

24 Q. Well, ma'am, I appreciate that answer, but
25 that's -- y'all are supposed to be the experts and

1 advise us. We've never had to deal with anything of
2 this size, so...

3 MS. VALENCIANO: Soledad Valenciano.
4 Objection. The witness is -- I mean, the questioner is
5 badgering the panel. We'd like him to ask a question.

6 JUDGE SHENOY: Mr. Trinque --

7 MR. TRINQUE: I did ask -- I did ask a
8 question. I asked what are your recommendations for
9 fighting fire?

10 JUDGE SHENOY: And, sir, she gave you a
11 answer, which is that she can't tell you more than what
12 she just did.

13 MR. TRINQUE: Okay. Thank you.

14 JUDGE SHENOY: Okay.

15 Q. (BY MR. TRINQUE) I guess my -- my next
16 question would be on the Golden-cheeked Warbler
17 question. The Paluxy River valley is an established
18 stronghold of the Golden-cheeked Warbler, and my
19 question is if Oncor, which they did know of its
20 existence, so -- I've talked to Rick Hanson, the
21 regional director for endangered species in the area.
22 He said y'all were aware that -- and from what we
23 understand, there are needed 30 contiguous acres for a
24 nesting pair of Golden-cheeked Warblers. I know that
25 was a consideration, but running all three of these

1 northern lines directly down the center of the Paluxy
2 River valley, why did y'all not decide to go on a more
3 northerly route or southern direction and avoid the
4 Paluxy River valley?

5 A. (Marusak) In my rebuttal testimony, I believe
6 we -- we addressed that -- you know, first, the project
7 was established as an endpoint very close to the Paluxy
8 River valley. So the fact that the endpoint is
9 established near the Paluxy River valley means we are
10 going to have to evaluate routes that are likely going
11 to cross the Paluxy River valley. So in that context,
12 knowing we would have to, we tried to provide different
13 alternatives, trying to route through areas that had,
14 you know, what we perceived to be least, you know, ash
15 juniper communities. And, you know, we did look at
16 routes that go north, but it's ultimately defined, you
17 know, by the fact that we had to start from the Dinosaur
18 Switch location, which -- you know, the reasons for
19 which why it's located have already been answered. But,
20 I mean, that's the honest answers, that we knew we were
21 going to have these impacts, and based on where we had
22 to start from, we really don't have a good choice to,
23 you know -- excluding the Paluxy River valley is not
24 really an option to achieve geographic diversity.

25 Q. Okay. I was listening yesterday, and I heard a

1 witness ask about why onsite locations there in the
2 Permian Basin for building generation -- or electricity
3 power plants there are not being considered, and I heard
4 that Oncor or ERCOT don't have a say in that kind of
5 thing. Who does? And I think that four or five plants
6 were suggested by somebody that would need to be built
7 to provide power in those areas. Who is the authority
8 that okays that particular type of construction to be
9 done in the Permian Basin?

10 A. (Gurley) Yes, I can answer that. So the
11 electric market in Texas has been deregulated, and so
12 what that means is that the retail and the generation
13 piece of the market are not a regulated entity. They
14 are a free market essentially. So it is up to the
15 generation companies to decide when and where and how
16 big and whatever type of generation they want to build.
17 That is not -- with Oncor being a regulated company, we
18 are no -- we're not allowed to own generators, and so
19 we -- we cannot participate in that piece of the market.

20 Q. Okay. I guess my -- I'm a little confused
21 on -- if these transmission lines are what we have
22 decided or whoever has decided to get power out there to
23 the Permian Basin, and there is the alternative of
24 generating power on site, who recommends those power
25 plants be built or considered as a power source? Who

1 makes that decision?

2 A. (Gurley) Yeah. Sorry. Go ahead.

3 Q. You know, I -- transmission lines going out
4 there is a --

5 JUDGE SHENOY: And, Mr. Trinque, I'm sorry,
6 I'm going to -- Mr. Trinque, I'm going to interrupt you
7 there.

8 MR. TRINQUE: Yes.

9 JUDGE SHENOY: And I don't want to speak
10 for the panel, but I will say that that is a question
11 that probably goes beyond the pay grade of the folks
12 here. That's something that the legislature and other
13 decision-makers have decided, and so what we're here for
14 is what the Commission has told us to do, which is to
15 find out which of the these lines would be the best one,
16 all things considered.

17 MR. TRINQUE: Yes, ma'am. Thank you. I
18 believe that's all I had.

19 JUDGE SHENOY: Thank you, Mr. Trinque.

20 MR. TRINQUE: Yes, ma'am.

21 JUDGE SHENOY: Ms. Fair, Shelly Fair. You
22 would be asking questions for yourself as well as Jimmie
23 Fair?

24 MS. FAIR: No, just for myself.

25 JUDGE SHENOY: Okay. I will need you to

1 ask questions for all parties that are put together. So
2 we had you and your husband together, and you would need
3 to have one person ask the questions.

4 MS. FAIR: I'm going to ask the questions.
5 I'm the one -- I'm going to be the one person.

6 JUDGE SHENOY: Okay. Great. And could you
7 tell -- so you -- the two of you were Number 194 on my
8 list. Could you tell the parties and the panel which
9 links you're interested in?

10 MS. FAIR: So it's Jimmie N. and Shelly R.
11 Fair. It's C3. Our tracts are 2641 and 2642. My
12 question is for Ms. Cooley.

13 CROSS-EXAMINATION

14 BY MS. FAIR:

15 Q. There was a gentleman -- I didn't have any
16 questions this morning, but there was a gentleman a few
17 questions back, and he was talking about standing under
18 his electric line and that he did feel a shock from
19 that. And then from the gate, also aluminum gate. And
20 I believe you quoted an IEEE safe distance, and then you
21 mentioned that it's from -- the safe distance is from
22 the edge of the 200-foot out. Is that -- correct?

23 A. (Cooley) So the -- IEEE recommends a value for
24 what the electric field should be at the edge of the
25 right-of-way, and so at the edge of the 200 feet, the

1 recommended level by the IEEE is 5 kilovolts per meter.
2 And from the preliminary studies that Oncor has done,
3 the effects that we see or expect from this transmission
4 line, based off of the design and the configuration of
5 the structure, would be less than that recommended level
6 that IEEE has provided for reference.

7 Q. Okay. So that's the outside of the easement.
8 What -- and so there is a nonrecommended level within
9 the 200-foot easement itself?

10 A. (Cooley) So there's also recommended levels
11 for within the easement. So the electric field has to
12 be under 10-kilovolts per meter on the centerline, and
13 so it kind of looks like a wavelength of a chart, and I
14 know I just did that with my hand so it's --

15 Q. No, that's fine.

16 A. (Cooley) But essentially, yes, they have
17 recommendations for within the right-of-way as well.

18 Q. Okay. And then you -- you talked about that a
19 truck is not properly grounded. It was -- it was
20 something that you mentioned. So that a truck is not
21 properly grounded. He could possibly feel something
22 like that that you hadn't, but that he might feel that.
23 And I'm just sitting here thinking about -- you know,
24 this divides our tracts and the easement. To go to our
25 Tract 2642, we have to drive through the easement to get

1 to a portion of that property. So our tractors won't be
2 grounded, and there would be a possibility of some type
3 of maybe electric shock or vibration or volt or
4 whatever, and that would maybe also include
5 four-wheelers that my grandkids are on or that I'm on or
6 my husband's on, and then if we have shoes on our
7 horses, that possibly that would be a conductor also.
8 Am I understanding that correctly?

9 A. (Cooley) So as long as you're, you know,
10 moving through the easement, you necessarily wouldn't
11 feel anything of a shock. And so if you're parking
12 under a line or -- I think that would probably be the
13 biggest example, then you would need to look at
14 potential of proper grounds. Our construction crews
15 utilize grounding with all their equipment as they're
16 under the transmission line for longer periods of time,
17 but as you're driving through it or underneath the
18 transmission line, that should not be an issue.

19 Q. I mean, I understand. I can -- in this
20 instance -- so the easement is not going to be
21 considered totally usable. It's just -- it's not
22 usable. So if I break down and my tractor breaks down,
23 then I would have to pull it out. So it really is not
24 safe under there if -- period. I don't know even how to
25 ask that in a question. I just found it rather odd that

1 it goes from, well, this is pretty safe and you can
2 coexist with this to there's a possibility that this
3 could actually harm you underneath the easement itself.

4 Anyways, I don't think you can answer that,
5 but I don't have any further questions for you. Thank
6 you for your explanation.

7 A. (Cooley) I would like to add, I mean, although
8 it's a minor shock, it is considered safe and there are
9 765 facilities in the rest of the country, and as part
10 of our research and the reason for our structure
11 configuration and the right-of-way width being what it
12 is, is based off of other utilities' expertise, and our
13 research shows that there are no extremely harmful
14 events that would occur within the right-of-way, and so
15 it is -- it is safe.

16 Q. I mean, but if -- as far as use. I understand
17 it might be safe, it might not kill you, it might not
18 hurt you, but if a shock is something out of the normal,
19 it would deter you from being there, wouldn't you say
20 that it would deter you? For -- if a horse went through
21 there and they have shoes on and they get a little
22 shock, it's going to deter them. They're going to go,
23 well, maybe I don't want to be here.

24 MS. VALENCIANO: Objection, calls for
25 speculation.

1 MR. TAYLOR: Your Honor, if I can add real
2 quick as well.

3 MS. FAIR: I understand.

4 MR. TAYLOR: I understand, given time
5 constraints, I'm not going to have much of an
6 opportunity for redirect, but I do want to clarify on
7 the record, we're talking about static shocks here.
8 We're talking about, like, what happens when you get out
9 of your car at the gas station. We're talking about
10 static shocks.

11 JUDGE SHENOY: Okay. So, Ms. Fair, does
12 that address what you were asking about? I -- I don't
13 know if anyone on the panel can talk about the response
14 of the animals and so on.

15 MS. FAIR: That's fine. I pretty much
16 understand what's going on. Thank you for letting me
17 ask this question. Appreciate it.

18 JUDGE SHENOY: Okay. Thank you, Ms. Fair.
19 Shelby Norman?

20 MS. NORMAN: Yes, I'm here.

21 JUDGE SHENOY: Okay. You were Number 322
22 on my list, and my list keeps changing, but I did have
23 you on there next. So please tell the panel what link
24 you're interested in.

25 MS. NORMAN: Yes.

1 CROSS-EXAMINATION

2 BY MS. NORMAN:

3 Q. Our fifth generation land is located on
4 Route 713, Link C11, Tracts 2 -- 2329 and 2330.

5 A. (Cooley) I believe we're ready for you.

6 Q. Okay. So like others that you've heard from,
7 we are also staunchly proud landowners for the past
8 147 years. I'd like to talk a little bit about
9 something that's very concerning for us, and that is
10 that, at most, just completed construction on March 1st,
11 and March 1st because of the established Golden-cheeked
12 Warbler habitat on our property, that Atmos completed
13 construction on March 1st of this year of a 36-inch,
14 high-pressure natural gas transmission line on both
15 tracts, which is 2329 and 2330. The high-pressure
16 natural gas transmission pipelines typically operate at
17 pressures ranging from 725 to 1160 psi. This pipeline
18 is buried about 10 feet in the ground. If the 765-kV
19 line traverses our property, this would be actually a
20 historic crossing of a 500 -- a 5,000-megawatt
21 transmission line over preexisting high-pressure gas
22 transmission line.23 These are two extremely high-energy
24 transport systems. In fact, to my knowledge, this would
25 be the first energy crossing of this magnitude in the

1 state of Texas. When this gas line was tested by Atmos
2 with their safety and quality assurance and their
3 integrity testing once they completed the line --

4 MR. TAYLOR: Your Honor, apologies. I'm
5 going to have to object. We're testifying to a
6 multitude of facts here that are not in evidence.

7 JUDGE SHENOY: Okay. And so, Ms. Norman,
8 can you ask the question that you're actually after
9 without the preface, because there's an objection that
10 you're testifying, which you might be saying --

11 MS. NORMAN: Yes.

12 JUDGE SHENOY: -- things that aren't in
13 your direct testimony.

14 MS. NORMAN: I can ask. And actually, it
15 is in my direct testimony.

16 JUDGE SHENOY: Okay. So people don't want
17 to have to compare and make sure, and so just to not
18 hold you up, maybe you can just ask the question.

19 Q. (BY MS. NORMAN) Has Oncor ever designed or
20 studied the crossing of a high-pressure gas transmission
21 line with a 765-kV transmission line in the state of
22 Texas or anywhere?

23 A. (Cooley) So Oncor typically doesn't undergo
24 studies of the pipeline and their facts. That's part of
25 the coordination that we have with pipeline companies

1 during our engineering due diligence. In the recent
2 history, the Commission has issued two standard ordering
3 paragraphs that discuss consulting with the pipeline
4 companies and providing them the appropriate data to
5 perform those studies. And so has Oncor ever performed
6 those studies? No, but the coordination is done on all
7 transmission line projects to work with the pipeline
8 company.

9 Q. Has Oncor ever studied risks associated with
10 the level of static electricity that emanates from a 765
11 line over this type of high-pressure gas transmission
12 line?

13 A. (Cooley) No. Once again, any type of
14 coordination on the effects of the pipelines will be
15 handled in the design process in coordination with the
16 pipeline companies, and they usually are the ones who
17 perform the studies as part of the Commission's orders.

18 Q. There is also an existing 18-inch-old line that
19 is over 30 years old that is still operational there.
20 In fact, just a couple of years ago, Atmos installed a
21 cathodic protection system on that existing 18-inch
22 line, which in my estimation, is probably a little too
23 late because of the age of that line, and it's less than
24 300 feet away from where Link C11 would fall on this
25 property. So again, I -- we have serious concerns about

1 an old 18-inch pipeline that is still in operation in
2 combination with an existing 36-inch, high-pressure gas
3 line, both of which this 765-kV transmission line would
4 traverse.

5 Has Oncor ever done any kind of study, and
6 if so, would you be willing to release the findings of
7 any kind of risks or consequences of pipelines leaking
8 near this unprecedented crossing?

9 MS. VALENCIANO: Objection, Your Honor.
10 This question has already been answered by the panel in
11 the previous --

12 MS. NORMAN: Okay. I'll move on.

13 JUDGE SHENOY: Okay.

14 Q. (BY MS. NORMAN) So Oncor has Tract 2329,
15 Link C11. There's four occupied habitable structures
16 within 500 feet, two occupied habitable structures
17 within a thousand feet. There is a Texas historical
18 cemetery within -- within 300 feet -- actually,
19 500 feet, and multiple end-use wells. I believe, if I'm
20 correct, the drawing shows highway -- it's actually
21 FM 108. I believe it shows it as FM 115, which happens
22 to be one of the two routes that folks that live in
23 Stephenville use as their main path of travel from
24 Stephenville to the I-20 corridor. I'm wondering --

25 MS. PEMBERTON: Excuse me. I'm Margaret

1 Pemberton for Great Southern Ranch. I'm objecting to
2 the witness -- not the witness, the -- somebody -- the
3 intervenor testifying rather than asking a question.

4 JUDGE SHENOY: Okay. And that's sustained.

5 Ms. Norman, you need to just ask the
6 question without the preface.

7 Q. (BY MS. NORMAN) Why did Oncor not Route C11's
8 transmission line completely away from the pipeline
9 crossing, as this does not show compliance with prudent
10 avoidance?

11 MS. VALENCIANO: Objection, relevance. It
12 has nothing to do with the routing. That's more of a
13 route adequacy. This is Soledad Valenciano.

14 MS. NORMAN: I'll move on.

15 JUDGE SHENOY: Okay.

16 Q. (BY MS. NORMAN) If Oncor knows that the
17 endangered species habitat, such as the Golden-cheeked
18 Warbler, exists on this these properties, will they
19 follow the Endangered Species Act of 1973, which
20 provides the framework to conserve and protect
21 endangered and threatened species in their habitat both
22 domestically and abroad by following the same directive
23 that Atmos was required to follow?

24 A. (Phillips) Yes, ma'am. And we've gone above
25 and beyond that. We have a habitat conservation plan

1 that is intact for 30 years, until 2042, and it is
2 attached to this proceeding.

3 Q. So Atmos will not do -- I mean, I'm sorry,
4 Oncor will not do any work between the months of March
5 and September, and they will follow their nesting
6 habitats and nesting time frames?

7 A. (Phillips) We will follow the habitat
8 conservation plan, which does actually give us the
9 opportunity to construct during breeding season,
10 although not ideal, and we typically avoid it. But if
11 you look in the plan, there are mitigation measures for
12 if we do need to construct during breeding season.

13 Q. Does Oncor agree that Route 713 has a higher
14 number of Texas Administrative Code Section 25.101
15 compliance issues other than your best-meets route of
16 five -- 552?

17 MR. TAYLOR: Apologies, ma'am. You're
18 going to have to give us more context and be more
19 specific with that question.

20 Q. (BY MS. NORMAN) So Route 713 was an amended
21 route last minute. I believe that Route 713 has a
22 higher number of habitable structures. It's a longer
23 route. It's a more expensive route, as compared to your
24 best-meets route of 552. I'm asking if you agree.

25 A. (Zapletal) I would say that there are

1 differences. I do want to clarify Route 713 was one of
2 the 130 routes filed by Oncor in the application. It
3 was just determined by the PUC staff to be the route
4 that they recommended. So I heard a reference or a
5 question about an amended route or something added at
6 the last minute. So I want to be clear that that route
7 was one of the routes included -- one of the 130 routes
8 included in the original filing.

9 Q. Are there other routes that are more efficient
10 and less expensive than Route 713?

11 A. (Zapletal) Can you define the parameters of
12 efficiencies, what you may be comparing for --

13 Q. There are more direct routes that are more
14 direct east, west, or west-east, however you want to
15 look at it, as opposed to Route 713, specifically
16 Link C11.

17 MR. BRADY: Objection, Your Honor. Zach
18 Brady. We're continuing to ask questions about routes
19 that are not on the table. Lots of us would like the
20 links to be different, but that's not the purpose of
21 this proceeding.

22 MS. NORMAN: I have no further questions.

23 JUDGE SHENOY: Oh, okay. Thank you,
24 Ms. Norman.

25 THE WITNESS: (Zapletal) Thank you.

1 JUDGE SHENOY: Mr. Jackson.

2 MR. JACKSON: That would be me.

3 JUDGE SHENOY: Okay. And you have fewer
4 than five questions?

5 MR. JACKSON: Yes, that's correct.

6 JUDGE SHENOY: Okay. Let's try and keep it
7 going. You were Number 275 on my list.

8 And I am jumping around a little bit, but
9 trying to get to everyone that I can.

10 So tell the panel which links you're here
11 to talk about.

12 MR. JACKSON: Okay.

13 CROSS-EXAMINATION

14 BY MR. JACKSON:

15 Q. So my name is Mike Jackson. I'm a landowner on
16 Route 552, which is Link D71. The parcel numbers that I
17 own are 4894, 4895, and 4899.

18 So my ranch is, in native Texas, known as
19 the Cross Timbers, and I have a lot of thick forested
20 areas on my property where this proposed line could
21 traverse. We learned in testimony that these trees will
22 be removed. We also learned that in the removal
23 process, they will be clipped or cut with heavy
24 machinery and remove all this stuff. So my first
25 question is, this will disturb the soil; correct?

1 A. (Phillips) It could have an impact on the
2 soil. However, leaving the root system intact, it will
3 be more minimal. And we will also leave the mulch
4 on-site, which helps with erosion and compaction.

5 Q. I thought from an earlier question or testimony
6 that the mulch could be, according to the landowner, be
7 removed also and not left on-site; is that correct?

8 A. (Phillips) We can work with the landowner.

9 Q. Right. So we also learned that towers can be
10 located before or after artifacts so as to not disturb
11 the artifacts as well. So here's the next question.
12 Would you agree that removing a swath of thick forest
13 will disturb the ground along this desired path?

14 A. (Phillips) It does have the potential to
15 impact soil in the right-of-way.

16 Q. If that is the case, then this disturbed path
17 could be over 1500 foot, which is the distance between
18 the towers; is that correct?

19 A. (Phillips) That is correct.

20 Q. Thank you. See what my next question was.

21 (Interruption)

22 MR. JACKSON: Am I still on?

23 JUDGE SHENOY: Yes.

24 MR. JACKSON: Thank you. I couldn't tell.

25 Q. (BY MR. JACKSON) So, essentially, D71 was not

1 added as a link until December of 2025. Would you agree
2 that Oncor did not send notices in December of 20 --
3 2025 to all the affected landowners within that link,
4 which would include my property?

5 A. (Zapletal) So the link D71 is shown in the
6 Section 6 of the environmental assessment, and the
7 exhibits in Appendix C show that the link was added
8 after the public participation meetings and receiving
9 feedback at that time during the summer of 2025. All
10 links were considered adopted or finalized by Oncor
11 December 2nd, 2025, and ordered to proceed with the
12 filing, and they were presented and included in the
13 filing notices sent after the application on
14 February 19th, 2026.

15 Q. One moment.

16 So you said that these were -- this link
17 was added based on comments. Could you relate what
18 comments you're referring to?

19 A. (Marusak) Mr. Jackson, these were just several
20 comments that were -- it was no specific comment
21 received at the public meeting. It was in consideration
22 of a broad array of comments, after which it was decided
23 that we needed to look at additional routes within the
24 study area.

25 Q. Are you able to describe these comments, then,

1 that you just stated were general comments?

2 A. (Marusak) Yes, sir.

3 JUDGE SHENOY: And, Mr. Marusak, if you can
4 refer Mr. Jackson -- if there's a place in the
5 application where those comments are, maybe he can look
6 at that.

7 THE WITNESS: (Marusak) Sure.

8 A. (Marusak) Yeah. So, Mr. Jackson, if you have
9 a -- in Section 5 of the environmental assessment, we
10 have a section in the environmental assessment where --
11 I'm sorry. Section 5 is where we house all the comments
12 that were received after the public meeting, and then in
13 Section 6, Section 6.1 of the environmental assessment,
14 we have a table of all the route links that we added as
15 part of the process. And it says "In consideration of
16 comments received throughout the study area related to
17 community values, proximity to residences, aesthetics,
18 and land use, Oncor asked Halff and Kimley-Horn to
19 expand the breadth of the alternative route links to
20 include route links within the study area, including
21 north of the highway and the city of Abilene."

22 So we have -- so, again, it's -- after we
23 have the public meeting, we look at all the comments,
24 and it's a standard process to add links or modify links
25 after the public meeting.

1 Q. (BY MR. JACKSON) I understand that your
2 comments about the -- the general comments themselves,
3 but about those particular comments, what is it that
4 persuaded you to add this link?

5 A. (Marusak) I think volume of those. You know,
6 so when we talk about proximity to residences,
7 aesthetics, land use, I think volume of comments is an
8 important consideration. I think, you know, we also
9 mentioned that we took another look at trying to
10 parallel other corridors.

11 Q. Okay. What are the -- so are you saying that
12 protests by other landowners is what caused y'all to add
13 this link?

14 A. (Marusak) To add this specific link, it is
15 a -- after the public meeting, it is a standard process
16 to look at all of the comments that were received and to
17 look at the opinions expressed and then to make
18 modifications or route link additions. This particular
19 link, in combination with several other links, were a
20 result of that process.

21 Q. What do you mean by that?

22 A. (Marusak) Okay. Let me see if I can help to
23 clarify. Your question was were those comments why we
24 decided to add this link.

25 Q. What specifically about those comments caused

1 you to then decide to add this link?

2 A. (Marusak) Mr. Edwards -- Mr. Jackson, you
3 know, I said earlier there were comments about proximity
4 to residences, aesthetics, and land use that were
5 expressed throughout the study area. And so as
6 common -- as is commonly done in these types of
7 projects, we go and we look at several route
8 modifications that we can use to add those -- address
9 those comments, and at times, we have to look at adding
10 additional links to help serve some of those comments
11 and also address perhaps the, you know, notion of
12 geographic diversity to make sure that we have an
13 adequate number of alternatives for the Commission to
14 consider.

15 Q. Thank you.

16 MR. JACKSON: So I have -- I guess, on the
17 subject of a pending motion to admit my supplemental
18 testimony, so if I'm able to admit that testimony, it
19 will get rid of seven questions that I have. So I
20 wanted to find out if that's a possibility, to admit my
21 testimony that was 4925 on the interchange, and that
22 would have been following a -- following a response to
23 my RFIs that I received on the 28th. I filed the
24 supplemental testimony the very next day, on the 29th.

25 JUDGE SHENOY: Okay. Hold on just a

1 moment.

2 All right. Mr. Jackson, the RFIs have
3 already been admitted. We are not going to admit your
4 supplemental testimony at this time. You also are not
5 allowed to ask questions about things that are in that
6 supplemental testimony if I have excluded it.

7 MR. JACKSON: I didn't know it was
8 excluded. Thank you for clarifying that for me.

9 JUDGE SHENOY: Okay. But the RFI responses
10 are already in.

11 MR. JACKSON: So that means I don't need to
12 be available for cross-examining for that --
13 cross-examination for that that's not admitted in the
14 testimony; correct?

15 JUDGE SHENOY: That's correct.

16 Q. (BY MR. JACKSON) I have two last questions.
17 Number one, I think we learned in testimony that cattle
18 probably will need to be removed during construction
19 through my parcels. My question is who pays for that?

20 A. (Cooley) So I can't answer necessarily the
21 cost, because that's part of the post-proceeding,
22 post-Commission approval stage. And so cattle and other
23 farm/ranch activities usually are not allowed within the
24 right-of-way during active construction and only within
25 the right-of-way. Outside of the right-of-way, your

1 cattle can be anywhere on your parcel.

2 Q. So it's my understanding that your right-of-way
3 is not fenced off from my cattle during construction?

4 A. (Cooley) If I heard you correctly, you said
5 that the line would not be fenced off?

6 Q. Correct.

7 A. (Cooley) Yes.

8 Q. How do you keep the cattle from wandering onto
9 your right-of-way without it being fenced off during
10 construction?

11 A. (Cooley) Usually, in my experience, from what
12 I've seen, is, you know, cattle are curious creatures.
13 They do want to investigate what's going on, but our
14 FCCs deal with this often and frequent, as our lines
15 cross a lot of ranchland, and are pretty good at, you
16 know, making sure the cattle don't cross over into
17 active construction.

18 Q. I'm not sure I quite follow what you're saying.
19 It seems rather vague, but I'll take that as your
20 answer.

21 So I have one last question, and this is
22 for the panel. So this has to do with community value.
23 My question is, is the safety of our children considered
24 a community value?

25 MR. BAYLIFF: Objection, calls for a legal

1 conclusion.

2 JUDGE SHENOY: And, Mr. Jackson, I think
3 the issue of humans and lives being valuable and all of
4 that has already been addressed by the panel as a thing
5 that is considered as community values.

6 MR. JACKSON: Okay. That would be my --

7 Q. (BY MR. JACKSON) Oh. The last thing I have
8 going on, and why I asked about the land and soil
9 disturbance along the line where oak trees are going to
10 be completely removed, is the potential for disturbing
11 archaeological and cultural artifacts. So since I
12 didn't really know about this -- this transmission line
13 until I got a packet in the mail on February the --
14 of 2026, I think it was February 23rd, anyhow, so I've
15 had a little to no time in order to prepare and find out
16 if I have artificial -- archaeological impacts on my
17 land.

18 So I know the PUC's been working on this
19 project for one to two years --

20 JUDGE SHENOY: Mr. Jackson. Mr. Jackson,
21 what's your question?

22 MR. JACKSON: I have a question.

23 JUDGE SHENOY: What is the question?

24 Q. (BY MR. JACKSON) So I have arranged to have
25 archaeologists show up on my property this weekend to

1 examine for archaeological --

2 UNKNOWN SPEAKER: Objection, hearsay.

3 MR. JACKSON: Why is it hearsay?

4 JUDGE SHENOY: Okay. So, Mr. Jackson, if
5 you are asking about things that may be discovered on
6 your land that are not there -- known about already, the
7 panel has talked about -- and, Mr. Marusak, I don't want
8 to mischaracterize your testimony, but you did testify
9 about how you work with the Texas Historical Commission.
10 If you come across artifacts in the process, there is
11 some steps that you have to go through, and that you
12 would go through that if you did discover sites.

13 THE WITNESS: (Marusak) And, Your Honor,
14 to add, and perhaps to help Mr. Jackson, once the
15 Commission picks a route, before they negotiate with
16 design to -- they will conduct -- a professional
17 archaeologist will conduct a survey of the route to
18 first identify all of those, and Oncor will hire and pay
19 for those archaeologists, to conduct an on-the-ground
20 survey with standards established, you know, by the
21 historic commission to locate archaeological -- or
22 cultural resources on your site, and then through that
23 process, that is when the coordination through design
24 would occur to the extent that it needed to occur.

25 Q. (BY MR. JACKSON) Is there any advantage

1 whatsoever to have that information before a route is
2 selected?

3 JUDGE SHENOY: And I can answer that,
4 Mr. Jackson. I'm only allowed to look at what's in the
5 record in front of me. So if it's not already in the
6 record, in terms of the admitted evidence, that's not --
7 I can't take new information into the record. All the
8 other parties would have to have a chance to respond to
9 that and object to that if they did, and so I can't take
10 that.

11 MR. JACKSON: Thank you for clarifying.
12 I'm -- pass the witness.

13 JUDGE SHENOY: Thank you.

14 We're going to take a break because the
15 court reporter has been going an hour and a half now.
16 So I'd like to make it a short break. 10:45.

17 We're off the record.

18 (Recess taken)

19 JUDGE MCCABE: Okay. We're back on the
20 record after our morning break.

21 Ms. Pelon, you approached us off the record
22 about your direct testimony. Please, what's your issue?

23 MS. PELON: Yes. I submitted three
24 different times. On 4/8, I submitted direct testimony.
25 On 4/30, I submitted the same direct testimony, but it

1 was labeled "Defending Comanche Land." And then --

2 JUDGE MCCABE: Okay. Ms. Pelon, I've
3 reviewed the filings that you made. I admitted the
4 direct testimony as it appeared on 4/8 and was listed as
5 direct testimony. I identified that in our interchange
6 number when we were discussing it, and that's what's
7 been admitted. The rest will not be admitted. It is
8 excluded.

9 I appreciate your point, but that's what
10 we've got to -- we've got to move forward. I have
11 looked at your filings, I have, and I -- we referenced
12 that when we discussed it. I referenced the interchange
13 number that would be admitted. It will be -- that's
14 what will be admitted as the one that appeared as direct
15 testimony on April 8th. Okay? Thank you, Ms. Pelon.

16 MS. PELON: You have missed Penatuhkah, and
17 it's not in the --

18 JUDGE MCCABE: Ms. Pelon, I understand, but
19 I've got to get back to the people who have questions
20 for the panel, because we are on a very, very short time
21 frame, and so I've got to do it. I'm sorry. I
22 understand. We did discuss this, and I did reference
23 the interchange number at that time. So I appreciate --
24 I appreciate the comments.

25 Okay. With that, I do have a list of

1 people who have their hands raised that I understand
2 have five or fewer questions. I have that list
3 established? Give me just a second. Let me make one
4 more note.

5 I'm going to kind of just remind everybody,
6 please, please focus on asking your questions to the
7 panel. I understand the urge to give statements and to
8 give that -- that context. Understand that the
9 statements you make leading up to your question, it's
10 not evidence. It's not been sworn to. It's not any --
11 it's not -- I understand it might be in direct
12 testimony, but really what we're listening for are the
13 questions and the answers because it's the panel who are
14 the witnesses at the time.

15 I understand it's awkward, especially in
16 examinations, because it's a question/answer, and when
17 we have conversations, we tend to want to input, and we
18 want to respond to, you know, how we feel about that
19 answer. But really this is the point of
20 question/answer, and I really want to focus on it,
21 because we are running out of time, and we need to go.

22 So I do want to kind of just reiterate
23 that. And understand if I step in and ask you to kind
24 of focus on the question, I'm not doing it to try to
25 limit you. I'm just trying to get us through that

1 process and focus on the procedure that we have.

2 I will also ask that if you're waiting in
3 line, if you could find your tract information and your
4 link information so that way you have it available once
5 we're ready to go, and we can move quickly, because we
6 really do have to kind of pick up the pace a little bit
7 as we continue to work through this case.

8 Let me start with Tony and Shawna Hayhurst.
9 I have them as Number 344 on my -- on the Order
10 Number 12 list. I understand that they have less than
11 five questions. Mr. and Ms. Hayhurst.

12 MS. HAYHURST: Yes, Your Honor.

13 JUDGE MCCABE: Yes. You may proceed with
14 your questions. Would you just state your name, and
15 then give me your link and your tract numbers?

16 MS. HAYHURST: All right. Tony and Shawna
17 Hayhurst, Link F15, Tract 1295.

18 JUDGE MCCABE: All right. You may proceed
19 with your questions.

20 CROSS-EXAMINATION

21 BY MS. HAYHURST:

22 Q. All right. I just have a couple of questions.
23 I do want to refer to the question of static electricity
24 in the right-of-way, because our property is very small.
25 And I did ask Dr. Gelmann this question, but he's not --

1 he said he wasn't qualified.

2 So the question I have, if the panel knows,
3 my husband has six titanium posts that protrude out of
4 his skull. They cannot be removed because they're too
5 close to his brain. We've tried to have them removed.
6 Are they going to be subject to static shock? Do you
7 know?

8 MS. VALENCIANO: Objection, Your Honor,
9 calls for speculation.

10 JUDGE MCCABE: She's asking if they know.
11 They can answer.

12 MS. VALENCIANO: Okay.

13 A. (Cooley) So the only thing I can state is that
14 titanium is a conductive metal, but that's about the
15 extent that I can speak on.

16 Q. (BY MS. HAYHURST) Okay. All right. Thank you
17 very much. I know it's unknown territory. It's an
18 unusual condition.

19 My second question is, I have the schedule,
20 and it says August 18th is the 180-day deadline for the
21 decision. Can you kind of give me the schedule on
22 notification for landowners once a route is chosen?

23 A. (Zapletal) I'm sorry, Ms. Hayhurst. I think
24 your question was about notice once the application --
25 or once a route is approved by the Commission. We were

1 trying to make sure we were looking at your tract.

2 Q. Yes.

3 A. (Zapletal) Following the PUC approval, yes,
4 there will be notice sent to all of the landowners.
5 With regards to those that are on whatever route the
6 Commission selects, they would be referred to as
7 "directly affected," they will receive a letter, you
8 know, structured and addressed to them. And, likewise,
9 those that are not on that affected route will be sent a
10 letter notifying them that they are not on the affected
11 route. So at the end of the proceeding, everyone who
12 received notice of the project will receive some form of
13 notice as far as the final approval by the Commission
14 and how it may or may not affect them.

15 Q. And so that is in a letter.

16 And then, in that notice, will we be given,
17 like, a timeline for how we will be contacted as far as
18 how long the process will take and how it will move?

19 A. (Zapletal) I think response to this question
20 may be a blend from my perspective and Ms. Cooley. The
21 letter itself does not have those type of specifics, but
22 following the approval, there is another process engaged
23 by our transmission engineering right-of-way department
24 that then becomes the communicator with landowners that
25 have the easement crossing them or they're directly

1 affected. So there's a bit of a handoff, and that is
2 the group that will coordinate with landowners with
3 regards to the -- that part of the process, the
4 landowner coordination, and getting written approvals
5 and permissions from the landowners to access their
6 property to begin the boots-on-the-ground surveys we've
7 been referring to.

8 Q. Okay. Thank you.

9 And just from your experience -- and I
10 don't expect a specific here, but just from your
11 experience, for a project this large, do you know what
12 the timeline for completion is?

13 A. (Cooley) Yes, ma'am. So I -- it's stated in
14 the application and also in my direct testimony. So we
15 expect to have the project completed by the summer
16 of 2029.

17 Q. Okay. All right. That gives us some idea.
18 Thank you very much.

19 JUDGE MCCABE: Thank you, Ms. Hayhurst.

20 A. (Zapletal) Thank you.

21 JUDGE MCCABE: Next on my screen, I've got
22 Mr. Jones, Number 367. Mr. Jones, you have fewer than
23 five questions?

24 MR. TIM JONES: Yes, sir, I do.

25 JUDGE MCCABE: All right. You may ask your

1 questions. If you would, would you state your name and
2 identify your tract and your link number.

3 MR. TIM JONES: Yes, sir. My name is Tim
4 Jones. I'm working off of Map 3-1N, Route H12, Tracts
5 892, 888.

6 THE WITNESS: (Zapletal) Yes, sir. We're
7 ready.

8 MR. TIM JONES: Okay. Thank you.

9 CROSS-EXAMINATION

10 BY MR. TIM JONES:

11 Q. My -- it's really a safety concern more so than
12 anything else. Are you aware or have you ever heard of
13 Camp Barkeley?

14 A. (Cooley) Would you be able to repeat that?

15 Q. Are you aware or have you ever heard of Camp
16 Barkeley?

17 A. (Marusak) As the routing witness, I will --
18 or, I mean, the routing expert, I will say we were not
19 aware of Camp Barkeley.

20 Q. Okay. It doesn't surprise me, but I just
21 needed to find out.

22 Camp Barkeley was actually a camp in this
23 area that you're looking at back in World War II. Now,
24 the only reason that matters is that -- obviously, if
25 you weren't aware of the camp, but I still need to ask

1 it as a question. Are you aware that they had an
2 artillery range that includes Tract 888, 889, 887, and
3 some of 883?

4 MR. BAYLIFF: Your Honor, possible
5 objection as to whether this was included in
6 Mr. Edwards's [sic] direct testimony or not.

7 JUDGE MCCABE: I think he's just trying to
8 make it clear whether they are aware of that or not, and
9 they may be aware or may not be.

10 MR. BAYLIFF: Thank you.

11 JUDGE MCCABE: I have a hunch considering,
12 but maybe we'll get an answer.

13 THE WITNESS: (Zapletal) Your Honor, I was
14 actually going to ask that as well, if that was in his
15 direct testimony. I have --

16 JUDGE MCCABE: Was that in your direct
17 testimony, Mr. Jones?

18 MR. JONES: It was not. And, really, all
19 I'm trying to do right now is make y'all aware --

20 MR. BAYLIFF: Your Honor --

21 MR. JONES: -- because of safety.

22 MR. BRADY: Your Honor, Zach Brady.
23 Objection. By definition, that's direct testimony.

24 JUDGE MCCABE: Well, and I think,
25 Mr. Jones, I understand that. But, again, Judge Shenoy

1 and I can only refer to the things that are in the
2 record. And so the questions -- they've indicated
3 they're not aware. And so if it's not in your direct
4 testimony, then we're getting into things of trying to
5 bring up new things at that point. So I'll ask you to
6 move on.

7 You know, as you move forward, if you want
8 to reach out to Oncor and identify some stuff, but
9 that's between you and them. It's not going to be an
10 issue in our contested case hearing.

11 MR. JONES: Actually, I would be happy to
12 just reach out to them, because they just do need to be
13 aware of unexploded ordnance. So I'm happy to do.
14 That's all I -- all I have. Thank you.

15 JUDGE MCCABE: All right. Thank you,
16 Mr. Jones.

17 THE WITNESS: (Cooley) Thank you.

18 JUDGE MCCABE: Okay. Ms. Stark.

19 MS. STARK: Yes. This is Mrs. Stark, Ruth
20 Stark. I'm Direct Testimony 4089. I'm on Link H11,
21 H12, and include the intersection of U1.

22 JUDGE MCCABE: Okay. And, for the record,
23 I'm just going to note for people following along,
24 you're Number 314 on our list.

25 MS. STARK: I'm at the end.

1 JUDGE MCCABE: Yep.

2 MS. STARK: Parcels 889, 890, and 891 are
3 on the H11 and H12, and Parcels 4303, 4307 are on the
4 Link U1. I'm at that corner.

5 THE WITNESS: (Zapletal) And for Your
6 Honor's reference, that is also on Figure 3-1N, as in
7 Nancy.

8 CROSS-EXAMINATION

9 BY MS. STARK:

10 Q. Okay. So you know where I am.

11 Did you drive County Road 351 through
12 Mulberry Canyon, which is also known as the Mountain
13 Pass?

14 A. (Marusak) I believe we did not.

15 Q. Okay. So you were not aware of the two
16 historical markers there are there that designate the
17 Mountain Pass Station and the Indian battleground that
18 were from -- that are located on my property?

19 A. (Marusak) We do have historical markers, you
20 know, from the historic commission. So we did, you
21 know, have them in our dataset.

22 Q. Okay. So would you agree that this is not
23 considered -- a potential site of high archaeological
24 and historical value, is a probable site?

25 A. (Marusak) So historical markers often -- can

1 often -- because of their nature, they're going to be
2 along roadsides, and so we often recognize that -- you
3 know, to be observed, they have to be by the road, and
4 we often recognize that the actual location of the --
5 that they're trying to recognize may be located
6 off-site.

7 Q. Yes. Yes, that's what I'm asking.

8 A. (Marusak) Yes.

9 Q. Okay. Next question. In your helicopter
10 survey, did they go through the canyon and down my
11 boundary, which is heavily wooded with a game-proof high
12 fence, and did they acknowledge the junction site may be
13 difficult?

14 A. (Marusak) So -- so what the helicopter flights
15 did was they actually -- we gave them the centerlines of
16 the route, and so they flew every centerline of every
17 route. And I can tell you that when we were doing the
18 routing of this particular link, we were absolutely
19 aware of the topo and terrain in this location. So --

20 Q. Okay. Good.

21 A. (Marusak) So just so you -- to answer your
22 question -- you asked if it would be difficult. We
23 recognize the terrain, and Ms. Cooley could probably
24 tell you if it was difficult or not, but we did
25 recognize the difference in terrain when you got to this

1 portion of the study area.

2 Q. You mentioned not wanting to lose your
3 equipment down in a gully, and I -- that's my concern
4 also. So I just wanted to make sure you were aware of
5 the topo over there.

6 A. (Marusak) Yes, ma'am.

7 Q. Okay. My third question here, the easement is
8 entirely on my property, and it -- and it's on my
9 property next to my high game fence. There are two
10 wells located on 891 and a spring located on 889 that
11 I -- I'm not sure were identified originally.

12 I have similar concerns as Mr. Ryan
13 Simpson. He gave an excellent presentation yesterday.
14 And I was just wondering if you could allow my wells and
15 springs the same consideration and analysis that you
16 give his.

17 A. (Marusak) I won't speak for Ms. Phillips, but
18 I believe they would handle -- I'll let her talk to
19 that, but I would assume that they would handle any
20 spring in the same manner regardless of property.

21 Q. Okay. That's my question.

22 And then another question, when the
23 helicopter flew, we have an airstrip north of the
24 proposed Link H12 that is perpendicular to the airstrip.
25 It's 91X, and it was established back in 2010. If that

1 was not included in your original document, I have
2 similar concerns as Mr. Carroll with Agra-Vation
3 concerning the airstrip topography. Would you give my
4 airstrip the same consideration and analysis that you
5 will Mr. Carroll's airstrip?

6 A. (Marusak) I will speak to -- and then I'm
7 going to turn it over to Mr. -- Ms. Cooley, sorry. Yes,
8 so your airstrip, you know, we did recognize -- I
9 believe at the public meeting in your comments, you gave
10 us, you know, notice that your airstrip was there, and
11 we did know it was there, and unfortunately -- you know,
12 so we knew it was there when we were routing the links,
13 and that's -- unfortunately, it did not get into our
14 first draft of the EA, and that's why we wanted to make
15 sure we fixed it in our errata submittal. So that is in
16 the record as part of our errata information.

17 And then Ms. Corin can address how -- you
18 know, that they will give it the same consideration.

19 A. (Cooley) Yeah. So during -- if the PUC were
20 to select a route consisting of this link, so during our
21 design process, we would coordinate with you and any
22 concerns that you might have, as well as we submit, like
23 I've testified earlier, all of our structures, heights,
24 and elevations to the FAA for their consideration as
25 well.

1 Q. Okay. Thank you. That's what I wanted to
2 hear.

3 As far as the chemicals for clearing the
4 right-of-way, are those restricted-use chemicals with
5 specific dilution and application rates?

6 A. (Phillips) Yes, ma'am. They're all EPA
7 registered, and they're only applied by licensed
8 applicators that are registered with the Texas
9 Department of Agriculture.

10 Q. That was my other question, the qualification
11 of the individuals that will be mixing and applying.
12 Thank you.

13 A. (Phillips) You're welcome.

14 Q. Thank you for that.

15 And then my last question is -- oh, wait.
16 Under construction, it's a high game fence ranch. Will
17 there be no breach to the perimeter to allow animals to
18 escape? Not specifically cattle. I'm speaking of
19 white-tailed deer.

20 A. (Cooley) So I -- I wasn't able to identify on
21 the map exactly where your fence was in comparison to
22 the route, but Oncor will work with you during the
23 construction if this is a selected -- a selected route
24 to make sure there are no impacts or something that we
25 can't mitigate together.

1 Q. Okay. And you're aware that you can't put
2 white-tailed deer into a cattle trailer and move them?

3 A. (Cooley) I was not aware.

4 Q. Okay.

5 A. (Marusak) I am, Mrs. Stark.

6 Q. Thank you. Thank you.

7 My last question is -- and everybody brings
8 this up - is about community values. Are you aware that
9 when you live out in a place like this with historical
10 value and peace and quiet, that you pretty much want to
11 be left alone? And are you aware in these type of
12 communities like we have, we have close bonds through,
13 like, the Pioneer Methodist Church and through the ECCA
14 Volunteer Fire Department, we do community things, we do
15 community support. In times of need, in times of
16 celebration, we do fundraisers for the various fire
17 departments, and would -- are you aware that this type
18 of power line is not really conducive with these
19 small-town, small-community values?

20 A. (Marusak) I think -- you know, in that regard,
21 there's a lot of things there that -- it's -- it would
22 be impossible for me to know and consider in routing a
23 transmission line, but I -- I think the -- a good way to
24 acknowledge that would be that I can understand through
25 my experience doing these projects that -- especially in

1 communities like this, that people may not want change
2 unless it is, you know, in their interest of change. If
3 you have something that you have worked for and has been
4 in your family, I can appreciate that you don't want
5 something new on it or in it unless it's something that
6 is your idea. So I think that's the best way I can
7 capture that.

8 Q. Thank you for consideration. That's all I have
9 to ask. I appreciate your time. Thank you, Panel.

10 JUDGE MCCABE: Thank you, Mrs. Stark.

11 And let's continue on, then. I've got
12 somebody listed as 214 iPhone. If you would, would you
13 just identify yourself? I'm going to ask you to unmute.

14 MS. ROBBINS: This is Judith Robbins.

15 JUDGE MCCABE: Okay. Ms. Robbins, let me
16 find your name real quick so I know it. If you would,
17 would you state your name and the tract number while I'm
18 looking that up. And the link number.

19 MS. ROBBINS: D22.

20 JUDGE MCCABE: I think you need to repeat
21 that one more time, Ms. Robbins.

22 MS. ROBBINS: Okay. D2 --

23 JUDGE MCCABE: I think we're losing you a
24 little bit. It may help if you turn off your camera. I
25 know that's a little bit inconvenient, but sometimes

1 that frees up bandwidth for the audio.

2 MS. ROBBINS: Oh, that didn't work. I'm
3 trying an option for that.

4 (Interruption)

5 JUDGE MCCABE: I can hear you now. So
6 let's go ahead and keep trying.

7 MS. ROBBINS: Okay. D22, D, as in dog, 22.

8 JUDGE MCCABE: I think we cut out again. I
9 didn't catch -- I heard D22, and then --

10 MS. ROBBINS: Yes. And Tract 2839, 2841,
11 and 2842.

12 JUDGE MCCABE: 2841 and 2842?

13 MS. ROBBINS: Yes, sir.

14 JUDGE MCCABE: Okay. Thank you. I also
15 note on our list from Order 12, Ms. Robbins is 212.

16 MS. ROBBINS: That's correct.

17 JUDGE MCCABE: All right. You may ask your
18 questions.

19 MS. ROBBINS: Okay. And thank you so much
20 for this.

21 CROSS-EXAMINATION

22 BY MS. ROBBINS:

23 Q. My question has to do with my testimony.
24 Others have looked at it and have thought that the
25 photographs were of my lake, but what I was trying to

1 express in those photographs is how that lake backs up
2 over County Road 520, which is where your lines will be
3 exiting my property. And I believe that with the extent
4 that the lake backs up now, it's highly possible that at
5 least one tower would be standing in deep water. I say
6 deep, 6 to 8 feet, when the -- this lake backs up. This
7 is a soil conservation lake built in the 1950s. I'm
8 fourth generation here.

9 So I just -- to me, that would pose a
10 hazard for everybody, I think, and I just -- after my
11 friend said, oh, this is a nice picture of the lake, I
12 realize --

13 MR. BRADY: Your Honor, Zach Brady,
14 objection. Is there a question?

15 JUDGE MCCABE: Ms. Robbins, I -- yeah, I do
16 think we've kind of veered off into a statement. If we
17 can get a question to the panel, so that way they can
18 kind of -- I understand you were giving a little bit of
19 context, but if we can move on to a question, that would
20 be helpful.

21 Q. (BY MS. ROBBINS) Well, is the panel aware of
22 the fact that when we get high rains, that the --
23 there's a strong possibility that the towers will be
24 underwater, will be standing in water along County
25 Road 520, that area? Because it's not something that's

1 normally there.

2 JUDGE MCCABE: Ms. Robbins, let me pause
3 you there, and let them see if they can answer that
4 question before we add some more comments.

5 MS. ROBBINS: Okay.

6 A. (Cooley) So based off of the map and imagery
7 I'm seeing, there's a significant distance, and I don't
8 know the scale off the top of my head, from where the
9 proposed centerline would be to the lake. So I don't
10 know if I would agree that there would potentially be a
11 structure within it; however, if it does have heavy rain
12 and it does sort of flood into where the proposed
13 alignment might be, we have -- Oncor has dealt with this
14 from a foundation designs perspective many times before,
15 being located in floodplains and other kind of wet and
16 swampy, areas, and have design considerations that we
17 can use for foundations. And then also, another thing
18 you might see in an area like this that's prone to heavy
19 rain is an extension of the cap above ground to ensure
20 that no metal gets below ground during heavy rainfall.

21 Q. (BY MS. ROBBINS) Okay. I just was concerned
22 that my photograph might have been misconstrued as a
23 photo of a lake instead of a county road, and that
24 therefore this -- what I thought might be dangerous,
25 because it does close the road down, and it's also

1 blocked in the other direction by a low --

2 MR. BRADY: Your Honor, Zach Brady.
3 Objection. We're testifying again.

4 JUDGE MCCABE: Ms. Robbins, we have -- we
5 have moved into testimony. Let's get a question,
6 please.

7 MS. ROBBINS: Okay.

8 Q. (BY MS. ROBBINS) Are you aware that there is a
9 railroad that passes very close to where the tower line
10 appears to be?

11 A. (Marusak) Yes, ma'am.

12 Q. Okay. And that's not of a concern?

13 A. (Marusak) So in routing, we -- especially on a
14 project such as this -- or this large, we will encounter
15 railroads, and we -- what we do when we get to
16 railroads, we try to look at the surrounding
17 environment, because the individual railroads require us
18 to cross at a right angle. So -- and, you know, there
19 are multiple places within the right-of-way where we
20 encountered railroads, and we just kind of have to look
21 at everything. You know, where the creeks are, where
22 people live, you know, just any of the different
23 constraints we looked at, and we try to get a proper
24 approach to the railroad so that way we can cross it at
25 a right angle and have somewhere to go when we get on

1 the other side. When I say somewhere to go, meaning
2 that there's not something that we don't want to cross
3 on the other side.

4 Q. I see. Okay.

5 And then another question is, I was
6 traveling yesterday, and I have a hard time staying
7 connected to the -- to the court proceedings, but -- so
8 I -- you may have answered this already, but am I
9 understanding -- my house is, I believe, 200 feet
10 exactly, the best I can tell, from where the line will
11 be passing through. So is my house -- do I need to pack
12 up?

13 A. (Marusak) No, ma'am. So the 500-foot rule
14 is we -- or the 500 foot. When you hear about this
15 500 feet, that is just what the PUC requires us to list
16 in the application. So we identified your house, and we
17 measure the closest point of approach at 250 feet, that
18 you're not going to be in the right-of-way. That does
19 not mean -- that does not mean that your -- your house
20 is going to be removed, anything like that.

21 A. (Zapletal) And for the record, we are on
22 Page 12 of 41 in Attachment 13, and the habitable
23 structure number was 149.

24 Q. 149?

25 A. (Marusak) Yes.

1 A. (Zapletal) Yes, ma'am.

2 Q. Okay. So -- let me see. I asked about the
3 standing water, and the railroad, and then -- oh, also I
4 have Brazos Electric. It looks like you-all will be
5 crossing the Brazos Electric lines that are already
6 cutting through my property north to south, more or
7 less. So you are aware of that as well? And I'm
8 gathering that it's okay for you-all to cross -- it's
9 better for you to cross them perpendicularly than for
10 you to run alongside?

11 A. (Cooley) There's no preference, ma'am. We can
12 accommodate either from a design perspective and have
13 crossed many. And it looks like it's not noticed on the
14 map as a transmission line, so I'm assuming it's
15 distribution. We work with distribution all the time.

16 Q. Okay. And I don't know which it is, frankly.
17 So --

18 And then I guess my last question is -- oh,
19 I was told -- you had asked about an alternative. Was
20 there any alternative line that would be acceptable?
21 And so I misrepresented that so I've been told. I came
22 up with an alternative line that would not dissect my
23 property, which it currently does lengthwise. And so
24 will you-all consider something like moving the line
25 behind my house or north of my house instead of going

1 straight down the center of my property, which has
2 terrible effects on aesthetics and -- I -- to me, I -- I
3 know you-all don't want me to describe this now, but I
4 did find what I thought was a better alternative and
5 also --

6 JUDGE MCCABE: Ms. Robbins, I think you've
7 asked the question, and I think they can try to answer
8 that question. I understand the urge to kind of give
9 additional details. I completely understand that, but I
10 think you've asked the question, so let's see if they
11 can answer that question.

12 MS. ROBBINS: Okay.

13 A. (Cooley) Yeah. So if this link was selected,
14 Oncor would work with you and coordinate with you, and
15 if you do have proposals, we would take them into
16 consideration during the design process.

17 MS. ROBBINS: Oh, wonderful. Okay.

18 All right. Well, I really appreciate you
19 all, and I -- this has been hard on you-all too. So
20 thank you very much.

21 THE WITNESS: (Cooley) Thank you.

22 THE WITNESS: (Marusak) Thank you.

23 JUDGE MCCABE: Thank you, Ms. Robbins.

24 Let's keep moving on. Marcia Derrick,
25 which I show is Number 259.

1 MS. DERRICK: Good morning. Can you hear
2 me?

3 JUDGE MCCABE: I can. If you would, would
4 you state your name and your tract and link number,
5 please.

6 MS. DERRICK: My Oncor legal name is Marcia
7 K. Derrick. Direct testimony Number 3887, Oncor
8 property Tract Number 2599, specific to the C2 Link.

9 JUDGE MCCABE: Okay. You may proceed with
10 your questions.

11 CROSS-EXAMINATION

12 BY MS. DERRICK:

13 Q. Okay. I do not know. Am I able to share my
14 screen, if by chance? Can you see that all of a sudden?

15 JUDGE MCCABE: Give it just a second. They
16 may need to switch something on their screens. I can
17 see it. The panel can see it. So go ahead.

18 Q. (BY MS. DERRICK) Awesome. Awesome.

19 Okay. Well, that's my property, 2599, that
20 reaches across both sides of CR 148. And the line
21 itself in the C2 Link is up here at the top and does not
22 appear to cross my property. Just a clarifying question
23 on that. I'm understanding from some previous comments
24 during the hearing that the actual placement of the link
25 might change during the boots on the ground or the more

1 in-depth assessment and could potentially cross our
2 property --

3 MR. BAYLIFF: Objection, asked and
4 answered. She heard it already.

5 JUDGE MCCABE: Yeah. Can we get a fresh
6 question, Ms. Derrick, that you want answered. Because
7 it sounds like we're just recapping a little bit of what
8 you've heard. Maybe a question.

9 MS. DERRICK: Okay.

10 Q. (BY MS. DERRICK) Okay. Is there potential of
11 the line as -- the line crossing my property, or is that
12 just -- it will just be in close proximity?

13 THE WITNESS: (Marusak) Before Ms. Cooley
14 has a chance to answer that off of her map, I'd like to
15 let her know that, Ms. Cooley, the line that we show
16 there has an existing transmission line to the south of
17 it that we are paralleling. So that will probably help
18 you in your responses to the potential for a
19 modification to affect this property.

20 THE WITNESS: (Cooley) So -- yeah, so that
21 is very helpful. Thank you.

22 A. (Cooley) Based off of knowing that and kind of
23 looking at the map, so the proposed transmission line
24 easement would abut the existing transmission line
25 easement, and I can't say for a fact without kind of

1 looking at the measurements, but I hope that gives you a
2 better idea of where the proposed centerline would go if
3 this was to be selected.

4 Q. (BY MS. DERRICK) Okay. So I could be a
5 right-of-way impacted landowner or I might not be. It
6 just depends on the assessment in the next step if that
7 route -- if that route, including that link, is
8 included; right?

9 A. (Cooley) Correct. And like I said, I can't
10 really guarantee that without kind of doing some
11 measurements, but we do abut -- or we would plan to abut
12 the existing transmission line as we're located north of
13 that.

14 Q. Okay. And do you -- could that be either above
15 that line -- the transmission line or below the
16 transmission line? Or it could be either one; right?

17 A. (Cooley) So the way that the route was drawn
18 up, we have it where the newly proposed transmission
19 line would be north of the existing transmission line.

20 Q. Okay. So forgive me, but that would be
21 above -- above this line right here, that direction?

22 A. (Cooley) If north --

23 JUDGE MCCABE: As we look at the map,
24 with -- north-facing map, correct.

25 MS. DERRICK: Okay. All right. Thank you

1 very much.

2 JUDGE MCCABE: Of course.

3 Q. (BY MS. DERRICK) And -- all right. Regardless
4 of it crossing my property or not, given my close
5 proximity to the line, will I be considered a landowner
6 by Oncor in the right-of-way construction and ongoing
7 maintenance since it's so close to my property?

8 A. (Cooley) So, once again, it's hard to state
9 that for a fact. If you end up having, I guess, a piece
10 of easement that crosses your property, then yes. And
11 like I've testified before, there are potential for
12 temporary needs, but considering that this is a straight
13 kind of path here, I wouldn't expect something like that
14 for your property.

15 Q. Okay. And referencing my testimony but not
16 regurgitating it, my question is pertinent to my
17 vineyard. Do you know if Dicamba, more commonly known
18 as 2,4-D, or any other highly volatile herbicide is
19 going to be used in the right-of-way maintenance or
20 creation by Oncor or any of its subcontractors?

21 A. (Phillips) Yeah, those are not names of
22 substances that I'm familiar with Oncor using, but I
23 will say, as I've said before, they're all licensed
24 applicators and very trained and very targeted.
25 Everything is approved with the EPA, but it is hard to

1 tell you exactly what we will be using, because it
2 depends on the terrain and the -- not the terrain, but
3 the trees that are out there, the things that we need to
4 clear.

5 There was something else I was going to
6 say, but it's -- oh, they're all mixtures. That's the
7 other thing that I can tell you, is we use mixed
8 chemicals. So, again, if you just tell me one name, I
9 can't necessarily tell you if that specific substance
10 will be --

11 Q. Granted. Granted. Yes, I understand.

12 A. (Phillips) -- in our mixes.

13 Q. Yeah. Okay. Okay.

14 To explain why I'm asking this question
15 is -- can you see my cursor when I'm moving it around?

16 A. (Phillips) Yes, ma'am.

17 Q. Okay. Right there is our vineyard, and I'm
18 asking specifically about that herbicide, but can any
19 herbicide in that particular category, it can
20 re-vaporize in the hot Texas heat where it's supplied
21 and travel and then resettle up to 3 miles away. This
22 may end up being a subject that you hear more about as
23 you explore a project similar to this in the Texas Hill
24 Country where there's several more vineyards and much
25 larger than mine that may bring it up.

1 But I guess my main question is, what can I
2 do, should the line go through here, to partner, if you
3 will, with Oncor to prevent Oncor or any of its
4 subcontractors applying specific herbicides within a
5 certain distance of my vineyard? Can you direct me to
6 the pathway or the process I would need to follow to be
7 a collaborative partner with Oncor to prevent that from
8 happening?

9 A. (Phillips) Yes, ma'am. We do work with
10 landowners, and we have certified arborists and
11 foresters that will be assigned to the project, and you
12 are always welcome to talk to them and ask about the
13 chemicals that they are planning to use.

14 Q. Okay. So with respect of being deemed a
15 landowner by Oncor, I would be part of that group
16 automatically because of my close proximity to the -- to
17 the line regardless of whether I would have an easement
18 going through my property or not; is that right?

19 A. (Cooley) So if I understand your question
20 correctly, you're asking that if in this situation, you
21 did not have an easement going across -- how would you
22 essentially be able to relay that over to Oncor to make
23 sure that the vineyard is protected?

24 Q. More eloquently put, yes, thank you.

25 A. (Cooley) So I think, as Ms. Zapletal has

1 stated before, I mean, every landowner after the PUC is
2 selected, whether it was not affected or affected, will
3 receive notice, and I think that was probably a really
4 good opportunity to reach out and kind of provide any
5 sort of recommendation, as Ms. Phillips said, to kind of
6 potentially coordinate.

7 Q. Okay. So that can be -- that can be a process
8 for me -- that will be triggered by a subsequent
9 notification if the line is selected, and I can follow
10 suit with that, then; right?

11 A. (Cooley) Yes, that's correct.

12 Q. Okay. All right. Do you -- are you guys aware
13 of any chemical drift crop or lawn damage controversies
14 that has occurred with Oncor? Honestly, I really don't
15 know one way or another.

16 A. (Phillips) I personally do not know of any
17 exact cases at this time, but my -- just to make it
18 clear for the record, my area of responsibility for the
19 company is environmental compliance.

20 Q. Okay. Okay. Well, then I would think that you
21 might -- you might have knowledge of that, then.

22 And this is -- this is my last question.
23 Has there ever been a time when Oncor had to go back to
24 the PUC and ask for approval of another route because
25 they found the one that was initially approved ended up

1 not being feasible?

2 A. (Zapletal) We're thinking back, but none that
3 we can recall at this time.

4 Q. Okay.

5 All right. Well, thank you very much for
6 your time. I am done -- my -- I'm done with my
7 questions.

8 A. (Marusak) Thank you.

9 A. (Cooley) Thank you.

10 JUDGE MCCABE: All right. Thank you.

11 Next I have Daniel Burnett. I believe,
12 Mr. Burnett, you are also here. You have a cadre of
13 Burnetts, if I remember.

14 MR. BURNETT: Yes.

15 JUDGE MCCABE: All right.

16 MR. BURNETT: I had more questions than the
17 five or six.

18 JUDGE MCCABE: Okay. Well, let me, then,
19 check in with some of the people to see if there's some
20 people that have short -- short examinations here.

21 Let me go with Dionne Yarbrough.

22 MR. YARBROUGH: Can you hear me, Your
23 Honor?

24 JUDGE MCCABE: I can. Are you Paul
25 Yarbrough?

1 MR. YARBROUGH: Yes, I am.

2 JUDGE MCCABE: Okay. I show that as
3 Number 288. Do you have fewer than five questions?

4 MR. YARBROUGH: Yes.

5 JUDGE MCCABE: Okay. You may -- if you
6 would, would you just state your name, give us a tract
7 number and a link number, please.

8 MR. YARBROUGH: Paul Yarbrough, 1470, 1472,
9 1473. Link is F22.

10 JUDGE MCCABE: All right. You may proceed
11 with your questions.

12 CROSS-EXAMINATION

13 BY MR. YARBROUGH:

14 Q. My first question is for the engineer. I was
15 kind of wondering if F22 did go through, what size of
16 line it would be?

17 A. (Cooley) So the entirety of this project is a
18 765-kilovolt line. If you have any other specifics on
19 the size, I'm sure I could answer this.

20 Q. So all the lines will be 765?

21 A. (Cooley) The voltage, yes, sir.

22 Q. Okay. And so the easement will be 200 feet
23 also?

24 A. (Cooley) Correct.

25 Q. Okay. My next question is on the

1 environmentalist. According to the map I have, you
2 cross the Pecan Bayou five times. You cross a tributary
3 to Army Corps of Engineering conservation lake almost
4 five times again. That's ten crossings within less than
5 3 miles. I'm a little concerned about the herbicides.
6 I'm a product applicator. I'm not going to ask if
7 you've ever read the label on a controlled herbicide
8 application, but I have never read one that has ever
9 said anything --

10 MR. BROWN: Objection, Your Honor. David
11 Brown --

12 MR. BRADY: Objection, we're testifying.

13 MR. BROWN: -- White Bluff.

14 JUDGE SHENOY: Yeah. Mr. Yarbrough, we
15 kind of have veered into a little bit more into
16 statements and testimony rather than a question, and
17 I'll also note that there's been a number of questions
18 about the type of mitigation and the -- the application
19 of herbicides and those things. So if you have a -- if
20 you have a specific question to pin something down,
21 great. If it's just kind of general information, I
22 think we've probably covered that in the contested case
23 hearing, and it would also be addressed in any
24 post-selection process as well.

25 MR. YARBROUGH: I was just going to say

1 that I've never seen a herbicide that said it's nontoxic
2 to --

3 MR. BRADY: Objection, this is still
4 testimony.

5 JUDGE MCCABE: Mr. Yarbrough, I agree,
6 you're kind of introducing a statement. If you want to
7 phrase that in the form of a question to the panel,
8 then -- but the -- the kind of statements, kind of, are
9 outside the scope or outside the hearing. I really want
10 to focus on getting questions.

11 MR. YARBROUGH: Okay.

12 Q. (BY MR. YARBROUGH) Will you be using a
13 herbicide that is nontoxic to fish?

14 A. (Phillips) We will be using EPA-registered
15 products. And if they are for aquatic applications, I
16 believe the words the EPA uses is they should not have
17 any -- there's a word -- a qualifying word before it,
18 but not significant adverse effects to waters.

19 Q. Okay. That's all the questions I have.

20 JUDGE MCCABE: Thank you, Mr. Yarbrough.

21 MR. YARBROUGH: Thank you.

22 JUDGE MCCABE: Thank you.

23 Mr. Jack Bell. I show that as Number 167.

24 MR. BELL: I am here.

25 JUDGE MCCABE: Good morning.

1 MR. BELL: Okay. I am Jack Bell,
2 Route 552, Link D71, Tracts 4892 and 4893.

3 JUDGE MCCABE: You may proceed with your
4 questions.

5 CROSS-EXAMINATION

6 BY MR. BELL:

7 Q. Mr. Marusak, as a reference, on Page 377 of the
8 EA, the fourth paragraph begins with "In addition to
9 registered aircraft facilities, Kimley-Horn and Halff
10 have identified numerous unregistered airstrips."

11 My question would be, when was the research
12 to identify airstrips done on Link D71, and what methods
13 are used to identify unregistered airstrips?

14 A. (Marusak) So -- that's a great question.
15 Unregistered airstrips by the category, they do not show
16 up in the FAA database. So when we first start a
17 project, what we do is we get the study area map, and
18 then kind of the first thing we do is we underlay the --
19 so -- as part of my setup, is we have to -- then have to
20 try to go identify those -- through a manual process.
21 And my description of that manual process is we upload
22 the USGS topographic maps, because the topographic maps
23 actually have, in certain places -- I mean, they are, to
24 a certain extent, dated maps, limited to their date of
25 issue, but they will show landing strips that are not

1 necessarily associated with FAA registered airports. So
2 that's kind of our first method.

3 Then the other way is just through
4 scrolling through aerial imagery to try to -- and that
5 becomes a little bit tougher, because then we're trying
6 to look for something that looks out of character in the
7 landscape, which is sometimes tougher to find.
8 Basically, by definition, an airstrip, we're looking for
9 a strip, that if it's in a grass field and it's not
10 registered, that's going to be harder for us to
11 identify. If it's an airstrip that's even in a wooded
12 area, it sometimes might be hard for us to identify
13 because it may not be readily apparent that it's a --
14 you know, any different than a pipeline easement or
15 something like that. So private airstrips, we do our
16 best looking for -- you know, I describe the process of
17 first using the USGS map, then using the aerial imagery.

18 Q. Okay. I'd like to zoom in on a portion of my
19 Tract 4892. I can do that because you've done it for
20 me. I refer you to Map Inset 3-1E-1 of Appendix G of
21 the EA.

22 A. (Marusak) Okay. We're there.

23 A. (Zapletal) We're there, Mr. Bell.

24 Q. You earlier referred to looking for existing
25 scars to assist in identifying potential areas of

1 interest. Do you see the scar in the lower right corner
2 of 3-1E-1 on Tract 4892?

3 A. (Marusak) Yes. I believe that was in your
4 testimony.

5 Q. Okay. That structure is my hangar, and the
6 scar is my runway, located roughly a thousand feet south
7 of the proposed Link D71. It was overlooked before. It
8 is in the process of being registered. I'm surprised
9 that it wasn't seen when it was -- when this inset was
10 created. But, yeah, I'm -- like I say, I'm in the
11 process of registering.

12 MR. TAYLOR: Your Honor, objection, we're
13 testifying here.

14 JUDGE MCCABE: Mr. Bell, can we get a
15 question, please?

16 MR. BELL: I can move on. Thank you. My
17 original question was simply, like, do you see that
18 scar, and he said yes.

19 JUDGE MCCABE: Yeah, he's answered that. I
20 want to move to the next question.

21 Q. (BY MR. BELL) I have a question regarding
22 route engineering. So you've selected your best route,
23 drawn that line in the sand or on the map. You've
24 referenced several times in this "boots on the ground."
25 What do you do when you put boots on the ground and find

1 you've stepped in something, such as previously
2 unidentified engineering obstacles or challenges?

3 A. (Cooley) So that's part of our surveying due
4 diligence, and so once the route is selected and we get
5 right of entry and access agreements with every
6 landowner, we'll have our surveyors go out and identify
7 any sort of boundary, property corners, potential
8 obstacles, all of that would be within the right-of-way,
9 and so that's a deliverable that we then use in our
10 model to design the transmission line.

11 Q. Okay. So my actual question was, okay, would
12 five streams crossing -- two streams, one cave, numerous
13 elevation changes up to 100 feet, therefore a thousand
14 feet from the line, all within 3,000 feet on your
15 proposed right-of-way, be a potential engineering
16 challenge?

17 A. (Cooley) So you listed a number of things. I
18 mean, a lot of those I would consider constraints;
19 however, if they're within the right-of-way, that would
20 be something that specifically the design would look to
21 coordinate around and be designed around. And, like, to
22 your point exactly, those would be identified during the
23 surveying process.

24 Q. But how would you mitigate that? I mean,
25 basically you're going to have to put towers in at least

1 two of those locations. It's a 3,000-foot span.

2 A. (Cooley) So I'm not exactly sure, I guess -- I
3 don't have a map in front of me. I can't really look to
4 see where the springs and the other potential
5 constraints are, but those would be identified during
6 that process and we would look to spot structures that
7 would not impact any of those facilities to the best of
8 our ability. And I think throughout the Oncor service
9 territory and designing and routing other transmission
10 lines, we've done that multiple -- multiple of times and
11 have the experience.

12 Q. Okay. And one last question. Do you fence off
13 your right-of-ways?

14 A. (Cooley) No, sir.

15 MR. BELL: Okay. I have no further
16 questions. Thank you for your time.

17 JUDGE MCCABE: Thank you, Mr. Bell.

18 Mr. Jackson, you have your hand raised, but
19 I believe you've already asked questions. Is -- is
20 there something --

21 MR. JACKSON: I just have a question about
22 the Court's transcript. We contacted the court
23 reporting agency, and they said it will not be available
24 for two weeks to them to be --

25 JUDGE MCCABE: Okay. Well, then we'll have

1 to take that up later. Okay. It sounds like there's an
2 issue there.

3 Give us just a second. The court reporter
4 is changing position. It will be just a moment.

5 (Off the record)

6 JUDGE MCCABE: The court reporter is ready.
7 We're back on the record.

8 Ms. Tubbs, if you would, would you state
9 your name for me and give me your tract and your link ID
10 or link number, please.

11 MS. TUBBS: Okay. Elizabeth A. Tubbs. I'm
12 on the C2 link, and my tract numbers are 2602, 2603.

13 JUDGE MCCABE: Okay. And I'll just note
14 for the purposes of the order, she's Number 141, if
15 anybody is keeping track at home.

16 Okay. Go ahead, Ms. Tubbs.

17 CROSS-EXAMINATION

18 BY MS. TUBBS:

19 Q. Okay. Right now, I already have a transmission
20 line going through, and I know if this link is picked,
21 it will run parallel to it. I have a Corps of Engineers
22 lake on here. And if the right-of-way goes into the
23 lake, can y'all do that?

24 A. (Phillips) If it's an Army Corps of Engineers
25 lake, we would have to consult with the Army Corps.

1 Q. Okay. Thank you.

2 Are y'all aware that I have bald eagles on
3 this property? And do y'all do anything for them?

4 A. (Phillips) Yes, we comply with the Bald Eagle
5 and Golden Eagle Protection Act. If some reason the
6 eagle or its nest were to pose a threat to itself or the
7 transmission line, we would coordinate with U.S. Fish
8 and Wildlife to get appropriate permits, if needed.

9 Q. Okay. Thank you.

10 MS. TUBBS: And the last one is -- and I
11 don't know how to correct this, but on Page 10 of my
12 testimony, I put C3 link, and it should be C2 link. Do
13 I need to do anything, or just verbally saying this
14 right now is enough?

15 JUDGE MCCABE: Okay. We understand that
16 there was a typo, that you said C2, and what you meant
17 was C3?

18 MS. TUBBS: Yes, sir.

19 JUDGE MCCABE: Okay. Thank you.

20 MS. TUBBS: Okay. I don't have any more
21 questions. Thank you.

22 JUDGE MCCABE: All right. Thank you,
23 Ms. Tubbs.

24 Okay. Mr. Marks.

25 MR. JOHN MARKS: Yes. My name is John

1 Marks. I'm authorized to speak on behalf of Thomas
2 Tutt. That would be Tract Number 780, Route Link H22.
3 And while you're gathering the map, I thought -- he
4 wanted me to introduce just a little bit why he's not
5 here today.

6 JUDGE MCCABE: It's not necessary. We're
7 not -- we're not going to take into consideration
8 appearance or not. We understand he's here through you
9 and getting those questions. So it's not necessary.

10 MR. JOHN MARKS: Okay.

11 CROSS-EXAMINATION

12 BY MR. JOHN MARKS:

13 Q. According to the route map, he has a big red
14 diamond on top of his house. He's located just on the
15 north side of County Road 211 and just to the east of
16 the intersection of the State Highway 153.

17 According to the route link descriptions on
18 Page 34, I guess it is, for H22, that is supposed to
19 cross State Highway 153 approximately 120 feet southwest
20 of that intersection where his house is, and that would
21 place him well within 200 feet of a habitable structure.

22 And Mr. Tubbs' first question is are they
23 fixing to throw us out of our house?

24 A. (Marusak) It's habitable structure 608.

25 A. (Zapletal) That would be a reference to

1 habitable structure 608, and no.

2 Q. Okay. How much accommodation would it take for
3 them to be able to remain in their property?

4 MR. TAYLOR: Mr. Marks, apologies, I don't
5 think we understand.

6 JUDGE MCCABE: Is that -- was that
7 supposing that the answer would have been yes to the
8 previous question? Because that's what it -- I think
9 with the answer no, he will not be -- I understand he
10 would not be forced to leave the property. But maybe
11 the question is slightly different. Can you clarify
12 that?

13 Q. (BY MR. JOHN MARKS) Yes. That's pretty much
14 the gist of it, of what his concern is, is that it's way
15 inside the 500-foot exclusion zone, or whatever you want
16 to call it. And he's just wondering if there's going to
17 be a possibility of accommodations made so he doesn't
18 lose his home.

19 A. (Marusak) So to help clarify, the 500-foot
20 zone is what -- the PUC requires us to indicate
21 structures within that region. The right-of-way is
22 within -- is 100 feet. So in that particular area, we
23 paralleled the road 100 feet from the road. His
24 structure is 200 and -- let me -- let me look at that
25 table -- the habitable structure table.

1 So his habitable structure on Figure 3-18
2 is Number 608.

3 Q. Yes.

4 A. (Marusak) We have that measured as
5 approximately 240 feet from the centerline. So it would
6 not be within the right-of-way of the proposed
7 transmission line project, and so the -- again,
8 the 500 feet is not the right-of-way of the transmission
9 line. It's not an exclusion zone. It's just a region
10 that the CCN application requires us to locate all
11 habitable structure.

12 Q. So it's 240 feet?

13 A. (Marusak) Yes, from the centerline.

14 MR. MARKS: All right. No more questions.

15 JUDGE MCCABE: All right. Thank you,
16 Mr. Marks.

17 Okay. Let's keep going. Mr. Burnett.

18 MR. BURNETT: Okay. Thank you.

19 JUDGE MCCABE: If you would, would you just
20 state your name, your tract number, and your link.

21 MR. BURNETT: Daniel Burnett, Tract
22 Number -- or Link D71, Tract Numbers 4896, 4897, and
23 4898.

24 JUDGE MCCABE: Okay. And do you have --
25 let me see. Let me find your number for people

1 following along on the sheet here.

2 320 is what I show as your order of
3 proceedings number, along with Sharon Burnett and Joree
4 Burnett.

5 Okay. You may proceed with your questions.

6 CROSS-EXAMINATION

7 BY MR. BURNETT:

8 Q. Okay. Let's see in -- on your --

9 MR. BURNETT: What's that?

10 JUDGE MCCABE: I was just making sure --
11 Mr. Burnett is sharing his screen. I didn't know if you
12 guys could see it on your screen.

13 THE WITNESS: (Cooley) We can.

14 JUDGE MCCABE: Okay. They can see it.

15 MR. BURNETT: Thank you.

16 Q. (BY MR. BURNETT) So did you have any measures
17 of effectiveness of your June 2nd, 3rd, and 4th, 2025,
18 public meetings of how many people you reached?

19 A. (Zapletal) Are you asking about how many
20 people were sent notice of the meetings? How many
21 notices were sent?

22 Q. No, how many actually -- how effective were the
23 meetings at actually contacting people?

24 A. (Zapletal) My understanding, unless it was
25 something that was returned in the mail, it was received

1 by most, except a few, and they were indicated in the
2 application filing with an asterisk, and we looked up
3 alternative addresses. But Section 5.0 of the EA does
4 summarize the public involvement program, and it lists
5 on Page 5.1 attendance questionnaires received and goes
6 on to describe some of the comments and then meetings
7 post public participation meeting.

8 So as far as effective -- there were people
9 that --

10 Q. Do you have any numbers?

11 A. (Zapletal) -- attended, questionnaires
12 received, additional meetings held and incorporated into
13 the environmental assessment.

14 Q. So there were no -- there were no additional
15 meetings held; right?

16 A. (Zapletal) There were some in Section 5.3,
17 beginning on Page 5-8 and 5-9 in the -- in the EA, post
18 public meeting coordinations that happened with various
19 agencies and some private entities. Those are
20 summarized there for Your Honors.

21 Q. But no -- but no community -- probably no
22 community reengagement?

23 A. (Zapletal) As far as similarly to the prior
24 public participation meetings, no, with the exception
25 of, after the filing, the technical conference and

1 informational meeting held for the expanded study area.

2 Q. So these meetings were held in Big Spring,
3 Sweetwater, and Stephenville. Do you see those towns on
4 the map here?

5 A. (Marusak) We lost the map.

6 JUDGE MCCABE: I still see it on my screen.
7 So it may just take a moment for them to be put on your
8 screen.

9 Q. (BY MR. BURNETT) Okay. But it's just on D71,
10 basically, on my -- in my tracts, if you zoom out a
11 little bit.

12 A. (Marusak) No.

13 Q. Okay. So there was notification published in
14 local newspapers, and there's a whole list of them, but
15 did you measure the effectiveness of how many people
16 that those advertisements reached?

17 A. (Zapletal) I do not know the publication
18 circulations to be able to verify off the top of my head
19 here.

20 Q. Is there a number -- do you guys know if
21 there's a number anywhere?

22 A. (Zapletal) I believe the Texas Post --

23 Q. Or --

24 A. (Zapletal) -- does post those circulation rates
25 for volumes in their information.

1 Q. Yeah, but, I mean -- and I guess I'm more
2 pointed towards the actual advertisements that you did.
3 So, like -- like, I'm in a marketing department, and we
4 have to determine the effectiveness of our
5 advertisements. Do you have any numbers like that?

6 A. (Zapletal) No, I --

7 Q. After the fact?

8 A. (Zapletal) My understanding is that that's
9 what the -- the goal of using Texas press agencies that
10 may have a broader circulation and following the filing.
11 Oncor did actually publish in some smaller newspapers
12 after receiving some outreach and requests from some
13 smaller community newspapers as well.

14 Q. Okay. Did you have any advertisements or
15 meetings in the community centers in -- in my community
16 of Sipe Springs or Duster going on?

17 A. (Zapletal) No.

18 Q. De Leon, Rising Star, or Beattie?

19 A. (Zapletal) Not to my awareness.

20 Q. Okay. Is the Permian Basin part of my
21 community?

22 A. (Gurley) I will answer that. The Permian
23 Basin, as is commonly known, is a set of counties to the
24 west, I believe. I do not believe this county is
25 considered to be included in the county list in the

1 Permian Basin.

2 Q. So my county is in the Cross Timbers area of
3 Texas.

4 Let's see. Would you say that two months
5 is enough time for us to defend our 100-year ranch from
6 complete takeover?

7 MR. TAYLOR: Your Honor, I object to this
8 question. One, its phrasing, but, more importantly,
9 we've been over here.

10 JUDGE SHENOY: It's sustained.

11 Mr. Burnett, I understand the question,
12 but, yeah, I think that's not really an appropriate
13 question at this time.

14 MR. BURNETT: Okay. Okay.

15 Q. (BY MR. BURNETT) Are you aware that -- so
16 we've been -- well, hold on. Let me go to a different
17 line of questioning. Sorry. Let's see here. Let me go
18 back to extreme -- my subject is the extreme size of the
19 project.

20 Did you know that the Great Wall of China
21 is 23- to 26-feet tall and 21-feet wide?

22 MR. BRADY: Objection, assumes facts not in
23 evidence, argumentative.

24 JUDGE MCCABE: It's sustained.

25 Mr. Burnett, I'm also just not seeing the

1 connection there to the question. Can we get, like,
2 a -- like, can we just kind of focus in on what you want
3 to know? Because I'm not seeing that.

4 Q. (BY MR. BURNETT) Okay. So how far can these
5 towers be seen from?

6 A. (Marusak) I -- this is Mr. Marusak. It's --
7 it's an open-ended question. It's dependent on where
8 the structure is located, what the observation point is
9 from the viewer, and what may be in between that line of
10 sight.

11 Q. So would you agree it would be a really, really
12 long distance? Miles?

13 A. (Marusak) Like I said, it depends on -- I
14 recognize that these are going to be seen from certain
15 roadways for a long distance, but, again, in the nature
16 of the way the question was asked, it's dependent on the
17 location and the observation from the viewer.

18 JUDGE MCCABE: And, Mr. Burnett, I will
19 also note that we had the rather euphemistic Mr. Ross
20 talk about being able to see a dog running for two days.
21 So I think we've kind of also gotten a little bit of
22 information about topography and vision in that one. So
23 I think we have kind of covered a little bit of that.
24 So -- but go ahead. Ask your questions.

25 MR. BURNETT: All right. Thank you.

1 Q. (BY MR. BURNETT) So with a project this big,
2 wouldn't it justify not following the typical process of
3 transmission lines that are typically much, much, much,
4 much smaller?

5 MR. TAYLOR: Objection, Your Honor. The
6 process is established by statute and by rule. That's
7 not even an option.

8 JUDGE MCCABE: I'm going to get a -- I'm
9 going to sustain. I think we can probably keep going,
10 Mr. Burnett, and get some fresh questions.

11 MR. BURNETT: Okay.

12 Q. (BY MR. BURNETT) On House Bill -- let's see.
13 An earlier statement from Dr. Gurley -- or Mr. Gurley
14 was that the House Bill 5066 dictated a transmission
15 plan, not a generation plan.

16 A. (Marusak) That's correct.

17 Q. Correct?

18 So did it dictate 765-kilovolt lines?

19 A. (Gurley) So under the Permian Basin --

20 Q. Just a yes or no, I guess.

21 A. (Gurley) I'm sorry, I can't answer that as
22 really a yes or no. It is a -- under the Permian Basin
23 Reliability Plan, there were three import options that
24 were looked at and evaluated. There was a 345-import
25 path, a 500-kV path, and a 765-kV path.

1 Q. Okay. So it didn't dictate to use 765-kV
2 lines?

3 JUDGE MCCABE: And, Mr. Gurley, I -- yeah,
4 I was just going to clarify. Are you talking about
5 the -- his question seemed to be more limited towards
6 the House Bill, is how I understood it. So --

7 MR. BURNETT: That was Doctor -- I'm sorry.

8 JUDGE MCCABE: I just didn't know if you
9 were referring to the House Bill specifically or the
10 whole plan as it was being generated.

11 A. (Gurley) I'm sorry. I may have misunderstood
12 the question. Could you please repeat your question?

13 Q. (BY MR. BURNETT) Well, I think it was -- I
14 think it was on Monday, but your response to a question
15 was that the House Bill 5066 dictated a transmission
16 plan, not a generation plan. And so my question is did
17 it dictate the use of 765-kilovolt lines?

18 A. (Gurley) Okay. Yes, I'm sorry. No, the House
19 Bill 5066 did not specifically dictate a voltage to be
20 used.

21 Q. Okay. So when you guys were looking at the
22 plan, the transmission plan, was there a chance for
23 someone at Oncor -- or ERCOT, whoever is responsible, to
24 go back and say, you know -- I guess my question is, is
25 there a process when looking at this for someone to go

1 back and say, hey, this is going to be too big of a
2 project? What if we go do something, like, generate
3 electricity in the local area?

4 A. (Gurley) So I think I have your question, is
5 that did we review the study that was performed by ERCOT
6 and assume that it was too big of a project and that
7 there was a better solution?

8 Q. Correct. Do you have a way -- the question is
9 did you have a way to go back and tell them, hey,
10 there's a better solution here, or are you just
11 following orders?

12 A. (Gurley) No, I think I've testified that Oncor
13 is not able to site generation. We're not allowed to
14 own generation, and so --

15 Q. What do you mean by "site generation"?

16 A. I'm not allowed -- we're not allowed to pick a
17 location to have a generator built.

18 Q. But you could go back and say this project is
19 going to be so many billion dollars and take this many
20 people's -- affect this many people, why don't --
21 wouldn't it be better to do this other plan instead or a
22 different solution to a problem?

23 A. (Gurley) I mean, I -- to be fair, I think
24 there is probably the chance that we could have -- if
25 we, for some reason, disagreed with ERCOT, we probably

1 could have had that conversation with ERCOT, but in my
2 review --

3 Q. Okay.

4 A. (Gurley) -- of the study, I feel that they
5 have done their due diligence and that the study is
6 appropriate.

7 Q. Okay. What is the process to go back, had you
8 decided that this was inappropriate?

9 A. (Gurley) I'm not --

10 MR. TAYLOR: Your Honor, if I can object.
11 We're asking for speculation on something that the
12 company could have done two and a half years ago.

13 JUDGE MCCABE: Sustained.

14 Mr. Burnett, I think that kind of gets us a
15 little bit of -- beyond that and kind of all these
16 options that could have happened. I think we need to
17 kind of keep going.

18 MR. BURNETT: Okay. I just -- if I can --

19 JUDGE MCCABE: You can respond. Go ahead.

20 MR. BURNETT: I can respond? Okay. So my
21 argument to that is that nobody on this line that's even
22 in this room today knew that that was happening two
23 years ago. So there is -- we've had no chance to have
24 any kind of any opinion or say or anything.

25 JUDGE MCCABE: Okay. The objection is

1 still sustained. Let's move on to a new question,
2 please.

3 MR. BURNETT: Okay.

4 Q. (BY MR. BURNETT) Let's see here. I think it
5 was also on Monday, but there was a question about the
6 herbicides -- okay. I know we've been through that. So
7 I'm trying to ask some new questions on it -- that the
8 environmental -- I'm sorry, I don't know all the names
9 on the panel, but -- said that the herbicides are a
10 proprietary blend. So they would not name what they
11 were. Someone --

12 A. (Phillips) That's not correct. I did not
13 state that they were proprietary.

14 Q. Really? Okay.

15 A. (Phillips) I said that we -- they were proven
16 and that we've used them before, but I don't believe --

17 Q. Do you believe that they are?

18 A. (Phillips) I can list a few examples, but, as
19 I mentioned in testimony earlier today, I cannot tell
20 you exactly what mix or blend or specific compounds
21 could be used on your property.

22 Q. Okay.

23 A. (Phillips) But just as a handful, Terravue is
24 one. It's called T-e-r-r-a-v-u-e. Arsenal AC, Escort,
25 and Vastlan, V-a-s-t-l-a-n, are a few examples of

1 products that may be in our mixes. So just to be clear,
2 we're not trying to hide anything. It is just highly
3 variable of what could be used. We also --

4 Q. Okay.

5 A. (Phillips) -- expect our licensed applicators
6 to decide what is best to be used. We don't dictate.

7 Q. Okay. So, for instance, on my land, we don't
8 spray anything. We're a regenerative agriculture, and
9 we're trying to do agroforestry. So we don't condone
10 spraying anything at all. Is there a way to deal with
11 that?

12 A. (Phillips) We can work with you, but I will
13 say that we have safety and reliability issues with
14 trees in the right-of-way that are not compatible with,
15 again, safety and reliability of transmission lines. So
16 you would need to discuss with our foresters and
17 arborists, but if there are woody noncompatible species
18 in our easement, those would need to be dealt with.

19 Q. Let's see. So the -- you stated that there
20 will be aquatic versions of these herbicides used, but
21 the nonaquatic versions, what -- do you know what the
22 half-life of these are? Like, how long do the residual
23 products last?

24 A. (Phillips) Again, due to the variability of
25 the mixes, I cannot tell you that at this time.

1 Q. Do they contain glyphosate?

2 A. (Phillips) There is a possibility that
3 glyphosate might be an active ingredient in the mixes.

4 Q. Would -- are you aware that there's been --
5 well, never mind.

6 Okay. Let's see. When -- glyphosate and
7 other chemicals like that, let's say, it rains soon
8 after it's sprayed and it runs into a stock tank, a
9 stream, et cetera, it will kill aquatic plants, which
10 results in lower oxygen, fish kills, and frog kills.
11 Has there been any kind of studies or, I guess, analysis
12 on that?

13 A. (Phillips) All of the products we use, as I
14 stated, are EPA registered, which means they have
15 approved of their use.

16 Q. All right.

17 JUDGE MCCABE: And, Mr. Burnett, I will say
18 that we've covered herbicides pretty extensively
19 throughout the week. So I -- and we still have a
20 handful of people that we need to get to, and I really
21 need to kind of go -- I don't want to cut you off too
22 much, but I want to -- I do want us to move forward,
23 especially on a topic that we've touched on quite a bit.

24 MR. BURNETT: Okay. I just have one more.

25 JUDGE MCCABE: Sure.

1 MR. BURNETT: Okay. Thank you.

2 Q. (BY MR. BURNETT) All right. So as I stated
3 with the health concerns, is these transmission lines do
4 generate ozone, O₃, which is heavier than air. It
5 floats to the ground, and it kills biologic -- or the
6 microbiology of the soil. So was that assessed in the
7 environmental study?

8 A. (Marusak) That's beyond the scope of the
9 routing study.

10 Q. Okay. Let's see. Are each of these towers
11 going to have bright lights on top of them?

12 A. (Cooley) No. The only time that the towers
13 would have any sort of lighting on top of it would be if
14 it's determined by the FAA, but our maximum height of
15 our structure is less than their typical determination,
16 and so I don't anticipate it, but obviously, that's a
17 case-by-case scenario that they will have to review.

18 MR. BURNETT: All right. Thank you.

19 JUDGE MCCABE: All right. Thank you,
20 Mr. Burnett.

21 Ms. Montgomery.

22 MS. MONTGOMERY: Yes, I'm here.

23 JUDGE MCCABE: Okay. If you would, would
24 you state your name for me -- and hold on just a second.
25 Let me find your number. You're Number 246 on the list;

1 is that correct?

2 MS. MONTGOMERY: I'm not sure where I am.

3 JUDGE MCCABE: Okay. No worries. I think
4 I found you. I think it's Number 246.

5 Ms. Montgomery, if you would, would you
6 just state your name, link, and your tract, please.

7 MS. MONTGOMERY: My name is Laura
8 Montgomery. I'm on C3, Link C3, and my tract number
9 is 2675.

10 JUDGE MCCABE: All right. You may proceed
11 with your questions.

12 CROSS-EXAMINATION

13 BY MS. MONTGOMERY:

14 Q. So my question is, down here on 2673, there is
15 a turn, and so I realize there is -- will have to be a
16 tower there. How far away would that tower be from the
17 one that would be at the turn? Would it end up on my
18 place, is what I'm trying to figure out?

19 A. (Cooley) So, once again, I can't tell you
20 specifically until we have more information during the
21 design process, but what might be able to get you a
22 better feel is, so from that turning structure, our
23 typical span length is around 1,400 to 1,500 feet.

24 Q. 1,400 to 1,500.

25 And that's really my biggest question.

1 What -- I'm wondering why can something like this not be
2 buried?

3 A. (Cooley) So I'm not aware of any voltage
4 level, at least in the United States, that has been
5 underground. One of the biggest concerns relating to
6 undergrounding transmission line is cost. The last
7 project that I'm aware of was the 138 underground line
8 that cost, on average, \$33 million a mile. So as kind
9 of shown in this project, we're expecting the overhead
10 line to be roughly 7 million a mile. So cost is the
11 biggest reason why that wasn't a consideration.

12 MS. MONTGOMERY: Okay. I think anything
13 else I had has been answered.

14 JUDGE MCCABE: Thank you.

15 MS. MONTGOMERY: I appreciate your time.

16 JUDGE MCCABE: Thank you, Ms. Montgomery.
17 Ms. McCullough.

18 MS. MCCULLOUGH: Yes, Your Honor.

19 JUDGE MCCABE: And I think you are Little
20 McMountain and -- what's the -- is that right?

21 MS. MCCULLOUGH: Yes, and Walter
22 McCullough.

23 JUDGE MCCABE: McCullough. Okay. Thank
24 you.

25 MS. MCCULLOUGH: Yep.

1 And we're going to be talking about D32,
2 D6. Direct testimony is 3864 on the interchange.

3 JUDGE MCCABE: Okay. And I'll just note
4 Little McMountain Ranch is 255, and Walter McCullough
5 is 356.

6 MS. MCCULLOUGH: Correct.

7 JUDGE MCCABE: Just in our list of orders
8 so people following along can keep track.

9 MS. MCCULLOUGH: Right.

10 CROSS-EXAMINATION

11 BY MS. MCCULLOUGH:

12 Q. All right. Well, I'm going to start with
13 Mr. Gurley. Hi. You're a professional engineer in the
14 state of Texas; correct?

15 A. (Gurley) Yes, ma'am.

16 Q. And as a professional engineer, do you
17 typically sign and seal your own reports when you
18 evaluate or model electrical planning studies?

19 A. (Gurley) No, ma'am, I do not.

20 Q. Okay. Have -- and, I guess, I'm assuming,
21 because of your answer to that question, have you
22 performed or signed and sealed a separate independent
23 planning study for Import Path 1?

24 A. (Gurley) No.

25 Q. Okay. And you're very familiar with the CCN

1 application processes and projects that are done by
2 ERCOT; correct?

3 A. (Gurley) I may be misunderstanding your
4 question there, but I'm not aware that ERCOT does the
5 CCN process. Could you please restate? I may have
6 missed --

7 Q. Okay. Yes. You're familiar with CCN
8 application projects and ERCOT in the -- and what ERCOT
9 does; right? So you're an expert in your field?

10 A. (Gurley) I am -- I'm aware of what they do,
11 and I am aware of the CCN process.

12 Q. Okay. And you're also familiar with House
13 Bill 5066?

14 A. (Gurley) Yes.

15 Q. Okay. And besides the current Permian Basin
16 Reliability Plan projects and the 765 STEP program, have
17 you ever designed, modeled, constructed, or routed a 765
18 transmission line?

19 A. (Gurley) So the question was if I have ever
20 designed, modeled, or routed a 765-kV transmission line
21 other than -- other than this STEP plan in the Permian
22 Basin plan? Is that --

23 Q. Correct.

24 A. (Gurley) Yes -- no.

25 Q. Okay. And then while I'm asking, has anyone on

1 the panel designed, modeled, constructed, or routed a
2 765 transmission line outside of the current Permian
3 Basin projects or the recent 765 STEP program?

4 MR. TAYLOR: Your Honor, I'm going to
5 object. We've established these are the first ones
6 being built in the state.

7 JUDGE MCCABE: I think she's asking
8 about -- I agree, but I think she's asking about them
9 specifically as consultants. They may -- I don't know
10 if they work outside the state. So that's -- I'm
11 assuming the answer, but I don't know the answer.

12 A. (Marusak) No here.

13 A. (Zapletal) No for me.

14 A. (Cooley) And no.

15 A. (Phillips) No.

16 Q. Okay. So besides the current 765 projects,
17 what are some of the other -- this is for Mr. Gurley, by
18 the way -- what are some of the other Permian Basin
19 reliability projects that are currently going on?

20 A. (Gurley) I'll make that one short, in that we
21 are currently working on the local projects as it was
22 deemed under Table 7.1 that we were -- it was also
23 approved by the Commission to begin work on.

24 Q. Okay. And does one of those include the
25 Longshore to Drill Hole Switch project?

1 A. (Gurley) That would -- Longshore to Drill Hole
2 is another 765-kV line.

3 Q. Okay. And is there a common connection point
4 with this project?

5 A. (Gurley) In the Longshore to Drill Hole?

6 Q. Yes.

7 A. (Gurley) Yes, they will be using the
8 established Longshore Switch.

9 Q. And so -- but the Longshore to Drill Hole
10 project is ahead of this one; right? Because it's out
11 west, and it's more critical and needs power first to
12 the Permian Basin; right?

13 A. (Gurley) I would say that we filed the
14 application before this one, yes.

15 Q. Okay. And that hearing was conducted by a
16 different ALJ in SOAH proceedings; correct?

17 A. (Gurley) If I --

18 JUDGE SHENOY: That's correct.

19 A. (Gurley) Yes.

20 Q. (BY MS. MCCULLOUGH) Okay. And then is the --
21 is the PUC staff engineer the same on that western part?

22 A. (Gurley) I, unfortunately, don't remember.
23 I'm sorry, I don't remember.

24 Q. On that western part, Import Path 1, there were
25 a lot of pipeline crossings, because, you know, it's in

1 the Permian Basin. There's lots of oil and gas
2 infrastructure; right?

3 A. (Zapletal) Yes, we are familiar.

4 Q. Okay. And on this project, there's similar
5 pipeline corridors that go through this eastern portion
6 of Import Path 1; correct?

7 A. (Zapletal) Yes.

8 Q. Okay. And, Ms. Zapletal, on your constraints
9 map, you had a designation of pipes above and below
10 8 inches; correct?

11 A. (Zapletal) There are two different line types
12 that reflect those, yes.

13 Q. Okay. But there's a big difference, right,
14 between an 8-inch on your constraints map than, say,
15 like, a 20-inch or a 30-inch pipe; right?

16 A. (Zapletal) On the map, they're shown by the
17 same label. In the field, it would be different data.

18 A. (Marusak) Yeah. And without trying to be too
19 self-evident, yes, there's a difference between a 6-inch
20 and a 20-inch. One is bigger than the other.

21 Q. Okay. On D32 and D6, that route link crosses
22 one of those large pipeline corridors there in southern
23 Comanche County; correct?

24 A. (Marusak) Can you --

25 Q. Are you familiar with that?

1 A. (Marusak) Can you be more -- I'm going to go
2 to the map. I came back to the table. But can you
3 please be more specific as to where?

4 Q. On the D32 portion, southern Comanche County,
5 and the D6 --

6 A. (Marusak) Yes.

7 Q. -- one of -- yes, they cross one of those large
8 pipeline corridors in Comanche County; correct?

9 A. (Marusak) Yes.

10 And for my comrades at the table,
11 Figure 3-1E.

12 Q. Okay. And then -- so I think this question
13 might go for Ms. Cooley. When you cross a pipeline,
14 especially, like, a large pipeline corridor, you have to
15 do what's called AC mitigation or cathodic protection to
16 keep the steel in the pipe; is that right?

17 A. (Cooley) So Oncor does not perform any of the
18 mitigation or do any of the cathodic protection on the
19 pipe. So Oncor would coordinate with the pipeline
20 owners, as I mentioned earlier, and -- and discuss with
21 them any sort of mitigation efforts that would be needed
22 at the time.

23 Q. Okay. But -- so you know about having to do
24 this, right, for these pipelines corridors?

25 A. (Cooley) Sure, I know it exists.

1 Q. Okay. Have any of the costs been included, to
2 date, for the design and construction of AC mitigation
3 systems or cathodic protection systems for the D32 and
4 the D6 link?

5 MR. TAYLOR: Your Honor, I'm going to
6 object to asked and answered. We went through pipeline
7 mitigation about three questioners ago in-depth.

8 JUDGE MCCABE: I think we did. I don't
9 remember a cost -- whether that was in the cost
10 estimate. So I will overrule that objection, but we
11 have gone over pipeline mitigation quite extensively
12 throughout the week.

13 But to the question of cost estimate, is
14 that included in the cost estimates?

15 A. (Cooley) So we do include contingency within
16 the cost estimate; however, the AC mitigation, like I
17 said before, and then the addition to any sort of
18 mitigation efforts, like cathodic protection, would be
19 done and handled by the pipeline companies.

20 Q. Okay. So those costs were not included?

21 A. (Cooley) No, not directly since they are not
22 part of the transmission line.

23 Q. Okay. And I guess -- I'm assuming also the
24 answer to this question. You do not have any corrosion
25 control studies that have been currently performed yet

1 on this pipeline -- or on these -- or on this
2 transmission main?

3 A. (Cooley) So, once again, Oncor does not
4 perform any of the studies of corrosion that would
5 affect pipelines.

6 Q. Okay. So to your -- no one has modeled AC
7 mitigation, to date, for any of these routes?

8 MR. TAYLOR: Same objection, Your Honor.

9 JUDGE MCCABE: Yeah, I think we've kind of
10 covered that, Ms. McCullough.

11 Q. (BY MS. MCCULLOUGH) All right. So last
12 question that I have, and then I'm going to pass, were
13 tariffs included in your cost estimates when you were
14 routing for -- used for determining routing?

15 A. (Cooley) So I think that's two separate
16 questions. I don't think tariffs are utilized for the
17 routing piece. But as I state in my direct testimony,
18 tariffs are not included in the project costs, and a
19 reason for that is do we expect, if they remain in
20 effect, that they would have impacts on materials and
21 cost? Yes. But since it's such a volatile thing, it's
22 hard to be able to provide a value to account for that,
23 and so it was not included in the cost estimates.
24 Instead, our material costs are based off of historical
25 pricing with our vendors.

1 MS. MCCULLOUGH: Okay. That's all of my
2 questions.

3 JUDGE MCCABE: Thank you, Ms. McCullough.
4 Ms. Friebele?

5 MS. FRIEBELE: Good afternoon.

6 JUDGE MCCABE: Oh, it is afternoon. Good
7 afternoon, Ms. Friebele.

8 Okay. If you would, would you state your
9 name for me, tract number, link number, please.

10 MS. FRIEBELE: Okay. I'm going to be
11 speaking for Wendy Lou Ranch as well as myself, and if I
12 can do them first. Their number is 359.

13 JUDGE MCCABE: Yeah. Ask your questions
14 together. If you want to, like, clarify some of those,
15 but just kind of lump them in together. There's no need
16 to --

17 MS. FRIEBELE: Okay.

18 JUDGE MCCABE: -- separate. Questions are
19 questions and answers are answers. So I appreciate
20 that.

21 MS. FRIEBELE: Okay. Let me give you
22 her -- let me look it up. Okay. She is on D31, Tracts
23 2895, 2894, 2893, 2890. And she's on line number D5,
24 which cuts through 2891 and 5212.

25

1 CROSS-EXAMINATION

2 BY MS. FRIEBELE:

3 Q. And I think we've covered some of her questions
4 on the helicopter. I won't go down that road again, and
5 some on the exotic -- the exotics.6 So her question that is left, two of the
7 routes go through several of her properties.

8 Sorry?

9 JUDGE MCCABE: I think we had an accidental
10 unmute. So go ahead.

11 MS. FRIEBELE: Okay. Sorry. Let me go on.

12 Q. (BY MS. FRIEBELE) So two of the potential
13 routes dissect her Cape Buffalo habitat, and she was
14 wanting to know how you mitigate for that, how you would
15 deal with that when you come across. Her animals are
16 all exotics and cannot be moved. These pastures are
17 very large. They can't be moved from pasture to
18 pasture. So how do you operate during construction
19 through these phases and protect the health and safety
20 of your workers and the animals?21 A. (Cooley) So I think I've answered this before,
22 but I can state again. So -- and I wasn't able to find
23 on the map, kind of, specifically, but if the easement
24 were to interfere with the exotics or within these areas
25 where they're kept, you know, Oncor will work with all

1 of the landowners to try and mitigate and make sure the
2 impact is not -- I guess there's a low impact. And so a
3 part of that would be kind of -- it could be timing of
4 construction and just working with the landowner.

5 Q. How would that mitigation take place since
6 these animals can't be moved? And I don't know if
7 you're aware of Cape Buffalo. There's a family of them
8 on that property, and they are exceptionally dangerous.

9 MR. TAYLOR: Your Honor, we're testifying
10 here.

11 JUDGE MCCABE: I agree.

12 MS. FRIEBELE: I'm asking a question on the
13 mitigation.

14 JUDGE MCCABE: Yeah. I think -- I think
15 the question is, is there any mitigation factors
16 different that you're aware of for Cape Buffalo.

17 A. (Cooley) Not that I'm aware of, no.

18 JUDGE MCCABE: Was that what you were
19 getting at, Ms. Friebele?

20 MS. FRIEBELE: Yes, that's what I'm getting
21 at.

22 JUDGE MCCABE: Okay.

23 Q. (BY MS. FRIEBELE) They're dangerous -- would
24 be dangerous to your workers, and it would be dangerous
25 for the animals to be there.

1 MR. BRADY: Objection, testimony.

2 JUDGE MCCABE: That's sustained. Let's get
3 questions, Ms. Friebele. I appreciate it, but let's get
4 some questions.

5 MS. FRIEBELE: Okay. That was her
6 question. She was wanting to know about the traffic and
7 the access and how would you mitigate any dangers.

8 Okay. So that's -- her question's
9 answered.

10 On to mine, and I am on D32. I am not an
11 affected tract, but I am next to an affected tract.

12 Q. (BY MS. FRIEBELE) And my question -- my first
13 question, Mr. Gurley, that's for you. You've brought it
14 up, and it came up again today. You brought up the four
15 gas generation state -- generation sites in -- under the
16 TEF, Texas Energy Fund.

17 A. (Gurley) Yes, ma'am.

18 Q. And are you aware of any more generation going
19 on in the Permian Basin?

20 A. (Gurley) Other than what is listed in any of
21 the regional transmission plans or in the Texas Energy
22 Fund or what was listed in the Permian Basin, no.

23 Q. Not what was listed on the ERCOT lists?

24 A. (Gurley) Yes, I --

25 Q. And interconnection?

1 A. (Gurley) Yeah, other than what's --

2 Q. Are you aware of those?

3 A. (Gurley) I'm sorry, I may have missed your
4 question.

5 Q. Are you aware of the ones on the ERCOT
6 interconnection list?

7 A. (Gurley) I'm not -- I do not have -- I don't
8 believe I have access to that list other than what --
9 again, what has been reported in ERCOT's studies or in
10 RPG.

11 Q. All right. Are you aware that ERCOT's reported
12 15 megawatts of generation on the interconnect list?

13 MR. BRADY: Objection, relevance.

14 JUDGE MCCABE: What's the relevance, Ms.
15 Friebele?

16 MS. FRIEBELE: The relevance is HB -- going
17 back to HB 5066, the need for this project. The need --
18 the original need back when this was first initiated,
19 there was no generation -- barely any generation sites
20 going on in the Permian Basin. Now we have 26 of 15 --
21 15 gigawatts of generation on the interconnect list. So
22 my question coming down to it, what is the need -- if we
23 have generation going on with private --

24 MR. BRADY: Your Honor, could I get a
25 ruling on my prior objection before we restate the

1 objectionable question?

2 JUDGE MCCABE: It's overruled. They can
3 answer.

4 UNKNOWN SPEAKER: Your Honor, if I can
5 before we go on. First of all, she's testifying on
6 these facts. They're not -- hold on.

7 Give me just a sec.

8 Two, they're completely inaccurate and
9 mischaracterizing what that interconnection cue is at
10 ERCOT.

11 JUDGE MCCABE: I understand the objections.
12 It's -- it's overruled to the -- I guess let me -- I
13 think -- does anything that's happening you're aware of,
14 Mr. Gurley, in generation issues, does that -- does that
15 cause you to revisit the issue of need?

16 THE WITNESS: (Gurley) No.

17 JUDGE MCCABE: Okay.

18 THE WITNESS: (Gurley) I can explain more
19 if --

20 JUDGE MCCABE: Ms. Friebele, was that kind
21 of getting at what you were trying to get at?

22 MS. FRIEBELE: Yes.

23 JUDGE MCCABE: Okay. Go ahead,
24 Ms. Friebele.

25 MS. FRIEBELE: So he's not answering that

1 question; is that correct?

2 JUDGE MCCABE: He said no, it did not --
3 nothing he's aware of at this point in terms of
4 generation has caused him to revisit the issue of need.

5 MS. FRIEBELE: Okay.

6 Q. (BY MS. FRIEBELE) And my next question,
7 Ms. Cooley, is to you. In your direct testimony in
8 Docket Number 731, on Page 17, you list costs of
9 \$64,096,000 for the Longshore Switch. Which specific
10 equipment does that cost cover?

11 A. (Cooley) So specifically with Longshore -- so
12 this is the -- I guess, the second project at Longshore
13 Switch, and so it specifically will relate to the
14 expansion of the terminal to allow for the 765 line to
15 connect into it. So I can't list all of the equipment
16 because some of that gets into highly sensitive and
17 protective, but it is a terminal addition project and
18 that's the cost that's associated with that. So that
19 will account for the additional breakers, the dead-end
20 equipment that the line will be terminated in, among
21 other things.

22 Q. So it's basically a terminal connection of the
23 end of this line; is that correct?

24 A. (Cooley) Correct. So the original or, I
25 guess, proposed 765 Longshore, the costs were included

1 under the drill hole to Longshore project. So the
2 majority of the costs are associated with that project.
3 This one is just a terminal addition.

4 Q. Is it correct to say that this CCN should not
5 incorporate any facilities of another CCN, for example,
6 the Longshore Switch, which is a build-out on 59029; is
7 that correct?

8 A. (Cooley) That is how we have associated the
9 costs, yes.

10 Q. The equipment that you mentioned previously,
11 the terminal connection, on this line, operate
12 independently of that Longshore Switch facility that was
13 included and billed on 59029, the Longshore to Drill
14 Hole facility?

15 A. (Cooley) So the operation of all the equipment
16 is done within the control house and kind of through
17 supervision of our operations groups. I would say that,
18 yes, they have the ability to operate independently but
19 also dependently depending on kind of the -- the needs
20 of what is needing to be looked at at the time.

21 Q. I didn't understand any of that.

22 So you're saying it has to operate with the
23 Longshore Switch, the 765 switch? Is that what you're
24 saying?

25 A. (Cooley) I guess I don't understand the

1 question. And I will say I'm also not an electrical
2 engineer, so maybe Mr. Gurley can jump in on that.

3 Q. Maybe Mr. Gurley needs to answer that?

4 A. (Gurley) Let me see if I can help. So is your
5 question if they will be operated independently of one
6 another?

7 Q. Basically. The equipment that was built on
8 this is like a terminal connection --

9 A. (Gurley) Yes.

10 Q. -- where the wires go in in the end. What I'm
11 asking is, with just that terminal connection, can this
12 project operate without the Longshore Switch in the
13 other project, the 592 --

14 JUDGE MCCABE: So, Ms. Friebele, I guess
15 I'm trying to get a little bit of a sense of the
16 relevance, because as I understand it, the -- the
17 terminal switch, the Longshore, is going to be a common
18 cost for all the routes. So I'm kind of curious on what
19 -- what you're trying to get out of this. I'm not
20 seeing the relevance to the issues we have in front of
21 us.

22 MS. FRIEBELE: Okay. The Longshore Switch
23 was billed in 59029 in a completely separate CCN. We
24 are looking at this CCN, which is 59315, which is
25 completely independent. And I have been corrected

1 before that the two cannot -- we cannot cross over from
2 one to the other. So what I'm trying to establish is
3 that this CCN 59315, the -- the transmission lines go
4 into the terminal connections. I'm asking will that
5 terminal connection be able to work independently of the
6 Longshore Switch?

7 JUDGE MCCABE: And I guess what -- what
8 issue to be decided in this contested case hearing are
9 you -- do you feel that that -- those answers go to?
10 Because I understand the concerns about the billing and
11 stuff, but in terms of route selection and -- in this
12 application and those things. The cost estimate for
13 that switch is going to be equivalent -- as I understand
14 it, is going to be equivalent for all the routes, and so
15 it -- I'm not seeing why the interconnection issue,
16 which I don't -- I don't know one way or the other, but
17 why it would be relevant to an issue that Judge Shenoy,
18 myself would have to address in our proposal for
19 decision and the Commission would take up in the
20 route -- in the CCN application. And that's not to say
21 anything about, like, a rate case or any of those other
22 recovery cases. I don't know. But in terms of the
23 application case.

24 MS. FRIEBELE: This application stands on
25 its own; is that correct, 51315?

1 JUDGE MCCABE: We are going to be
2 deciding --

3 MS. FRIEBELE: Stands on it --

4 JUDGE MCCABE: I don't know what you mean
5 by stands on its own in terms -- in terms of the cost
6 estimates or anything like that. I don't understand
7 what you mean.

8 MS. FRIEBELE: The whole process for this
9 CCN stands on its own. It's the decisions, the writing,
10 the costs, everything that stands on its own.

11 JUDGE MCCABE: The information we --

12 MS. FRIEBELE: Is that correct?

13 JUDGE MCCABE: The information we've
14 received in this case will be determined on -- we
15 will -- the evidence that we receive in this contested
16 case hearing will be used to address the issues that
17 were referred to us by the Commission for this
18 application, and we're going to address those -- those
19 issues.

20 And so I'm trying to get a little bit of
21 understanding on what issue you think this -- these
22 questions -- this line of questioning goes to?

23 MS. FRIEBELE: Say, for instance, 59029 is
24 denied, and this -- it's a different group of ALJs.

25 JUDGE MCCABE: Uh-huh.

1 MS. FRIEBELE: Say this one -- for whatever
2 reason. This one is approved. So the costs for the
3 Longshore Switch are in the other project.

4 JUDGE MCCABE: Okay. Yeah, I'm --

5 MS. FRIEBELE: Can this project stand on
6 its own on that merit?

7 JUDGE MCCABE: I'm going to ask you to move
8 along. I understand the hypotheticals and the, like,
9 what if this happens, what if that. I get all that, but
10 I think it's -- I think that's a little bit beyond where
11 we are in the contested case today. So I'm going to ask
12 you to move along to a new topic.

13 MS. FRIEBELE: Okay. Well, that's
14 basically addressing the need for the CCN, is what I'm
15 trying to get at.

16 Let me see. If this project does not stand
17 on its own -- on its -- by itself, should it stand with
18 the other CCN 59029?

19 MR. BRADY: Objection, Your Honor. You've
20 ruled on this line of questioning.

21 JUDGE MCCABE: Sustained, Ms. Friebele.

22 Q. (BY MS. FRIEBELE) Okay. My next question is
23 about the Lone Star Infrastructure Act. Can anybody on
24 the panel address that?

25 A. (Cooley) I believe I answered an RFI relating

1 to the Lone Star Infrastructure Act.

2 Q. You basically said that the -- that vendor
3 vetting --

4 JUDGE MCCABE: Ms. Friebele, do you have
5 the response? Can you direct her to the response so she
6 can see it?

7 THE WITNESS: (Cooley) I have it. It's --

8 JUDGE MCCABE: Oh, you have it?

9 THE WITNESS: (Cooley) Yeah. Joanna
10 Friebele, 17.

11 JUDGE MCCABE: Okay. All right. Thank
12 you.

13 Go ahead, Ms. Friebele.

14 Q. (BY MS. FRIEBELE) Basically you say that the
15 vendors would -- you would be vetting your vendors. And
16 now that the legislature has started investigating
17 energy security a little bit more, is there any more
18 vetting that you will be doing than just plain vetting
19 your vendors?

20 MR. TAYLOR: Objection, Your Honor,
21 relevancy. This is compliance with the statute that has
22 nothing to do with the routing in this case.

23 JUDGE MCCABE: Ms. Friebele, relevance?

24 MS. FRIEBELE: When it comes to the need of
25 the project and the security.

1 JUDGE MCCABE: It's sustained. Let's keep
2 going.

3 MS. FRIEBELE: I think that's all my
4 questions.

5 JUDGE MCCABE: Okay. Thank you,
6 Ms. Friebele.

7 We've got a couple more people. We only
8 have a couple more minutes, so I do want to take those
9 up. I've got two more hands.

10 I've got somebody listed as Hazel Allen,
11 and then I'm going to turn to you, Mr. Richards. And
12 it's going to have to be a little bit quick. So let's
13 make sure we have those focused.

14 Oh, whoever is listed.

15 MR. RICHARDS: Okay.

16 JUDGE MCCABE: Hold on, Mr. Richards. I'm
17 going to come to you in just a second.

18 I've got somebody who's listed as Hazel
19 Allen.

20 MR. ALLEN: This is David Allen, and I'm
21 speaking for my mother, Hazel Allen, and we're Tract
22 2609 on C3, and she is 162.

23 JUDGE MCCABE: All right. Thank you. You
24 may proceed.

25 MR. ALLEN: Okay.

1 CROSS-EXAMINATION

2 BY MR. ALLEN:

3 Q. Y'all have been mentioning the 200 foot. Is
4 that the same easement measurement when you make a turn?5 A. (Cooley) Yeah. So all the permanent easements
6 at any angle or at any part along the transmission line
7 would be 200 foot in width.8 JUDGE MCCABE: And, Mr. Allen, I'll say
9 we've had quite a bit of testimony, as I understand it,
10 from -- about the turns and the temporary easements --
11 the temporary construction easements and the permanent
12 easements. So let's -- yeah, if you can pinpoint that
13 issue. So that way we can pinpoint your questions to --

14 MR. ALLEN: I hadn't heard --

15 JUDGE MCCABE: I have. And so I appreciate
16 that, and -- but I'm listening to it all, and so I got
17 it. So I appreciate it.18 MR. ALLEN: So that -- that was my question
19 about that.

20 JUDGE MCCABE: Okay.

21 MR. ALLEN: I apologize for that. I had --

22 JUDGE MCCABE: Oh, no problem. I
23 understand it. People are coming in and out. I'm just
24 trying to -- we've got limited time. So I'm trying to
25 limit duplication where we can.

1 MR. ALLEN: Okay.

2 Q. (BY MR. ALLEN) And my next question was about
3 the Quahadi Ranch Airport-17XS. Y'all's airport list
4 show that. And those air -- those airplanes, due to the
5 nature of the business that is conducted out of that
6 airport, are large airports [sic], and they fly at a low
7 altitude over my mother's property and over what would
8 be C3, if that route is chosen. Would that require
9 consultation with the FAA if B3 is chosen?

10 A. (Cooley) Yes, it would. That's a standard
11 part of our engineering process.

12 Q. Okay. Okay.

13 And my next question is about the actual
14 wires act as a resistor to electricity running through
15 them; is that correct?

16 A. (Gurley) Could you restate that question?
17 Sorry. Or could you re-ask it. I'm not sure I heard
18 it.

19 Q. The actual wires -- the actual electric wires
20 act as a resistor to the electricity that is running
21 through them. So you lose electricity as you are
22 running electricity through the lines?

23 A. (Gurley) Yes, the line does have a real and
24 reactive impedance or resistance as commonly known, yes.

25 Q. All right. So the longer the transmission

1 lines are, the -- the more electricity you lose along
2 the routes?

3 A. (Gurley) Potentially if you're -- I mean, if
4 you're looking at the same size of wire across two
5 different distances, yes, the length of the line will
6 change the characteristic and impedance of the entire
7 line or will -- the impedance will be more, yes.

8 Q. Okay. So are y'all planning on adding
9 electricity to these lines as they are going along?

10 A. (Gurley) So that is the purpose of the 765-kV
11 voltage, is that the level of voltage allows us to be
12 able to overcome the resistance and the losses to that.
13 So -- so the higher voltage allows us to be able to
14 transport power a longer distance.

15 Q. Okay. So would you be putting 765-kilovolts
16 into the line at Dinosaur, or would 765-kilovolts be
17 coming out at Longshore?

18 A. (Gurley) So the 765-kV is a reference to the
19 phase-to-phase voltage that would be measured between
20 two of these sets of bundles of wires, and that is just
21 the voltage that is the -- the system voltage. I mean,
22 so when it is connected between Dinosaur and Longshore,
23 that will -- that will essentially be for all simple
24 purposes -- there will be 765 volts as measured from one
25 phase to another of the line.

1 Q. Okay. So my question that I'm getting at is
2 what voltage would be going across these lines at my
3 mother's property? Would it be more than 765 or less
4 than 765? Would it be 765? What's -- what's the number
5 of the voltage that would be going across my mother's
6 property?

7 A. (Gurley) So, in general, it would be -- they
8 would be considered a 765-kV line. The actual voltage
9 at any point in time may vary just depending on system
10 demand in the system as it is.

11 Q. Okay.

12 A. (Gurley) But it will be in the range of 765
13 within normal tolerances to ERCOT's protocols.

14 Q. Okay. So it will be 765, give or take,
15 depending on the system demand and --

16 A. (Gurley) Yeah.

17 Q. Okay.

18 A. (Gurley) Yes, that would be essentially --
19 the --

20 Q. Okay.

21 A. (Gurley) The normal voltage.

22 Q. I understand that -- and correct me if I'm
23 wrong. I understand this is phase one of the total
24 plan. How many 765-kilovolt lines are planned for all
25 of Texas?

1 A. (Gurley) Of all of Texas, that would be the
2 best reference for that would be my rebuttal testimony
3 for the 2024 RTP plan. I'm not going to pretend that I
4 would remember offhand today. Make sure I find the
5 correct chart, and I can count them for you.

6 So there's a couple different levels of
7 that plan, and I'm looking at Page 51 of my rebuttal
8 testimony in Section 1.5 of the RTP -- ERCOT's 2024 RTP
9 plan. So there are a total of five lines that were
10 listed under the Permian Basin Reliability Plan, and
11 under the '24 RTP, that was expanded into what is known
12 as the core plan. And that is an additional -- and I
13 believe that's eight more in the core plan if I have
14 that correct, and I think that has since -- there's a
15 slight modification to that under the 2025 RTP, and I
16 don't have that in front of me today.

17 Q. Okay. So --

18 A. (Gurley) I'm sorry. There are two more on the
19 western, so that would be a total of ten. I did miss
20 counting those.

21 Q. Okay. So this is more than just the Permian
22 Basin. This is throughout all of Texas?

23 A. (Gurley) Yeah. So part of the studies that
24 ERCOT performed, after they performed the Permian Basin
25 Reliability Plan study in determining that 765 was

1 potential -- or was the best solution for import paths
2 into the Permian, they requested from the PUC the
3 ability to go back and study them for the entire state
4 under the 2024 RTP plan study, and under that is where
5 they found that they strongly recommended the 765 kV
6 STEP plan be approved -- or I should say the 765 kV for
7 the Permian consideration to be approved, as they found
8 that to be the appropriate solution for the rest of the
9 state.

10 Q. And ERCOT determined that?

11 A. (Gurley) Yes, sir.

12 Q. Without legislative approval?

13 A. (Gurley) Well, that is -- that is -- to my
14 understanding, that is their job, is to evaluate, and
15 they have to perform an annual analysis, which is that
16 RTP, so the Regional Transmission Plan, on an annual
17 basis to try to determine the needs of the electric
18 system for the ERCOT grid.

19 Q. Okay. All right. And someone testified that
20 they had the Dinosaur Switch placed close to Comanche
21 Peak. And I'm assuming that's to get electricity from
22 Comanche Peak?

23 A. (Gurley) Yes. And there is -- give me just
24 one second, make sure I'm in the right section.

25 Yeah. So, again, in my rebuttal testimony,

1 I think I've talked about it, as well as Ms. Cooley and
2 Mr. Marusak. So on Page 14 in my rebuttal, it does
3 cover some of the reasoning behind the location that
4 ERCOT picked for what was originally called New
5 Substation 2 under the Permian Basin Reliability Plan,
6 now known as Dinosaur Switch. And it is not just the --
7 from the Comanche Peak. It is because of the
8 interconnections into the 345-kV network that run in
9 that area.

10 Q. Okay. I'm just wondering if you realize about
11 the lifetime of Comanche Peak and what its expected
12 sunset day would be?

13 A. (Gurley) I do not know of a sunset date for
14 Comanche Peak.

15 Q. Okay. I was just looking at some of the data,
16 and the longest running nuclear unit in the world is
17 Nine Mile Point Unit 1, and it has been running for
18 57 years, and Comanche Peak Unit 1 has been running for
19 36 years, and Unit 2 has been running for 33 years. And
20 so to get to the 57-year point, which is the longest --

21 MR. TAYLOR: Your Honor, we're going to --

22 JUDGE MCCABE: Yeah.

23 MR. BRADY: Objection, testifying and
24 relevance.

25 JUDGE MCCABE: Mr. Allen, we are crossing

1 into statements rather than questions. If you could
2 direct yourself to a question. And I will also note
3 that there's been kind of a -- again, these kind of
4 general questions about, like, the general aspects of
5 the line have been -- have been examined, and there's
6 rebuttal testimony, and there's stuff in the record
7 about those that I have. And I can -- we'll be able to
8 look at whenever we're -- you know, whenever we're
9 considering and wherever the Commission is considering
10 the contested case and the application later.

11 So I do want us to kind of move on to some
12 new questions. And I do want to say we are -- I'm
13 already pushing the court reporter. I'm trying to get
14 through the last two people here that have their hand
15 raised. So I'm just trying to -- trying to finish up.
16 So if you could, can we -- can we really focus these
17 questions on that and let's get moving.

18 Q. (BY MR. ALLEN) Okay. I'm just wondering if
19 this is considered a -- a Band-Aid approach or -- and
20 what will happen with this transmission line if Comanche
21 Peak is decommissioned and, you know, it's no longer
22 producing as much electricity as is required for the
23 765-kilovolt line.

24 MR. BROWN: Objection, calls for
25 speculation.

1 JUDGE MCCABE: That's sustained. I think
2 that's -- I think that's probably fair.

3 Go ahead, Mr. Allen. Give me a new
4 question.

5 MR. ALLEN: That's all my questions. Thank
6 you very much.

7 JUDGE MCCABE: Thank you, Mr. Allen. I do
8 appreciate it.

9 Mr. Richards, a couple minutes. I know
10 that Mr. Moore has already kind of addressed the
11 property. So I really want you to focus on those issues
12 and give us very quick and very narrow and very focused
13 questions. Mr. Richards.

14 MR. RICHARDS: Okay. I want to make two
15 statements or two observes [sic] here.

16 CROSS-EXAMINATION

17 BY MR. RICHARDS:

18 Q. Are you --

19 JUDGE MCCABE: So, Mr. Richards, we --

20 MR. RICHARDS: No, no. I --

21 JUDGE MCCABE: This is not the time for
22 observations. It's the time --

23 MR. RICHARDS: I need to ask a question.

24 JUDGE MCCABE: -- for questions to -- it's
25 time for the -- you can ask a question to the panel,

1 yep.

2 Q. (BY MR. RICHARDS) Okay. Are you aware that
3 there are two Fort Chadbournes? One is the historical
4 site, and one is the townsite of Fort Chadbourne, and
5 there are two differentiated Fort Chadbourne sites.

6 A. (Marusak) We were not aware of those
7 specifics, no, sir.

8 Q. Okay. One of the things I want to do is I want
9 to point out that Oncor -- on the Oncor interactive map,
10 that is the townsite of Fort Chadbourne. When the
11 railroad came through here in 1909, they named that town
12 Fort Chadbourne. The historical site of Fort Chadbourne
13 is 5 miles to the south -- no, to the west -- excuse me,
14 to the east of that.

15 If you will look at the map that I have
16 presented, the original Fort Chadbourne, the historical
17 site of Fort Chadbourne, is on the map that I presented.
18 That makes this in the very near proximity of this line.
19 The lat and the long on the site -- the entrance to the
20 site of Fort Chadbourne, if you are interested in
21 locating this on the lat and long, well, the lat is
22 32.04577 north --

23 MR. BROWN: Objection, Your Honor. The
24 questioner is testifying again.

25 JUDGE MCCABE: I do think we're getting --

1 I know you're trying to give a little bit of context and
2 you're referencing your direct testimony, Mr. Richards,
3 but we're kind of getting a little bit away from that
4 and into kind of statements and testimony. So if you
5 would, would you direct a question to the panel, please.

6 Q. (BY MR. RICHARDS) Fort Chadbourne is 5 miles
7 closer to this line than what is on the map that -- the
8 interactive map that Oncor is using. I would like -- I
9 would request the Oncor people to actually look up the
10 site -- the historical site of Fort Chadbourne because
11 it is very close to the proximity of this line.

12 JUDGE MCCABE: Okay. Do we have any more
13 questions? I understand you're asking Oncor to kind
14 of -- I take that as a request to do more research. But
15 do you have a question to the panel?

16 Q. (BY MR. RICHARDS) Do they understand that
17 there is a difference between the Fort Chadbourne
18 Foundation and the Fort Chadbourne -- and Chadbourne
19 Ranch?

20 A. (Marusak) Mr. Richards, as a routing witness,
21 we -- I believe I stated that I did not know there was a
22 difference when we did our research. We identified a
23 historical marker, which, I believe, is, you know,
24 related to the ranch, and then we also identified what I
25 believe is the Fort Chadbourne cemetery. And it's my

1 understanding that Fort Chadbourne is, you know, close
2 to the cemetery. We did our best to go to the Fort
3 Chadbourne website to look for a map that might give us
4 more information on where these features were, and we
5 could not find that map on the website. So --

6 Q. What I didn't -- what I didn't -- and excuse
7 me, but what I didn't want to do is confuse the townsite
8 of Fort Chadbourne and the historical site of Fort
9 Chadbourne, because on your interactive map that Oncor
10 produced, Fort Chadbourne is actually north and west of
11 Highway 70. Fort Chadbourne is not.

12 JUDGE MCCABE: And, Mr. Richards, it sounds
13 like what you're trying to do is draw attention to your
14 direct testimony and the map that's in there. We will
15 take a look at that direct testimony, and we will review
16 that as we prepare our proposal for decision.

17 MR. RICHARDS: I appreciate it.

18 JUDGE MCCABE: All right. That's all the
19 hands I have.

20 Mr. Taylor, redirect?

21 MR. TAYLOR: No, Your Honor.

22 JUDGE MCCABE: Okay. With that, then, that
23 will conclude the panel. Thank you, everybody.

24 Thank you, panel, for your patience, and
25 you are free to step down from the stand, then.

1 With that, we will take our lunch. Let's
2 try to cut it, and let's go to 30 minutes if we can. I
3 know we're pushing everybody, but I would like to push.

4 MR. TAYLOR: Your Honor, just to be clear,
5 these folks are all dismissed; correct?

6 JUDGE MCCABE: No redirect, we're done.

7 MR. TAYLOR: Great.

8 (Recess taken)

9 AFTERNOON SESSION

10 (1:41 p.m.)

11 JUDGE SHENOY: All right. Let's go back on
12 the record after our very brief lunch break.

13 We have a couple things to go over about
14 exhibits, which I'm going to turn it over to
15 Judge McCabe.

16 JUDGE MCCABE: Okay. I know that -- I'm
17 just going to -- we've handled self-represented litigant
18 exhibits and the submission to the court reporter after
19 they were admitted. Kind of -- we did a whole batch on
20 Monday. We did a batch on Wednesday and kind of changed
21 how we did that.

22 We're going to issue an order that's coming
23 out that will kind of make -- extend how we've been
24 doing the submission, which is Oncor will pull and put
25 on the thing. It will have a list of all those people

1 and all those exhibits and all those interchange numbers
2 to try to make it as easy as possible. But we're just
3 kind of -- that order will extend it out. And then in
4 terms -- the order will also kind of indicate -- and
5 that will just be -- the deadline for that will be
6 Monday at 5:00. We'll just set that. And I guess if
7 something changes, we'll have to -- we can take it up.

8 And then the expectation at this point is
9 we'll also have the represented parties still who are
10 using that Egnyte, they'll have a -- we'll ask Oncor to
11 create an admitted folder that parties can drag their
12 admitted folders over -- or their admitted documents
13 over, as well as an exhibit list, so the court reporters
14 will have that. And the court reporter will have access
15 and pull that down. And that will constitute -- those
16 two folders together will constitute the record as it
17 goes over to the court reporter.

18 So you guys -- everybody should be able to
19 view it. I think the one that Oncor is making for the
20 self-represented litigants will be view-only. I'm
21 assuming the other one has to be able to have some
22 writing capability for the parties to be able to move
23 things over. And you guys will be able to review those
24 as they get moved in and double-check that.

25 Okay. In that regard, Ms. Hicks, you

1 raised your hand?

2 MS. HICKS: Yes. Sharon Hicks. I did.
3 You froze a little bit in that conversation. So what I
4 understood was Oncor is going to make a folder in Egnyte
5 where we move everything over, and then you said
6 something else and you froze. So I don't know what that
7 something else was.

8 JUDGE MCCABE: Yeah. For represented
9 parties, you -- Oncor is going to create, like, an
10 admitted folder. You will move your admitted exhibits
11 over to that folder so that it would have access to the
12 court reporter to be able to pull down. Make sure you
13 include your exhibit list. So that way the court
14 reporter can pull those descriptions and stuff and those
15 exhibits. So that way they know as well.

16 MS. HICKS: And when will that be made,
17 sir?

18 JUDGE MCCABE: That will be Monday at 5:00
19 as well.

20 MS. HICKS: Okay. Thank you.

21 JUDGE MCCABE: Thank you.

22 Ms. Pelon, you've got your hand raised.

23 MS. PELON: Yes. Those of us who haven't
24 been called on yet, will we do that on Monday?

25 JUDGE MCCABE: You -- nobody has designated

1 you for cross-examination, Ms. Pelon. So you are -- you
2 are not going to be needed --

3 MS. PELON: No, no. I never got to ask my
4 questions.

5 JUDGE MCCABE: Well, Ms. Pelon, I asked all
6 parties to raise their hand if they still had questions
7 to ask. And I've released the panel at this point.
8 They have been released. Mr. Taylor had an opportunity
9 for redirect. He did not take that opportunity. But
10 that was the opportunity to ask those questions. So
11 I -- I can't bring the panel back at this point. The
12 time to ask questions was this morning.

13 MS. PELON: I misunderstood. I thought you
14 said to raise your hand if you had less than five
15 questions.

16 JUDGE MCCABE: And then I announced that --
17 once we were getting to the end of that list, I asked
18 for everybody else who had questions to raise their hand
19 and get in the queue, because we needed to work through
20 that. So I was trying to get everybody in because we've
21 got to move on.

22 I will note -- given some of the comments
23 that you've made, I do know that we had questions being
24 asked about the Penatuhkah Comanche Trails from one of
25 our other witnesses. So I do know that those kinds of

1 questions were asked, if that was going to be the focus
2 of your cross-examination.

3 MS. PELON: It's a lot more. But you've
4 got my testimony that will be included anyhow; right?

5 JUDGE MCCABE: Yep, and we'll be able to
6 review that as well.

7 MS. PELON: Okay. I'm very disappointed
8 because --

9 JUDGE MCCABE: I'm sorry, Ms. Pelon. I
10 understand. We had to get the process rolling, and I
11 tried to do a last call for everybody. So I understand
12 that, but that was the opportunity. And once I release
13 the panel, I cannot bring them back.

14 MS. PELON: I understand. Thank you.

15 JUDGE MCCABE: Mr. Manzoni, you have your
16 hand raised.

17 MR. MANZONI: Yes. I don't have a -- I
18 have pretty much a legal or process question.

19 JUDGE MCCABE: Uh-huh.

20 MR. MANZONI: Is it -- an amendment put in
21 by the PUC commission prior to these records by Eduardo
22 Acosta, right, is that a conflict of interest, like, not
23 putting in an amendment after the hearings? The
24 amendment put in by Eduardo Acosta is testimony to a
25 different route, and that's put in prior to these

1 hearings. So it's not -- it's not depending upon these
2 hearings that the amendment was put in. Is that not a
3 conflict of interest?

4 JUDGE MCCABE: I'm not sure what you're
5 referring, Mr. Manzoni, and I can't answer that
6 question. So I just --

7 MR. MANZONI: Item Number 4501, which was
8 an amendment to Oncor's routing.

9 MR. TAYLOR: Your Honor, I think --

10 MR. MANZONI: -- Number 426.

11 JUDGE MCCABE: Mr. Taylor, do you
12 understand?

13 Hold on, Mr. Manzoni.

14 MR. TAYLOR: I will try to answer the
15 question. So I'm going to try and explain here, and if
16 I'm off base, feel free to follow up. But Commission
17 Staff is a separate entity than the commissioners who
18 make the decisions in the case. Commission Staff is a
19 separate independent party in these cases. They are not
20 the commissioners who will make a decision.

21 JUDGE MCCABE: I'm getting there,
22 Mr. Manzoni. You're talking about Mr. Acosta's direct
23 testimony in this case?

24 MR. MANZONI: Yeah, I mean, that's --

25 JUDGE MCCABE: Gotcha. Yeah, so --

1 MR. MANZONI: -- essentially Oncor.

2 JUDGE MCCABE: Yeah. And Mr. Taylor is
3 correct. The staff is -- while they work as part of the
4 Commission, they are not the commissioners, as part of
5 the Commission as a whole. They are not the Commission
6 or the commissioners. So they're not the
7 decision-makers. They're going to give a recommendation
8 in form of testimony, but they're not the
9 decision-makers. So --

10 MR. MANZONI: But that's a conflict of
11 interest legally. I mean, that's a conflict of
12 interest. The same --

13 JUDGE MCCABE: Mr. Manzoni, I can't -- I
14 can't address that in this proceeding. That's -- they
15 have a right to participate by rule.

16 MR. MANZONI: Okay. I mean --

17 JUDGE MCCABE: And so -- and so
18 it's just --

19 MR. MANZONI: I understand, but I believe
20 it's a conflict of interest, and I believe that if
21 there's an amendment that would be made to Oncor's, it
22 should have been Oncor.

23 JUDGE MCCABE: I will -- I will -- I
24 understand what you're saying. Right now what we have
25 is direct testimony. We're going to have that --

1 Mr. Acosta is going to be here, and we're about to start
2 the cross-examination of Mr. Acosta. So --

3 MR. MANZONI: Okay. Thank you. Thank you
4 for hearing me. I appreciate it.

5 JUDGE MCCABE: Yeah. I appreciate the
6 question.

7 And so we're going to get started.
8 Judge Shenoy.

9 JUDGE SHENOY: Okay. So to reiterate, if
10 you do not have a lawyer, there's an order that's going
11 to be coming out hopefully today. Judge McCabe's trying
12 to finish that up and get it out. So be on the lookout
13 for it. It explains what's going to happen. We are
14 going to step in, and Oncor is going to help out getting
15 your exhibits into the admitted folder so that you do
16 not have anything more that you have to do to make sure
17 that your testimony is in the record.

18 That order should be going out today. Take
19 a look at it if you don't have a lawyer. If you do have
20 a lawyer, those lawyers are responsible for getting
21 those exhibits in, and that's -- you don't have to worry
22 about that.

23 The other thing is we had some questions
24 about the transcript. I can only refer you to -- you'll
25 need to ask for a copy of the transcript from the court

1 reporting service. The easiest way for me to do that
2 right now, without trying to say the phone number and
3 the email and all of that 100 times, is to say contact
4 Oncor.

5 So, Mr. Taylor, you're welcome.

6 You can ask them how to get in touch with
7 the court reporting service, and they can explain to you
8 about getting a copy of the transcript. That's all I
9 can say about that. Hopefully, that answers the
10 questions that we had earlier.

11 Okay. Let's move on to Staff's witness,
12 and I know that I have -- Mr. Key was -- is Number 2 on
13 the cross list. He's going to go at the end. That's
14 what we had talked about.

15 I'm going to stand up so I can see the
16 witness.

17 Staff, you're presenting Mr. Acosta?

18 MR. ADAMIE: Good afternoon, Commissioners.
19 Brett Adamie with Commission Staff. We call Eduardo
20 Acosta to the stand.

21 JUDGE SHENOY: Thank you.

22 Mr. Acosta, if you could raise your right
23 hand.

24 (The witness was sworn)

25 JUDGE SHENOY: Okay. You're going to need

1 to sit close to that microphone for me.

2 Okay. And if you can just spell your first
3 and last name for the court reporter.

4 THE WITNESS: Eduardo Acosta, E-d-u, as in
5 uncle, a-r-d-o, Acosta, A-c-o-s-t-a.

6 JUDGE SHENOY: Thank you, Mr. Acosta. Your
7 direct testimony is already in evidence, and you've been
8 proffered for cross.

9 I will start with Mr. Bayliff. Please
10 introduce yourself, and you may proceed.

11 PRESENTATION ON BEHALF OF COMMISSION STAFF

12 EDUARDO ACOSTA,

13 having been first duly sworn, testified as follows:

14 CROSS-EXAMINATION

15 BY MR. BAYLIFF:

16 Q. Good afternoon, Mr. Acosta. I'm Brad Bayliff.
17 I represent the Cook Canyon Ranch and H2 Ranch, 2013 H2
18 Holdings, and they have me asking you several questions
19 about your testimony.

20 You offer the following opinions in this
21 case. And I'm going to go down the list and pause for
22 each one of them for you to agree that you have offered
23 this opinion.

24 Route 713 is, quote, "responsive to
25 community values," unquote; correct?

1 A. Correct.

2 Q. Route 713 demonstrates, quote, "superior
3 environmental and agricultural performance," end quote;
4 correct?

5 A. Correct.

6 Q. Route 713 represents a, quote, "reasonable
7 trade-off between cost and impact mitigation"; correct?

8 A. Correct.

9 Q. Opposition to certain links is, quote,
10 "overwhelming," unquote, and quote, "substantial,"
11 unquote; correct?

12 A. Correct.

13 Q. That opposition constitutes a, quote, "common
14 community value," unquote; correct?

15 A. Correct.

16 Q. And Route 713 is the, quote, "best overall
17 route when weighing the routing factors collectively";
18 correct?

19 A. Correct.

20 Q. Each of those is an opinion Staff is asking the
21 ALJs to rely on in selecting a route; correct?

22 A. Correct.

23 Q. And you agree there is no separate analysis,
24 dataset, model, or evaluation, outside of what's in or
25 attached to your testimony, that you relied on in

1 forming those opinions; correct?

2 A. Correct.

3 Q. And other than what's in your testimony and its
4 attachments, you did not prepare or disclose any
5 separate written protocol, framework, or analytic method
6 governing the opinions I just listed; correct?

7 A. Correct.

8 Q. You also did not disclose any objective
9 criteria, no thresholds, no weights, no scoring, no
10 decision rules for applying labels like overwhelming,
11 community values, reasonable trade-off, or best overall;
12 correct?

13 A. Correct.

14 Q. Other than your narrative testimony and its
15 attachments, you did not disclose any document that
16 explains step by step how someone else using the same
17 inputs would reach the same opinions; correct?

18 A. Correct.

19 Q. And there's no written or disclosed method
20 explaining how those opinions were derived beyond your
21 narrative testimony; correct?

22 A. I'm sorry, can you repeat that?

23 Q. Sure. There's no written or disclosed method
24 explaining how those opinions were derived beyond your
25 narrative testimony; correct?

1 A. Correct.

2 Q. You confirmed earlier that you concluded
3 Route 713 is the, quote, "best overall," unquote, route;
4 correct?

5 A. Correct.

6 Q. In your direct testimony, you stated, quote --
7 and this is on Page 34, 18 to 20, but I think you'll
8 remember it -- "For these reasons, when weighing all
9 relevant factors collectively, I conclude that Route 713
10 represents the best overall routing option for the
11 proposed project"; correct?

12 A. Correct.

13 Q. And in that same conclusion, you stated,
14 "While 713 is not the least expensive option and does
15 not minimize habitable structures to the highest degree,
16 its overall performance reflects a reasonable and
17 balanced approach"; correct?

18 A. Correct.

19 Q. And when you say "weighing all relevant factors
20 collectively," you're describing a judgment call, aren't
21 you? You're not using an identified scoring or
22 weighting system; correct?

23 A. Correct.

24 Q. You didn't explain any rules that explains what
25 controls when routing factors pull in different

1 directions; correct?

2 A. Correct.

3 Q. And you didn't explain anywhere which routing
4 factors mattered more than others when those conflicts
5 came up; correct?

6 A. Correct.

7 Q. And you did not provide any written explanation
8 showing what actually drove your best overall decision,
9 what mattered most and what mattered least; correct?

10 A. Correct.

11 Q. And there's no document in this record that
12 allows the ALJs to follow your steps or check how you
13 reached the best overall conclusion; correct?

14 A. Can you rephrase that? Can you -- can you
15 repeat that question?

16 Q. Sure. And there is no document in this record
17 that allows the ALJs to follow your steps or check how
18 you reached the best overall conclusion; correct?

19 A. I wouldn't characterize it like that. That's
20 not --

21 Q. But you didn't explain in any rules that it
22 controls when routing factors pull in different
23 directions, you said; correct?

24 A. The basis for my recommendation is in my
25 testimony.

1 Q. So other than your testimony, there's no other
2 document that allows the ALJs to follow your steps or
3 check how you reached the best overall conclusion;
4 correct?

5 A. Sure, correct.

6 Q. You testified you relied on the application and
7 its attachments, including the environmental assessment;
8 correct?

9 A. Correct.

10 Q. You also testified, "I've also relied upon my
11 review of the protests, direct testimonies, and
12 statements of position" -- and I have an ellipsis --
13 "and responses to requests for information filed to
14 date"; correct?

15 A. Correct.

16 Q. And "filed to date," refers to a point in time
17 before your testimony was finalized; correct?

18 A. Correct.

19 Q. And after your testimony was finalized,
20 additional filings were made in this docket; correct?

21 A. Correct.

22 Q. You didn't write down or record when you
23 stopped reviewing filings; correct?

24 A. Correct.

25 Q. And you can't produce a document showing the

1 complete list and universe of filings that you included
2 in your review; correct?

3 A. Correct.

4 Q. And you can't produce a document that shows
5 which ones you excluded from review; correct?

6 A. Correct.

7 Q. And you don't have a list or a log of the
8 specific filings you relied on for the best overall
9 conclusion; correct?

10 A. Correct.

11 Q. Because you didn't create a universe list or a
12 cutoff record, you can't identify today which specific
13 filings you included and which ones you excluded from
14 your review; correct?

15 A. Correct.

16 Q. And you didn't keep any notes, spreadsheets, or
17 other written materials showing how you went from the
18 information you reviewed to your best overall
19 conclusion; correct?

20 A. I mean, I have notes. What was the other part
21 of the question?

22 Q. You didn't keep any notes, spreadsheets, or
23 other written materials showing how you went from the
24 information you reviewed?

25 A. Nothing other than what was referenced in my

1 testimony, no.

2 Q. You said that you have some -- you have notes,
3 a moment ago. CCR to Staff, RFI 1-22, asked Staff to
4 identify and produce every document, analysis, dataset,
5 model, or evaluation relied on by Mr. Acosta. And it
6 says "All of Mr. Acosta's analyses and reasoning is in
7 or attached to his testimony."

8 You didn't include the notes in your
9 response to this that you used in your evaluation of the
10 application?

11 A. When I refer to notes, I mean, I have drafts
12 that -- of -- that I was told were between myself and
13 my -- my colleagues, supervisor, et cetera.

14 Q. But you said you have notes?

15 A. That's what I mean. I have drafts that I --

16 Q. Drafts of your testimony; is that correct?

17 A. Yes.

18 Q. Okay.

19 A. And, I'm sorry, can you repeat what RFI
20 response?

21 Q. 1-22. It asks for every document that you used
22 to conclude that 713 was the best route. And if you
23 meant by "notes" previous versions of drafts, I'll
24 accept that description of what your notes are. And it
25 wasn't a list of evaluations or other analyses that you

1 were performing?

2 A. That question -- CCR Staff 1-22; is that
3 correct?

4 Q. Yes.

5 A. That did not have notes in the body of the
6 question.

7 Q. It asked for every document. Do you consider
8 your notes a document?

9 A. Well, I stand by my response in stating that
10 all of my analyses and reasoning is in or attached to my
11 testimony.

12 Q. And you didn't create any written records
13 showing the steps you took?

14 A. No.

15 Q. Between reviewing the materials and reaching
16 your conclusion?

17 A. No.

18 Q. You didn't create any work files of your own
19 that explain --

20 MR. ADAMIE: Objection, Your Honor, asked
21 and answered.

22 JUDGE SHENOY: Mr. Bayliff, I think you're
23 retreading the same ground. That's sustained.

24 Q. (BY MR. BAYLIFF) You didn't create any work
25 files of your own that explained how different factors

1 were weighed or compared; correct?

2 A. Correct.

3 Q. You testified that the EA doesn't document
4 specific link opposition; correct?

5 A. Correct.

6 Q. And in that same discussion, you testified, "I
7 can draw some reasonable conclusions"; correct?

8 A. Correct.

9 Q. And you also testified "It is evident that the
10 overwhelming opposition is to Links A3, C2, and C3";
11 correct?

12 A. Correct.

13 Q. And you further testified that you -- "I
14 categorize" -- quote, "I categorize the substantial
15 opposition to these links as a common community value
16 that should be considered in the route selection";
17 correct?

18 A. Correct.

19 Q. And then you concluded, "Route 713 avoids all
20 of these links"; correct? Page 23, 14 to 15.

21 A. I'm sorry, what was that last part?

22 Q. Page 23, 14 to 15.

23 A. Oh, right.

24 Q. You concluded Route 713 avoids all of these
25 links?

1 A. Correct.

2 Q. And you didn't create your own table
3 documenting link-specific opposition either, did you?

4 A. No, sir.

5 Q. You didn't have a tally sheet that said Link A3
6 and start making --

7 MR. ADAMIE: I'm going to object again,
8 Your Honor. In the interest of time, I believe this
9 question has been addressed.

10 JUDGE SHENOY: Mr. Bayliff, I -- sustained.

11 MR. BAYLIFF: It's been sustained with
12 respect to the EA -- excuse me, with respect to the
13 overall best-route claim. It is not regarding the link
14 opposition that we've been discussing in this section.

15 JUDGE SHENOY: Okay. Ask the question
16 again.

17 Q. (BY MR. BAYLIFF) You didn't create your -- I'm
18 sorry. "You didn't create your own table documenting
19 link-specific opposition either?"

20 And I think you said "correct"; is that
21 right?

22 A. Correct.

23 Q. And you didn't count the number of unique
24 individuals opposing each link; correct?

25 A. Correct.

1 Q. You didn't compare opposition to A3, C2, or C3
2 against opposition to other links or using any numeric
3 measure?

4 A. Correct.

5 Q. So your overwhelming and substantial
6 characterization is based on your qualitative impression
7 rather than a measured magnitude or a comparative
8 baseline; correct?

9 A. Correct.

10 Q. On community values, there's no Commission rule
11 or staff manual that provides defined criteria for
12 determining community values; is that correct?

13 A. Correct.

14 Q. And in your testimony, you treat substantial
15 opposition to certain links as a, quote, "common
16 community value"; correct?

17 A. Correct.

18 Q. You didn't apply any defined disclosed method
19 for determining when opposition filings rise to the
20 level of a community value; correct?

21 A. Correct.

22 Q. And there's no defined rule that you applied
23 that says how much opposition constitutes a community
24 value; correct?

25 A. Correct.

1 Q. And there's no defined rule that you applied
2 that says what kind of opposition constitutes a
3 community value; correct?

4 A. Correct.

5 Q. You didn't define the population whose values
6 you're describing, did you?

7 A. Those in the record.

8 Q. In those in the record, were you looking in the
9 direct testimonies that were provided by the
10 intervenors?

11 A. All of the filings on the record.

12 Q. Do you mean filings on the interchange system?

13 A. Yes, sir.

14 Q. And you consider that to be the record?

15 A. Yes, sir.

16 Q. So you defined the population of community
17 values of those who filed statements, comments, on the
18 interchange system; is that correct?

19 A. Correct.

20 Q. And it's not tied to any community boundary,
21 then. It's just things that were filed on the
22 interchange system; correct?

23 A. Correct.

24 Q. And because you did not quantify baseline
25 opposition by link, your community values' opinion rests

1 on a qualitative judgment of those filings in the
2 interchange system, doesn't it?

3 A. Correct.

4 Q. And there was not a defined measurement method
5 of those filings?

6 A. Correct.

7 Q. You confirmed you concluded Route 713
8 represents a reasonable trade-off between cost and
9 impact mitigation; correctly -- correct?

10 A. Correct.

11 Q. But you didn't perform any quantitative
12 comparison of cost versus impacts to reach that
13 conclusion; correct?

14 A. Correct.

15 Q. You didn't apply any defined rule for
16 determining when cost outweighs impact; correct?

17 A. Correct.

18 Q. You didn't prepare or disclose any document
19 that sets out how costs and impacts were weighed against
20 one another for Route 713; correct?

21 A. Can you repeat the question? Sorry.

22 Q. You did not prepare or disclose any document
23 that sets out how cost and impacts were weighed against
24 one another for Route 713; correct?

25 A. Correct.

1 Q. To summarize, there's no defined dataset you
2 disclosed for what was included and filed to date;
3 correct?

4 A. Correct.

5 Q. There's no documented method you disclosed that
6 explains how you collectively weighed multiple routing
7 factors to reach the best overall conclusion; correct?

8 A. Correct.

9 Q. And you used that phrasing, "when weighing all
10 relevant factors collectively" and "best overall routing
11 option," without disclosing any scoring; correct?

12 A. Correct.

13 Q. Weighting; correct?

14 A. Correct.

15 Q. Or aggregation method that would allow someone
16 else to reproduce the same best overall conclusion;
17 correct?

18 A. Correct.

19 Q. And there are no work papers or audit trail
20 connecting the specific inputs in your best overall
21 conclusion; correct?

22 A. Correct.

23 Q. So there's no document in this record that
24 allows the ALJs to independently verify --

25 MS. PEMBERTON: Excuse me. Margaret

1 Pemberton for Great Southern Ranch. I'm going to object
2 that this has been asked and answered repeatedly. He
3 started with a very general statement that there were no
4 records and there were no documents, and the witness has
5 continually said he doesn't have any, and now he's going
6 into a discrete, you know, step-by-step type of
7 document. It's already been asked and answered many
8 times.

9 JUDGE SHENOY: That's sustained,
10 Mr. Bayliff.

11 Q. (BY MR. BAYLIFF) So the ALJs and the
12 Commission can't independently verify the steps you used
13 to reach your conclusions; correct?

14 A. They can review my testimony.

15 MR. BAYLIFF: Your Honors, three parties
16 objected to parts of Mr. Acosta's testimony. Cook
17 Canyon Ranch moved to strike limited portions, specific
18 opinions. Staff's discovery responses did not identify
19 any methodology or criteria that underline the
20 challenged opinions. SOAH Order Number 11 stated the
21 challenged opinions are, quote, "not outside the range
22 of opinions" --

23 MR. ADAMIE: I'm going to object, Your
24 Honor. Is there a question?

25 MR. BAYLIFF: This is not a question. It's

1 a motion.

2 JUDGE SHENOY: I'm sorry. Who is
3 objecting?

4 THE REPORTER: Adamie.

5 JUDGE SHENOY: Oh, okay. I couldn't --
6 sorry, the sound isn't directional. I couldn't tell.

7 MR. ADAMIE: I'd like some clarification.
8 Is counsel asking a question? Is he making a motion?
9 I -- thank you.

10 JUDGE SHENOY: Okay. So --

11 MR. BAYLIFF: I'm not asking the witness.

12 JUDGE SHENOY: Are you reurging your
13 motion, Mr. Bayliff? Let's cut to it.

14 MR. BAYLIFF: I'm getting there, yes,
15 ma'am.

16 JUDGE SHENOY: Well, let's --

17 MR. BAYLIFF: We reurge our motion to
18 strike.

19 JUDGE SHENOY: We can get to it right now.
20 Are you reurging that motion?

21 MR. BAYLIFF: Yes, I reurge the motion to
22 strike the challenged portions of Mr. Acosta's testimony
23 based on his lack of methodology and inability to
24 provide any information for you or the commissioners to
25 be able to make any reasoned evaluation of his

1 testimony.

2 JUDGE SHENOY: Okay. Are there parties who
3 are --

4 MR. WAGSTAFF: Your Honor, Robert Wagstaff
5 also joins in that. We filed an objection and motion to
6 strike as well for the H11 Intervenors, and we join in
7 that objection and motion to strike.

8 JUDGE SHENOY: All right. So that was
9 Mr. Wagstaff?

10 MR. WAGSTAFF: Yes, ma'am.

11 JUDGE SHENOY: And you're representing?

12 MR. WAGSTAFF: The H11 Intervenors.

13 JUDGE SHENOY: Thank you.

14 Mr. Quesada, are you joining as well?

15 MR. QUESADA: Yes, Your Honor, on behalf of
16 Camp Butman. Thank you.

17 JUDGE SHENOY: Okay. Mr. Brady, I saw your
18 hand on your mic, so I was anticipating.

19 Anyone else?

20 MR. JORDAN: I'd like to strike that. This
21 is Kelly Jordan. It's irrational and illogical what PUC
22 has presented.

23 JUDGE SHENOY: Okay. So, Mr. Jordan, you
24 are also asking that Staff's testimony be stricken from
25 the record?

1 MR. JORDAN: Yes. It doesn't affect my
2 route. It affects fairness and equity for all routes,
3 now and in the future.

4 JUDGE SHENOY: Okay. I -- we're still
5 finding out who has objections.

6 Is there -- Mr. Anson?

7 MR. ANSON: I do.

8 JUDGE SHENOY: All right. Mr. Anson
9 doesn't have a mic, but he's joining in the motion.

10 MR. ZABEL: Your Honor, Tom Zabel on behalf
11 of Windy Hill Rents LLC is joining.

12 JUDGE SHENOY: Okay. Thank you.

13 MS. MORROW: As does Samantha Morrow on
14 behalf of Morrow Farm and Ranch.

15 JUDGE SHENOY: Thank you, Ms. Morrow.

16 MR. DORSETT: Your Honor, as does Logan
17 Dorsett on behalf of 500 Investment Corp.

18 MR. PARISH: And, Your Honor, Dakota Parish
19 for Leeward Renewables. We don't request a motion to
20 strike, but we would request, based upon Mr. Bayliff's
21 cross-examination, that Mr. Acosta be treated as a lay
22 witness. He doesn't meet the criteria under Rule 703
23 for expert witness testimony.

24 JUDGE SHENOY: Okay.

25 MS. NORMAN: Your Honor, Shelby Norman. We

1 agree with the motion to strike as well.

2 JUDGE SHENOY: Okay. Thank you,
3 Ms. Norman.

4 MR. BRADY: Your Honor, Zach Brady for
5 Spade Ranch. I agree with Mr. Parish that his testimony
6 does not qualify under 703. We do not join the motion
7 to strike, but we do ask that the ALJs treat this
8 testimony as lay witness testimony and not give it any
9 weight from an expert standpoint.

10 JUDGE SHENOY: All right. Is there anyone
11 else that I need to hear from before I let Mr. Adamie
12 make a response?

13 Okay. Any response?

14 MR. ADAMIE: I mean, put very simply, this
15 issue -- this matter has already been decided. Staff
16 has already made its -- its arguments in this, and I
17 don't think that there is any need to restate them now.
18 However, I would like to point out that it -- it would
19 lead to a strange result to allow parties to strike
20 Commission testimony -- Commission Staff's testimony.

21 JUDGE SHENOY: When you say "strange
22 result," are you basing that on just a --

23 MR. ADAMIE: I'll withdraw the statement.

24 JUDGE SHENOY: Okay. Sorry, I wasn't
25 following that part.

1 Mr. Brady?

2 MR. BRADY: Thank you for the opportunity
3 to reply. I want to reply to specifically rebut the
4 idea that this issue has previously been decided. My
5 colleague, Mr. Bayliff, skillfully put in front of the
6 judges evidence that you did not have before this
7 hearing today regarding the witness's qualifications as
8 an expert. He took the witness on his qualifications as
9 an expert at the appropriate time and made the
10 appropriate motion.

11 The reason that I am choosing to pursue
12 this as a motion to view this as fact testimony only is
13 because this is, as I've been reminded, not a jury
14 trial. Therefore, I don't know that a motion to strike
15 is necessarily required.

16 But in terms of the idea that this issue
17 has been decided, I wanted to speak pretty strongly as
18 to that and also the prior statement that has now been
19 withdrawn. It also got my hand in the air. But the
20 issue has not been decided. You have new evidence and
21 new information in front of you that Mr. Bayliff
22 skillfully put into the record.

23 JUDGE SHENOY: Mr. Bayliff, do you have
24 anything different to add?

25 MR. BAYLIFF: If you decide that he's not

1 an expert and you want to treat him as a lay expert
2 offering Staff's position, then the hearsay rules would
3 apply differently, and the hearsay rules that -- would
4 apply to his review of filings on the PUC interchange
5 system. He had no connection to those witnesses. He
6 did not know them. He did not interact with them. He
7 just looked at what they filed and didn't have any idea
8 as to whether they were really true or not, and yet he
9 used that as the basis for his opinion that there was
10 overwhelming opposition, and that was the basis for a
11 community value determination and Staff's
12 recommendation.

13 I offered a very narrow, limited motion to
14 strike portions that included his qualify -- the
15 generalizations that he made. It allowed Staff to say,
16 "Staff supports Route 713." And if you look at the
17 redline that I provided in my original motion, Staff's
18 testimony still can stand. I'm not -- I'm not moving to
19 strike all of it. And Staff can still be
20 recommending 713. His unsupported conclusions and his
21 unsupported statements would not be in the record, as
22 they shouldn't be.

23 And I understand Staff -- I agree, you get
24 to assign weight, but the question here is
25 admissibility. And if it's admitted into the record,

1 there's another step beyond this. They could look at
2 that and make a completely different decision than what
3 you do, having listened to this and reviewed it, on
4 admissibility -- or on weight. And if it's appealed and
5 there's the issue of whether Staff's recommendation
6 for 713 was a -- more than a scintilla of evidence
7 supporting the determination that Route 713 should be
8 approved, then the admissibility of these conclusions,
9 these recommendations, should not be in the record.

10 JUDGE SHENOY: Okay. I need to give --

11 MR. HYATT: Your Honor, if I may, this is
12 Blue Hyatt. I represent the Kirk family. And I don't
13 want to step in -- on the shoes of the Commission here,
14 but I do not follow through with this objection. I do
15 not support the objection. And everyone who does
16 support this objection, of course, has routes and links
17 on -- excuse me, has links on Route 713. That's why
18 they're trying to get rid of him, of course.

19 MR. JORDAN: I do not. I do not. Jordan
20 does not have a --

21 JUDGE SHENOY: Hold on. Mr. Jordan --
22 Mr. Jordan, Mr. Hyatt has the floor right now.

23 MR. HYATT: The majority, then. I
24 misspoke. I apologize, Mr. Jordan.

25 But here's the thing, this goes to the

1 weight of his evidence, of his credibility. If you look
2 at his qualifications, his qualifications, as far as
3 education-wise, they are set forth in his direct
4 testimony. What he then relied upon -- did he -- did he
5 do some additional papers and additional studies? No.
6 But he's got the educational background, and then he
7 looked at and went through more than what Oncor did
8 originally, which was the testimony of all of the folks
9 affected, and then he applied the rules and regulations
10 as set forth in the PURA Subsection 37.00 -- excuse
11 me, 056(c)(4) and 16 TAC Section 25.101, et cetera.

12 He took the information that he had based
13 upon his knowledge, experience, and education, applied
14 the testimony to those factors and came with his
15 opinion. If they have cross-examination on his opinion
16 and want to test him and question him on that, that goes
17 to the weight of the evidence, Your Honor. It does not
18 affect whether or not the man is an expert.

19 MR. ADAMIE: And if I may add more, Your
20 Honor. Brett Adamie with Commission Staff. I would
21 just like to address the point that Mr. Brady has made.
22 The questions that Mr. Bayliff raised today have already
23 been raised in RFIs. I do not believe that any
24 substantially new information has been added that would
25 change the outcome of the motion -- or the -- that would

1 change the finding that's previously been made.

2 JUDGE SHENOY: Okay. I think at this point
3 we've heard enough. I'm going to confer with
4 Judge McCabe for just a second. Once again, this is not
5 an excuse to go anywhere.

6 We're off the record for a minute.

7 (Recess taken)

8 JUDGE SHENOY: Okay. We're now back on the
9 record.

10 We had a chance to confer, and the motion
11 is overruled. This testimony will stay in the record.
12 You can go into it on cross, without asking questions
13 that have already been answered, but it'll get the
14 weight that it's due.

15 All right. Mr. Bayliff, were you finished
16 with your cross?

17 MR. BAYLIFF: Your Honor, thank you. I
18 think there's several people who have more questions.
19 I'll let them take over that.

20 JUDGE SHENOY: Okay. I know that
21 Mr. Key -- Mr. Dorsett, did you say you're representing
22 500 Investment?

23 MR. DORSETT: Your Honor, yes. I'm in the
24 pleading blocks for 500 Investment Corp., but this is
25 Mr. Key's client, and I would prefer that he ask

1 questions for 500 Investment Corp.

2 JUDGE SHENOY: Okay. That's what I
3 thought. I heard you just say something earlier about
4 that. So I'm going to call him at the end.

5 MR. DORSETT: Yes, Your Honor.

6 JUDGE SHENOY: Okay. Mr. Blakley.

7 MR. BLAKLEY: No questions, Your Honor.

8 JUDGE SHENOY: Okay. Mr. Borgelt.

9 MR. BORGELT: Thank you, Your Honor. I do
10 have a few questions.

11 CROSS-EXAMINATION

12 BY MR. BORGELT:

13 Q. Mr. Acosta, can you see me okay between the
14 heads here?

15 A. Yes, sir.

16 Q. Thank you.

17 My name is Roger Borgelt, and I represent
18 the Adrian and JoAnn Campbell Living Trust. We're on
19 Link F32, which is on the best-meets Route 552, for your
20 reference, just so you know where we're coming from.

21 I'm going to refer you to Page 23 of your
22 testimony, and there was some discussion about this
23 earlier with Mr. Bayliff, but I have a more, I guess,
24 specific question. Where you're talking about the
25 overwhelming opposition to certain links, you're saying

1 you categorize the opposition as a common community
2 value. And I'm curious as to how it is you think about
3 or define in your analysis what a common community value
4 is.

5 A. I guess I would start that community values
6 change for each project. It's dependent on each
7 community. That's where I would start.

8 Q. And so can you elaborate on that a little bit?
9 I mean, that's not telling me very much.

10 A. Each community is different and has a different
11 set of characteristics that are important to that
12 community. So I would just start that every part of
13 the -- every region of Texas has a different set of
14 community values.

15 And your question was -- can you restate
16 your question? I just wanted to start with the
17 community values is different in each region of Texas.

18 Q. Well, what is it that you're considering when
19 you're saying that opposition to these links is a common
20 community value? How do you establish what that is?

21 A. So I considered all of the evidence in the --
22 on the record, and that includes all of the filings in
23 the interchange. So that includes both testimonies and
24 protests. And in reviewing those documents, I saw a
25 pattern, I saw a consistency of overwhelming opposition

1 to Links A3, C2, and C3.

2 Q. Fair enough. In the interest of time, I'll
3 move on to recreational park areas on the next page.
4 You state that Routes 552 and 713 do not cross parks or
5 recreational areas nor do they have parks or
6 recreational areas within 1,000 feet of their
7 centerlines. You recommend 713 ultimately. And I'm
8 curious if your analysis of recreational areas entered
9 into that at all.

10 A. Yes.

11 Q. How so?

12 A. Well, they do not cross parks and recs --
13 recreational areas, as I stated on Page 24, Line 5
14 and 6.

15 Q. I guess I should ask my question in a better
16 way. Why did you find 713 superior to 552 with respect
17 to parks and recreational areas?

18 A. Right. On Page 24, Line 5 and 6, I state that
19 they -- both routes do not cross parks and recreational
20 areas within 1,000 feet of its centerline.

21 Q. Okay. So I guess it's fair to say, then, that
22 that criteria was not the basis for your preference?

23 A. Correct.

24 Q. Moving on to aesthetic values, Page 26, you are
25 talking about how Route 713 would mitigate some

1 aesthetic impacts. Can you elaborate on that?

2 A. Right. So there on Page 26, Line 3, I state
3 that both Route 713 and Route 552 have no right-of-way
4 with the foreground visual zone of parks or recreational
5 areas. I go on to say, "Route 713 ranks 6th out of 136
6 routes in having the shortest length of right-of-way
7 within the foreground of visual zone of U.S. and state
8 highways, while Route 552 ranks 45 out 130 routes in
9 this category."

10 Q. Okay. Was there anything other than the
11 foreground of visual zones that affected your
12 recommendation of 713 over 552?

13 A. Yes, that's the -- that's the only criteria.

14 Q. Under that category?

15 A. Under that -- under aesthetic values, yes.

16 Q. Okay. Thank you.

17 On to some of the environmental issues. In
18 your preparation of your recommendation, Mr. Acosta, did
19 you happen to review PUC Docket 37530? It was one of
20 the old CREZ dockets from 2009, 2010 time frame.

21 A. No, sir.

22 Q. Well, then, since you didn't review it, it's
23 probably fair to say that you are not aware that in that
24 docket, there was a finding that there was an endangered
25 species on the Campbell property. Is that fair to say?

1 That you're not aware of that?

2 A. Yes, I'm not aware --

3 MR. BROWN: Objection. This is calling
4 for -- this is David Brown with White Bluff. This is
5 calling for I don't know how many layers of hearsay by
6 referencing a piece of testimony and ask -- quizzing the
7 witness over whether he had ever paid any attention to a
8 docket from ten years ago. That's -- that's pure
9 hearsay.

10 MR. BORGELT: Your Honor, I've asked the
11 question. I'm ready to move on.

12 JUDGE SHENOY: I think he did answer that
13 he doesn't know. So --

14 MR. BORGELT: Right. So I'm moving on.

15 JUDGE SHENOY: -- we'll move on from there.

16 MR. BORGELT: Thank you, Your Honor.

17 Q. (BY MR. BORGELT) So, hypothetically,
18 Mr. Acosta, when you state that both Route 552 and
19 Route 713 do not cross any known habitat of federally
20 listed endangered species, if you had been aware,
21 hypothetically, that Route 552 did cross a route, would
22 that have changed your analysis?

23 MR. BROWN: Objection from White Bluff.
24 This hypothetical is calling for the reliance on however
25 many layers of hearsay are endemic in that. The witness

1 said he wasn't aware of that fact, and even if he was,
2 he would be aware of a fact based upon hearsay.

3 MR. BRADY: I think there's also a friendly
4 cross-objection, Your Honor. The questioner is not
5 adverse to this witness and is attempting to use this
6 witness's testimony to buttress his own position in the
7 case.

8 MR. BORGELT: Your Honor, we've heard days
9 and days of friendly cross in this case, and I'm going
10 to keep it fairly short.

11 MR. BRADY: That doesn't change the fact
12 that this is, but I'll turn my mic off.

13 JUDGE SHENOY: It's not to the point where
14 I would make -- make Mr. Borgelt stop asking questions.
15 So that's fine.

16 And the witness has not been disqualified
17 as an expert. Experts are allowed to answer
18 hypotheticals and take assumptions and be asked to give
19 their opinion based on what the assumptions are.

20 So, Mr. Borgelt, you might need to ask the
21 question again.

22 MR. BORGELT: I will ask the question
23 again, Your Honor. Thank you.

24 Q. (BY MR. BORGELT) So, hypothetically,
25 Mr. Acosta, if you became aware that there was, in fact,

1 on Link F32, an endangered species on Route 552, would
2 that change the conclusion you reached on Page 28 that
3 Route 552 and Route 713 do not cross known habitat?

4 A. Yes, given that hypothetical, I would have
5 changed my statement on Page 28 regarding Routes 552
6 and 713 being equal.

7 Q. And would you have given, then, a preference to
8 Route 713?

9 A. Correct.

10 Q. Moving on to cost on Page 29 of your testimony,
11 Mr. Acosta, the bottom of the page, you state that
12 Route 713 has an estimated transmission-only cost that
13 is -- I'm not going to read all the numbers, but
14 that's 6.7 percent more expensive than the least
15 expensive route. Why is this trade-off okay in your
16 estimation?

17 MR. ANSON: Your Honor, this is Tom Anson
18 with Last Straw. I'm going to object to that as
19 friendly cross. Thank you.

20 JUDGE SHENOY: That's overruled.

21 Mr. Acosta, can you answer the question?

22 A. There is no defined limit as to what cost
23 overrun is acceptable or not acceptable. 6.7 percent,
24 in my -- in my professional judgment, is within the
25 tolerance of it being worth the trade-off to be

1 considered as -- a viable route to be considered.

2 Q. (BY MR. BORGELT) Similar question on Page 33,
3 where you state that Route 713 has 115 habitable
4 structures, whereas Route 552 has 100, and yet you still
5 recommend Route 713. Why is that?

6 A. Right. So there, I want to address that 552
7 does perform better in terms of the number of habitable
8 structures that are impacted. So 713 does perform less
9 well in this category and -- but I came to the
10 conclusion that Route 713 was my recommendation based on
11 looking at the criteria collectively.

12 Q. And, Mr. Acosta, is that all?

13 A. Yeah, looking at it collectively, in that
14 Route 713 provides an overall balance of addressing the
15 criteria set forth in PURA and Commission rules.

16 Q. Okay. Thank you. It seemed like you were
17 about to say something else. I didn't want to interrupt
18 you.

19 Mr. Acosta, did you hear the testimony --
20 and I can't remember which day it was this week -- it
21 was about some of the northern alternative routes and
22 the possible paths of interconnection to other loads
23 that occur in that part of the study area and even north
24 of the study area. Did you listen to some of that?

25 A. No, sir.

1 Q. Okay. Did you consider the northern routes at
2 all in your evaluation of a possible recommendation?

3 A. Yes. If they were -- if they were part of
4 the 130 routes that were filed in the routing memo,
5 Attachment 11, then yes.

6 Q. Based on what you've heard, and I don't know
7 how much of the testimony you've heard this week, but
8 based on what you have heard, is Route 713 still your
9 recommendation?

10 A. Yes.

11 MR. BORGELT: I'll pass the witness.

12 JUDGE SHENOY: Ms. Folgueras.

13 MS. FOLGUERAS: I don't have any cross for
14 this witness, Your Honor.

15 JUDGE MCCABE: Thank you.

16 Ms. Barton.

17 MS. BARTON: No questions, Your Honor.

18 JUDGE SHENOY: Okay. Mr. Nance or
19 Mr. Richie. No?

20 MR. NANCE: No cross.

21 JUDGE SHENOY: Okay. Mr. Walker.

22 MR. BRADY: Your Honor, this is Zach Brady.
23 Mr. Walker has been kind enough to trade spots in the
24 order with me, if that's acceptable.

25 MR. WALKER: That's confirmed, Judge.

1 MR. BRADY: And I notified staff of that
2 previously.

3 JUDGE SHENOY: Okay. I don't see any
4 problem with that. That's fine.

5 MR. BRADY: Thank you, Your Honor.

6 So before we get started, I'd like to
7 explain, for the benefit of the parties and those on
8 Zoom, kind of what the approach will be, if I might,
9 Your Honor. Similarly to what we did with the Oncor
10 panel, I'm going to be referencing some exhibits. Those
11 are both in a notebook that I showed Mr. Acosta before
12 the hearing -- or before the cross and also counsel for
13 Staff. Ms. Kirgan will also be putting them up on the
14 screen as best we can.

15 All but two of those exhibits have been
16 already submitted into evidence. We'll be going over
17 those other two as well, and I have shown those
18 specifically to counsel for Staff before this since
19 they're not already admitted.

20 JUDGE SHENOY: Okay. Sounds good.

21 MR. BRADY: Thank you.

22 CROSS-EXAMINATION

23 BY MR. BRADY:

24 Q. Mr. Acosta, I think I just heard that you have
25 not watched the hearing this week. Is that -- or at

1 least not all of it?

2 A. Correct.

3 Q. Have you watched any of it, sir?

4 A. Portions.

5 Q. Okay. Great. Have you reviewed the parties'
6 admitted exhibits this week?

7 A. No, sir.

8 Q. All right. You're a professional engineer by
9 training; correct?

10 A. Yes.

11 Q. Do you have any other professional training or
12 certifications we should know about?

13 A. Project management, PMP, professional.

14 Q. For instance, do you have any specific training
15 in perhaps polling or surveying?

16 A. No, sir.

17 Q. Any other training in measuring public opinion?

18 A. No, sir.

19 Q. All right. Great. Now, then, you've worked at
20 the Commission since 2023; correct?

21 A. Yes.

22 Q. As I counted on your resume, this is your ninth
23 CCN case to testify in. Did I count that correctly?

24 A. Correct.

25 Q. The first five of those were study areas of

1 either one or two counties; isn't that correct?

2 A. Can you repeat that? I'm looking at my
3 dockets.

4 Q. Sure. The earliest five cases I observed, that
5 the study areas in each of those were one or two
6 counties?

7 A. And how many did you count?

8 Q. Five. Everything before Cenizo to Cruse was a
9 one- or a two-county study area, wasn't it?

10 A. It appears so.

11 Q. Yep. Then Cenizo to Cruse was five counties;
12 correct?

13 A. Yes, sir.

14 Q. And then you had another two-county study area
15 in Exchange to Roanoke; right?

16 A. Sorry, I can't put my eyes on it. What docket
17 number was it?

18 Q. We can go to it. The docket name was Exchange
19 to Roanoke. That's Docket 55575. It was styled Oncor
20 rebuild of its 138 and 345 in Tarrant and Denton
21 counties.

22 That was a two-county study area; correct?

23 A. Correct.

24 Q. All right. So before the STEP cases that we're
25 in now, you had provided testimony in one CCN case where

1 the study area was larger than two counties; correct?

2 A. Correct.

3 Q. Your first -- your next case, then, is
4 Longshore to Drill Hole. That's, of course, the west
5 end of this import path. And that was a nine-county
6 study area; correct?

7 A. Correct.

8 Q. Now, this one, 22 counties, a study area
9 of 11,500 square miles, approximately. There's a lot
10 more to look at in this case, isn't there, sir?

11 A. Yes.

12 Q. Okay. You testified that you considered the,
13 quote, "130 routes in the application" just a moment
14 ago. Do you recall that testimony?

15 A. Yes.

16 Q. There were more than 130 routes in the
17 application, though, weren't there?

18 A. Yes.

19 Q. There was also another set that we've been
20 referring to colloquially as the "1,100 or so." Do
21 you -- do you recall -- do you know what I'm talking
22 about there?

23 A. Are you talking about all the routes that were
24 identified by the EA? Yes.

25 Q. Yes.

1 Did you look at any of those?

2 A. Yes, sir.

3 Q. Okay. Did you make a point to look at any of
4 those that, for instance, a party's expert witness
5 identified in their direct testimony?

6 A. I don't recall.

7 Q. Okay. Have you read the direct testimony of
8 Dr. Mark Turnbough on behalf of Spade Ranch?

9 A. No, sir.

10 Q. You didn't -- so in your review -- that's not
11 in that notebook, sir.

12 A. Oh.

13 Q. But in your review of the docket that you've
14 testified about, you did not review Dr. Turnbough's
15 testimony?

16 A. The name doesn't ring a bell. I've read many
17 testimonies, but the name doesn't ring a bell. So I
18 must not have -- I just -- I cannot say "yes" or "no."
19 I've read a lot of testimonies.

20 Q. Fair enough.

21 Now, then, we are going to turn to your
22 notebook that I provided to you, and we're going to
23 begin with Spade Exhibit 27.

24 Mr. Acosta, that's actually in the front
25 pocket. Sir, it's in the front pocket. It's the

1 foldout excerpt from the environmental analysis table.

2 Do you see what appears there to be
3 excerpted columns from Table 2 and Attachment 11?

4 A. Yes, sir.

5 Q. Okay. And you recognize this table; correct?

6 A. Yes, sir.

7 Q. And you'll note that what we've done here is
8 we've also included the estimated transmission line cost
9 as a first line. Do you see that?

10 A. Yes, sir.

11 Q. Okay. Subject to check, I'll represent to you
12 that these are the values out of that spreadsheet.
13 Okay? Are you willing to accept that with me?

14 A. Yes, sir.

15 Q. Also, 552E31 mod and 559. Do you see those two
16 columns?

17 A. Yes, sir.

18 Q. Those were not obviously -- or 552E31 mod was
19 not part of the EA. 559 was one of the, quote, "other
20 1,100 routes" in the EA. Okay?

21 And I'll represent to you that this data
22 regarding those routes is already in evidence elsewhere
23 in this case. Okay?

24 A. Yes.

25 Q. Take a look at the data for your route, your

1 recommended Route 713. Feel free to take a minute and
2 look down the data that I've got there, and let me know
3 when you have had a chance to review it and can confirm
4 that you think it's accurate for 713.

5 A. Looks correct, yes.

6 Q. Great.

7 MR. BRADY: Your Honor, we'd offer
8 Spade 27.

9 JUDGE SHENOY: Any objections?

10 MR. ADAMIE: None from Staff.

11 JUDGE SHENOY: Okay. Spade 27 is admitted.
12 (Spade Exhibit Number 27 admitted)

13 MR. BRADY: Thank you, Your Honor.

14 Q. (BY MR. BRADY) A few questions from that
15 exhibit. Okay?

16 MR. BRADY: And we're just going to do a
17 few select spots, Your Honor.

18 Q. (BY MR. BRADY) Route 713 has an estimated
19 transmission-only cost of \$1.771 million; correct?

20 A. Billion.

21 Q. Thank you.

22 A. Yes.

23 Q. \$1.771 billion; correct?

24 A. Correct.

25 Q. All right. So any route with a cost equal or

1 less than that you would find acceptable with regards to
2 cost; is that correct? Just with regards to cost.

3 Focused question.

4 A. Okay. If you're just regarding it to cost,
5 then yes.

6 Q. All right. Route 713 has 115 habitable
7 structures within 500 feet of the centerline; correct?

8 A. Correct.

9 Q. So any route with a hab count equal to or less
10 than 115 you would find acceptable with regard to
11 prudent avoidance. Isn't that also correct?

12 A. Again, if we were limiting it to that criteria,
13 it would be performing better if it has less habitable
14 structures, correct.

15 Q. So the answer to my question is, yes, you'd
16 find it acceptable if it was 115 or less on habs;
17 correct?

18 A. Again, with respect to that one criteria, yes,
19 sir.

20 Q. Yes. Thank you.

21 Now, then, your recommendation is centered
22 around finding an acceptable route that doesn't use A3,
23 C2, or C3, isn't it?

24 A. Centered?

25 Q. Yeah. That's what drives your recommendation,

1 isn't it?

2 A. That is a big consideration. I would not say
3 it drove it.

4 Q. Okay. So what we're going to do now is we're
5 going to try to figure out where the line is between
6 "big" and "driving." Okay? So what I want you to do,
7 please, is in that notebook, I want you to flip back to
8 Tab 19, please, sir. And this is Spade Exhibit 19,
9 Spade 19 that we're looking at.

10 And let me know when you're there, sir.

11 A. Oh, I'm sorry. Yes, I'm here.

12 Q. No apology.

13 A. Circuit -- Staff 14 -- CCR-Staff 1-42. Is that
14 what we're looking at?

15 Q. 1-44, sir.

16 Yes, 1-42. You were correct the first
17 time. I read the title. My bad.

18 A. Okay.

19 Q. 1-42.

20 First of all, I've got a question about
21 your RFI format -- your RFI response formats. I haven't
22 seen this before. Did you participate in the preparing
23 of your RFI responses that you sponsored?

24 A. Yes.

25 Q. Okay. So even though you're not listed as a

1 preparer, you're affirming for us that if an RFI
2 response is sponsored by you, that those are -- those
3 are your words and you would answer the questions the
4 same way under oath today; correct?

5 A. Yes.

6 Q. Great. Now, then, this is a question here
7 about the reasonable conclusions that were based on the
8 review and filings, and then I want you to please read
9 your response.

10 A. "Mr. Acosta didn't quantify the level of
11 opposition. A cursory search on the interchange based
12 on pleading titles alone, indicates that opposition was
13 disproportionately focused on links A2, C2, and C3" --

14 Q. Keep going.

15 A. -- "without further analysis. Route 713
16 doesn't use links A3, C2, or C3."

17 Q. After you've been -- after you've had a chance
18 to kind of refresh your memory on what some of your
19 other sworn testimony has been, will you now agree with
20 me that avoiding A3, C2, and C3 drives your
21 recommendation in this case, sir?

22 A. I wouldn't agree that that's a statement that
23 drives. I said, "Route 713 doesn't use links A3, C2, or
24 C3."

25 Q. And you're saying that because you believe that

1 to be the chief attribute of Route 713; isn't that
2 right?

3 MR. ADAMIE: Objection, Your Honor. These
4 questions are asked and answered, and they're also
5 misstating Mr. Acosta's testimony.

6 MR. BRADY: Response?

7 JUDGE SHENOY: Yes.

8 MR. BRADY: I am attempting to find the
9 line between a big factor and the driving factor. Just
10 as I said he said it was a big factor, I'm trying to
11 quantify what that meant, and I'm trying to determine
12 the extent to which his analysis actually moved beyond
13 those three links.

14 JUDGE SHENOY: Okay. It's overruled.

15 Mr. Acosta, do you need him to ask the
16 question again?

17 A. Yes, please.

18 Q. That's the hardest part of the day.

19 After you've reread your response and your
20 prior sworn testimony that is that response, will you
21 now agree with me that Route 713, that it not using A3,
22 C2, or C3 drove your analysis?

23 A. I just wouldn't characterize it as "drove." It
24 is a big part of the balancing of my recommendation.

25 Q. Was there any factor that was more important in

1 your selection of Route 713 than the fact that it does
2 not use any of those three links?

3 A. I'd agree that it was weighed heavily.

4 Q. Please tell me which factor was more important
5 than avoiding A3, C2, and C3. Tell me which factor was
6 more important than that in your selection of 713, sir.

7 A. I can't point at a criteria that was weighed
8 more heavily. I don't base my recommendation on any one
9 factor.

10 Q. And the fact of the matter is there weren't any
11 that were weighed more heavily than avoiding those three
12 links; isn't that correct?

13 MR. ADAMIE: Objection, Your Honor.

14 Mr. Acosta has already said this is a balancing of
15 factors. I think this has been asked and answered.

16 JUDGE SHENOY: Mr. Brady, I don't think
17 you'll get a different answer to that question. So
18 that's sustained.

19 MR. BRADY: I'll move on.

20 Q. (BY MR. BRADY) Now, then, you have phrased the
21 opposition to those links as an expression of, quote,
22 "community values," haven't you?

23 A. In my testimony?

24 Q. Yes.

25 A. Yes.

1 Q. Okay. So put another way, your testimony
2 defines the term of art, quote, "community values," as
3 including a community's reaction to the project, doesn't
4 it?

5 A. I'd characterize it as the community's
6 opposition to those links, is what I stated, which is a
7 representation of their community values.

8 Q. Are you trying to testify that "opposition to
9 the links" is somehow different than the words I used,
10 "reaction to the project"?

11 A. Right. I don't understand what you mean by
12 "reaction to the project."

13 Q. All right. Your definition of community values
14 includes the community's response to the project; right?

15 A. Correct.

16 Q. All right. And you use that definition
17 throughout your analysis, don't you?

18 A. That I characterized opposition of those three
19 links as the community's values?

20 Q. Yeah.

21 A. Yes, sir.

22 Q. Okay. Still do that today?

23 A. Yes, sir.

24 Q. All right. Now, then, let's take, for example,
25 Dinosaur State Park. There's lots about Dinosaur State

1 Park in this record, isn't there?

2 A. Yes, sir.

3 Q. You'll agree with me that protecting Dinosaur
4 State Park is a community value, isn't it?

5 A. Yes, sir.

6 Q. You'll also agree with me that the importance
7 of Dinosaur State Park was a community value before this
8 case was filed, wasn't it?

9 MS. PEMBERTON: Objections. Margaret
10 Pemberton for GSR. That is speculation. Unless he has
11 a basis for knowing whether that was community value,
12 because he's familiar with the area, he couldn't answer
13 that question.

14 JUDGE SHENOY: Mr. Brady?

15 MR. BRADY: I'm asking if he'll agree that
16 Dinosaur State Park was important before the case was
17 filed. It's also a very nice contrast to the witness's
18 definition of community values, and there is evidence
19 I'll get to specifically here in just a moment.

20 JUDGE SHENOY: All right. So the question
21 on the table right now is whether he agrees that the
22 park was important before this case was filed?

23 MR. BRADY: Yes, ma'am.

24 JUDGE SHENOY: All right. I'll let him
25 answer that if he has an answer.

1 A. I can only say that I didn't -- I didn't
2 understand that A3 was in Dinosaur -- by association,
3 Dinosaur park until the case was brought to me.

4 Q. (BY MR. BRADY) Did you read the testimony of
5 Carter Smith in this case?

6 A. I don't recall.

7 Q. Is that a name you recognize, sir?

8 A. No, sir.

9 Q. Okay. How many pieces of expert testimony did
10 you read in this case, sir? Talking about expert
11 testimony.

12 A. I can't quantify that.

13 Q. More than ten?

14 A. I'd say more than ten.

15 Q. More than 20?

16 A. I honestly don't -- don't have a count on it.

17 Q. You can't swear that you read more
18 than 20 pieces of expert testimony in this case, can
19 you, sir?

20 A. I mean, I just don't know the number, sir.

21 Q. It's a yes-or-no question.

22 Can you swear that you read more
23 than 20 pieces of expert testimony in this case? You
24 told us you read more than ten. Can you swear you read
25 more than --

1 MR. ADAMIE: Objection, Your Honor.
2 Mr. Acosta has already answered that he can't quantify
3 this.

4 JUDGE SHENOY: That's sustained.

5 Mr. Brady, let's move on.

6 MR. BRADY: He did quantify it in the
7 first -- yes, ma'am.

8 Q. (BY MR. BRADY) Okay. Let's take a look, sir,
9 at the maps that are in your binder, please. The first
10 one ought to be this large foldout one?

11 MR. BRADY: And, Ms. Kirgan, we're looking
12 at Spade Exhibit 22.

13 Q. (BY MR. BRADY) And that's this one, sir, and
14 it's already in the record. And you've got it in front
15 of you, I can see; right?

16 A. Yes, sir.

17 Q. Now, then, you can see that this map shows your
18 Route 713 in purple; correct?

19 A. Yes, sir.

20 Q. All right. Now, then, we've been talking about
21 C2 and C3 quite a bit, and I want you to look at the
22 western end of C2 and C3 for me, for a minute. Okay?
23 Let me know when you're there.

24 A. Gotcha.

25 Q. Those two links share a common node at their

1 western end; right?

2 A. Yes, sir.

3 Q. All right. Now, then, I want you to find
4 Link A3 to the south of there. You found it?

5 A. Yes, sir.

6 Q. And then you see the endpoint of A3 is at that
7 node that says "See Map Inset 2," isn't it?

8 A. Yes, sir.

9 Q. All right. And you'll agree with me that the
10 endpoint of Link A3 is to the east, southeast, but
11 nonetheless east, of the common node where C2 and C3
12 end; correct?

13 A. Correct.

14 Q. All right. Did you know that that common
15 terminus is 36 miles from Dinosaur and 178 miles from
16 Longshore?

17 A. I wasn't -- not that exact -- not to that exact
18 measurement, no, sir.

19 Q. Do you have any reason to argue with those
20 measurements?

21 A. No, sir.

22 Q. Your analysis on this 230- to 270-mile-long
23 project was driven by your perception of protest levels
24 in the eastern 36 miles of the study area; isn't that
25 correct?

1 MR. ADAMIE: Objection, Your Honor. That
2 mischaracterizes the testimony.

3 MR. BRADY: It does not.

4 JUDGE SHENOY: Well, he's agreed to where
5 the points are on the map. So based on that, I think he
6 can answer that.

7 A. I'm sorry, can you ask the question again?

8 Q. (BY MR. BRADY) Absolutely. Your analysis on
9 this 230- to 270-mile-long project was driven by your
10 perception of opposition levels in the eastern 36 miles
11 of the study area, wasn't it?

12 A. It was based on my review of the opposition
13 that was filed in the evidence in the record.

14 Q. And you've told us in your testimony which
15 opposition you took into account in making your
16 determination; correct?

17 A. Correct.

18 Q. Does that limited analysis, sir, does that
19 serve the public interest?

20 A. Yes. In my opinion, yes.

21 Q. Okay. Would you be surprised to know that
22 people that live west of Highway 183, for instance,
23 might disagree with that conclusion?

24 A. I'm sorry, I'm locating 183.

25 Q. Oh. Do you need some help on that?

1 A. I've got it.

2 Q. Okay.

3 A. I imagine people on the other side of 183 would
4 have -- well, there's no way for me to tell.

5 Q. Okay. We might get some of that later.

6 Take a look, please, on this map in front
7 of you at what I hope is the light blue route.
8 That's 559. And you can tell that that's the -- that
9 we're on the same one in terms of color coding, sir,
10 because if you'll -- that's the only one that uses
11 Link J, as in Jack, 2, in Runnels County, 559. Have you
12 found 559?

13 A. Yes, sir.

14 Q. All right. And you'll recall this was one of
15 the routes on the -- on the Table 7 that we looked at
16 together, Exhibit 27. Okay?

17 And you can look at that and see that it
18 has a lower cost and a lower number of hubs than
19 your 713.

20 A. Okay.

21 Q. Confirm that for me?

22 A. Yes.

23 Q. All right. Great.

24 Now, then, Route 559 was one of those that
25 was not in the original 130, but was in the EA, and

1 there is -- the cost data is now in the record. Okay?

2 A. Okay.

3 Q. First of all, you'll also see that Route 552,
4 the preferred -- or the best-meets route, pardon me, is
5 in yellow on this exhibit; correct?

6 A. Correct.

7 Q. All right. You'll agree with me that 552
8 and 559 share the same path from Dinosaur all the way
9 over to just south of -- between Abilene and Winters;
10 correct?

11 A. Correct. That's "See Map Insert 5."

12 Q. That's right.

13 You see where the -- you see where the two
14 diverge? Do you see that spot?

15 A. Yes, sir.

16 Q. Good. We're going to talk about that more
17 later. That's an important spot.

18 Now, then, when -- I like to say that 552
19 and 559 are first cousins. I'm not going to ask you to
20 agree to that right now.

21 But what I'm asking you about 559 is this,
22 sir. Do you have any objection to 559 other than its
23 use of Link C3?

24 A. Give me a second.

25 Q. You bet.

1 A. Okay. I mean, based on my however --
2 two-minute -- although it seemed longer -- no, I would
3 not have opposition. Is that how you characterized the
4 question?

5 Q. Yeah. Other than -- I mean, obviously, you're
6 opposed to anything that uses C3. But other than the
7 fact it uses C3, do you have any other opposition
8 to 559?

9 A. I'm seeing -- I'm seeing nothing that -- I'm
10 seeing no criteria that would be objectionable.

11 Q. Thank you.

12 Were -- I don't know if you heard earlier.
13 I think maybe on the second or third day we had
14 testimony that locating a high-voltage transmission line
15 in and among wind turbines would ameliorate the
16 aesthetic effects of the transmission line if it was in
17 and amongst existing wind turbines. Did you hear that
18 testimony?

19 A. No, sir.

20 Q. Do you agree generally with that concept?

21 A. You use the term -- or the word -- can you
22 repeat that?

23 Q. I said, "in and amongst," but, you know, in --
24 through the -- among an existing wind farm.

25 A. But I thought you used an adjective that --

1 Q. Ameliorate.

2 A. Ameliorate.

3 Q. Lessen, lessen.

4 A. Lessen. Would lessen the aesthetic impacts?

5 Q. Yeah.

6 A. Is what you're saying?

7 Q. Would you agree with that?

8 A. Yes, sir.

9 Q. Okay. If Oncor testifies that a given link is
10 safe and practical distance from existing wind turbines,
11 would you accept that testimony at face value?

12 A. Yes, sir.

13 Q. Would you agree that running a link among
14 existing wind turbines would be a factor contributing
15 to, quote, "superior environmental performance," to use
16 a term from your testimony, as compared to a link that
17 runs across open pasture?

18 A. Sorry. Can you repeat that one more time?

19 I'm --

20 Q. Sure. Would you agree that running through a
21 wind farm would contribute positively to superior
22 environmental performance as opposed to running through
23 open pasture?

24 A. Yes, sir.

25 Q. Great. You have testified that 713 has both

1 superior environmental and agricultural performance as
2 to 552. Do you recall that testimony?

3 In your conclusions and recommendations
4 for 713, you say it performs superior to 552 from an
5 agricultural and environmental perspective. Do you
6 recall that?

7 A. Yes, sir.

8 Q. All right. Can you point me to a single fact
9 west of Highway 183 that supports that claim?

10 A. West of -- again, we're on 183?

11 Q. Yeah.

12 A. I wouldn't be able to make that call.

13 Q. All right. You can't cite any factor from an
14 ag or environmental standpoint in the western two-thirds
15 of this study area where your route performs superior
16 to 552 from an environmental or ag standpoint; correct?

17 MR. PERKINS: Objection, Your Honor. This
18 is Mark L. Perkins on behalf of C-8 Landowner group.
19 Asked and answered.

20 MR. BRADY: I'm not sure I got an answer.
21 He said, "I wouldn't be able to make that call." I'm
22 simply asking if he has a single fact to support a
23 conclusory statement in his direct testimony that occurs
24 in the western two-thirds of the study area. If he
25 doesn't, he can just say no.

1 JUDGE SHENOY: I think he did say that he
2 doesn't have an answer.

3 MR. BRADY: I think he said, "I'm not able
4 to make that call."

5 JUDGE SHENOY: Okay. Mr. Acosta, do you
6 have an answer to the question?

7 A. That statement was based on the overall route.
8 I cannot make that determination west of 183.

9 Q. (BY MR. BRADY) Fair enough.

10 If you were aware that a given segment
11 crossed a spring-fed creek eight times in 5 miles,
12 resulting in between 80 and 100 piers being placed along
13 that spring-fed creek over that 5 miles, if you had been
14 aware of that, would that have been something you would
15 have taken into account in evaluating Route 713?

16 A. And I'm sorry, can you repeat the -- what
17 the -- the number of crossings or what you were citing
18 there?

19 Q. Sure. Let me try to help this. We had
20 testimony during my cross of the Oncor panel this week,
21 and it's in the unrefuted testimony of Dr. Turnbough,
22 but -- and that testimony has been, both those places,
23 that L1 crosses Beals Creek -- you're not going to see
24 it on this notice map -- that L-1 crosses Beals Creek,
25 which is a spring-fed creek, eight times in 5 miles.

1 And the question is, Mr. Acosta, if you had known that,
2 would you have taken that into account in your
3 recommendation of 713?

4 A. And what was your characterization of the
5 foundations?

6 Q. Well --

7 A. I'm sorry, I heard --

8 Q. Well, the testimony was that 5 miles --

9 A. Uh-huh.

10 Q. -- would be 80 to 100 foundations, because
11 you'd have 20 to 25 towers with four piers each. That's
12 what the record says in this case. That's what could
13 have been known before on -- based only on Turnbough's
14 testimony. If you had known that, would you have
15 factored that in?

16 A. I imagine I would have.

17 Q. Great. Okay. Almost done.

18 Take a look at the last map in your
19 notebook, sir. This is going to be Spade Exhibit 26.

20 MR. BRADY: For the parties, I'll tell you
21 this is based on Exhibit 25 with an additional mark. It
22 has not yet been admitted.

23 Q. (BY MR. BRADY) Let me know when you have Spade
24 Exhibit 26 in front of you, Mr. Acosta.

25 A. Yes, sir.

1 Q. All right. Now, then, we're going to go over
2 what this is in just a minute. Okay? But let me --
3 this is the intervenor map with some highlighting that's
4 been added. Okay?

5 A. Yes, sir.

6 Q. Do you recognize the four routes that we've
7 been talking about so far on the other maps, 552,
8 552E31 mod, 559, and 713 being drawn on this map in
9 highlighter? Do you see that?

10 A. Yes, sir.

11 Q. All right. Now, then, I want you to start from
12 the east and work on over, and then do you see that red
13 north/south vertical line that's been drawn?

14 A. Yes, sir.

15 Q. All right. That line is approximately at that
16 common node, that common endpoint of C2 and C3, isn't
17 it?

18 A. Yes, sir.

19 Q. All right. And remember we agreed that that
20 node is further west than A3; correct? We've already
21 agreed on that?

22 A. Yes, sir.

23 Q. All right. Now, then, I want you to move back
24 over now to the west end, and I want you to work back
25 with me on the red line, which marks 559. Okay?

1 A. Okay.

2 Q. I want you to first go all the way back on that
3 red line to the orange north/south line. Let me know
4 when you've gotten there?

5 A. On Route 559?

6 Q. Yes, sir.

7 A. Okay.

8 Q. You there?

9 A. Uh-huh.

10 Q. So you'll see there that it looks like we might
11 be about to encounter an intervenor. Do you see the
12 intervenor right there that's on the -- that's hit by
13 both 552 and 559?

14 A. Yes, sir.

15 Q. There was one too many fives in that last
16 number. I hope the court reporter fixes that for me.

17 I'll represent to you that that is
18 Fort Chadbourne property we've had testimony from both
19 Mr. Richards and from, I believe, his son-in-law or
20 stepson in this case. Okay?

21 A. Yes, sir.

22 Q. I'll also represent to you that their admitted
23 testimony says, "We don't want to get in the way of
24 progression. We'll take the line on J2." Okay?

25 A. Okay.

1 Q. And J2 is the link right there that 559 uses.

2 So now I want you to follow 559 all the way
3 back to the blue line. Are you there?

4 A. Yes, sir.

5 Q. All right. Now, then, remember I told you the
6 point where 552 and 559 diverge was going to be
7 important. Do you remember that earlier?

8 A. Yes, sir.

9 Q. And that is -- that blue line is marking that
10 point; correct?

11 A. Yes, sir.

12 Q. That blue line is also marking the extent of
13 Route 559 all the way back from the Longshore Switch
14 where there are no intervenors on 559, except one who
15 has said, "Please hit me here. Don't hit me somewhere
16 else." Isn't that correct?

17 A. Appears so, yes, sir.

18 Q. Do you know that's over 100 miles of route as
19 measured down the line?

20 A. Yeah, based on the scaling, I'd agree with
21 that.

22 Q. Would you like to change your recommendation as
23 to the route now, sir?

24 A. No, sir.

25 Q. So community opposition or acceptance only

1 matters in the eastern 35 miles and not in the
2 western 100?

3 A. I didn't say that. No, sir.

4 Q. Look at the blue line again. As between 713
5 and 559, from the blue line west, are there more
6 intervenors on 713 or on 559?

7 A. I can't make that determination on the west --
8 I'm sorry, on the eastern half --

9 Q. I'm asking about the western half.

10 A. On the western half?

11 Q. We've established there's zero on 559. Are
12 there some that oppose on 713? Hint, my client is one
13 of them.

14 A. Comparing 559 with 713; correct?

15 Q. Yeah. There's more opposition on the western
16 part of this study area?

17 A. Correct.

18 Q. There's more on 713, isn't there?

19 A. Correct.

20 Q. There's more on 552 than 559, isn't there?

21 A. The yellow, yes, correct.

22 Q. So now that we've -- I've walked you through it
23 one line at a time, I'll give you one more chance.
24 Would you like to change your recommendation to the
25 Commission to 559?

1 MS. GUESS: Objection, asked and answered.

2 JUDGE SHENOY: Who's objecting?

3 MS. GUESS: This is Casi Guess, Link C3.

4 JUDGE SHENOY: Okay. Thank you, ma'am. I
5 think that the -- well, the question is different now
6 because there's been some other information between. So
7 it's overruled.

8 MS. PEMBERTON: This is Margaret Pemberton
9 for GSR. I do have a clarification, because in
10 yesterday's or the day before's testimony from Oncor,
11 they had said they couldn't tell us the number of
12 intervenors because they didn't know how many
13 intervenors owned each tract. They could only just say
14 the tracts. So this map does not tell us how many
15 intervenors there are on it. It just tells us how many
16 tracts they're crossing.

17 MR. BRADY: I appreciate the clarification
18 while the question is pending, but the issue here is
19 simply are there more than than zero. We've established
20 that there's zero on 559. So the exact number is not
21 necessary to answer the question.

22 JUDGE SHENOY: Okay. But the clarification
23 is taken that we don't know if all of those parcels
24 aren't under common ownership and one intervenor or what
25 the situation might be. Regardless, I think, Mr. Brady,

1 the green line is what you're asking about.

2 MR. BRADY: I'm asking, if now that we've
3 been through them line by line, in terms of intervenors,
4 if the witness would like to change his recommendation.

5 JUDGE SHENOY: To 559?

6 MR. BRADY: To 559.

7 JUDGE SHENOY: To the pink line. Sorry.
8 Yes. Okay. Well, he can answer that if he has it.

9 A. (BY MR. BRADY) I would -- I would not change
10 my recommendation, no.

11 Q. Do you give the same weight to public opinion,
12 to community opposition to this project in the
13 western 100 miles of this project that you've given in
14 the eastern 40 miles of this project, sir?

15 A. I evaluate the route on a whole basis, not on
16 one portion or another.

17 MR. BRADY: Pass the witness.

18 JUDGE SHENOY: Okay. Mr. Wagstaff?

19 MR. ADAMIE: Your Honors, Staff would like
20 to ask if this is a good time to take a short break. We
21 have been going for over two hours -- well, nearly
22 two hours, I'm sorry.

23 JUDGE MCCABE: How much time do you have,
24 Mr. Wagstaff?

25 MR. WAGSTAFF: Well, it is less than I

1 intended now that Mr. Brady and Mr. Bayliff have had
2 their crack at him, but probably at least a half hour.

3 JUDGE SHENOY: Okay. Let's go ahead and
4 take a break, then. It's 3:25. Let's come back
5 at 3:40.

6 Off the record.

7 (Recess taken)

8 JUDGE SHENOY: All right. We're back on
9 the record after a short break.

10 Mr. Brady, you had an evidentiary question,
11 you said?

12 MR. BRADY: Your Honor, I failed to offer
13 Spade Exhibit 26 during my cross-examination of the
14 witness. I'd ask for the indulgence of counsel and the
15 Bench and offer that at this time.

16 JUDGE SHENOY: Any objection to Spade 26?

17 MS. PRUITT: Your Honors, this is Roan
18 Pruitt for Staff. No objection.

19 JUDGE SHENOY: Okay. So which one of you
20 is representing the witness? You can't both -- you
21 can't tag-team. So -- sorry.

22 MS. PRUITT: Okay.

23 JUDGE SHENOY: We've made everyone stick to
24 one lawyer. So -- so do you object to Spade 26?

25 MR. ADAMIE: No.

1 JUDGE SHENOY: Okay. Any objection from
2 anyone else?

3 Not hearing -- okay. So Spade 26 is
4 admitted.

5 MR. BRADY: Thank you. Apologize.
6 (Spade Exhibit Number 26 admitted)

7 JUDGE SHENOY: And a couple things before
8 we move on to Mr. Wagstaff, it is highly unlikely at
9 this point that we will be done today. So it looks like
10 we will be going to Monday. On Monday, it will be
11 solely on Zoom. It will be using the same credentials
12 that we've been using so far. It will also still be on
13 YouTube. So all of that will be the same. We will just
14 not be physically together in a room anymore.

15 And I do want to say -- and we're on the
16 record. I will say this on the record. We will have a
17 different court reporter next week, who is also
18 excellent, but I just want to thank the court reporter
19 we've had all week for truly outstanding just discipline
20 and perseverance.

21 I also want to thank the AV folks who have
22 made my life easier, and, really, that's all that
23 matters. They have done an outstanding job. I
24 appreciate them.

25 Okay. So we will pick up again with

1 cross-examination of Staff's witness by Mr. Wagstaff.
2 We'll continue going in order. We'll stop
3 at 5:00 o'clock, and then we'll pick up again
4 at 9:00 o'clock on Monday morning, Zoom only.

5 And we -- we issued an order that is now on
6 the interchange that addresses exhibits for all the
7 parties, but primarily has some information for
8 self-represented parties that -- addressing how we are
9 taking care of those exhibits, and so they don't have
10 any more steps to take.

11 Represented parties, there's also a note on
12 there that you will be responsible for getting your own
13 admitted exhibits onto that folder by 5:00 p.m. on
14 Monday. Now, I recognize we're also going to have
15 hearing on Monday. There may be some exhibits that get
16 admitted on Monday that you need a little more time for.
17 We will have to issue another order addressing revised
18 deadlines for briefing. So we will handle that. But
19 everything that's admitted up to this point will need to
20 get into that folder by Monday at 5:00.

21 Does that make sense to everyone? Anyone
22 got any questions?

23 Okay. Not seeing any questions,
24 Mr. Wagstaff, you may proceed.

25 MR. WAGSTAFF: Thank you, Your Honor.

1 CROSS-EXAMINATION

2 BY MR. WAGSTAFF:

3 Q. Robert Wagstaff here on behalf of the Link H11
4 Intervenors for the purpose of just ease and talking
5 with Mr. Acosta here shortly. I'm going to call them
6 the Buffalo Gap Intervenors for the purpose of our
7 questions. Okay?

8 Mr. Acosta, do you know where Buffalo Gap
9 is on the map?

10 A. Let me put my eyes on it real quick.

11 Q. Okay.

12 A. Yes.

13 Q. Have you ever been there?

14 A. No, sir.

15 Q. Okay. And before you sponsored a route
16 condemning my client's property, if they accept that
17 route, you didn't bother to do any independent
18 investigation, look at the route, drive the route, for
19 any of the landowners on Route 713; true?

20 A. Correct.

21 Q. Now, in your review of the comments and public
22 statements from the first three public meetings that you
23 referenced in your testimony, did you bother reading the
24 Buffalo Gap comments in -- at that time?

25 A. Yes.

1 Q. Okay. And have you read my client's testimony,
2 Link H11 Intervenors Exhibits 1 through 14 -- or I'm
3 sorry -- 1 through 12, have you read those -- that
4 testimony?

5 A. I honestly can't recall.

6 Q. Okay. Well, you testified in your -- in your
7 written testimony that you had reviewed all the
8 intervenors' testimony that had been filed by the time
9 you gave your opinion; true?

10 A. I made that statement in my testimony?

11 Q. Yes, sir.

12 A. Can you point me to it?

13 Q. Of course. Do you have your testimony in front
14 of you, sir?

15 A. Yes, sir.

16 Q. Page 7, asking the question on Line 14 what
17 you've relied upon --

18 A. Uh-huh.

19 Q. -- and down there, the last three sentences,
20 "I've also relied upon my review of the protests, direct
21 testimonies, and statements of positions filed in this
22 proceeding by or on behalf of Oncor and the
23 intervenors." Do you see that?

24 A. Yes.

25 Q. Okay. Is that -- was that correct?

1 A. I said, I have reviewed -- I have also relied
2 upon my review of the protests, direct testimonies, and
3 statement of positions. I did not claim that I read
4 every single one. So it's -- my analysis was based on
5 those testimonies, those protests, those statement of
6 positions that I was able to review.

7 Q. Do you make that qualification in your
8 testimony such that if any of us in this room were
9 reading it, we would think that you read anything less
10 than the intervenors' testimony, direct testimony?

11 A. I'm sorry. You're asking -- can you rephrase
12 the question? I don't understand.

13 Q. No. Sure. I'd be happy to. Is there anything
14 in your testimony -- well, first of all, was your
15 testimony true and correct when you made it?

16 A. Yes.

17 Q. Is there anything in your testimony that we've
18 just looked at on Page 7 -- and I read into the record,
19 "I have also relied upon my review of the protest,
20 direct testimonies, and statements of positions filed in
21 this proceeding by or on behalf of Oncor and the
22 intervenors" -- is there anything about that statement
23 that would lead anybody in this room to believe that you
24 had not read all of the intervenors' testimony in this
25 case before filing your written sworn testimony in this

1 case?

2 A. I have relied upon my review of the protests,
3 direct testimonies, and statements of positions filed in
4 this proceeding. It's -- those protests, direct
5 testimonies, and statements of position that I reviewed.
6 I did not make the claim that I reviewed all of them.

7 Q. Okay. Then tell us here today all of the ones
8 you reviewed, all of the intervenors' direct testimony
9 that you reviewed before filing your sworn testimony. I
10 would like a list, please, sir.

11 A. I can't provide a list of the filings that I
12 reviewed, no, sir.

13 Q. All right. It's true, then, that you have not
14 reviewed all of the intervenors' direct testimony in
15 this case before giving your opinion, your sworn
16 testimony, on April the 16th, 2026; true?

17 A. I have not read all of the direct testimonies,
18 no, sir.

19 Q. Okay. Can you state definitively, as you sit
20 here today, that you have read any of the direct
21 testimony of any intervenor on Route 713?

22 A. Yes.

23 Q. Okay. Whose?

24 A. I can't make that -- I don't recall the names.
25 I was not recording that.

1 Q. Okay. Can you definitively name any of my
2 clients that --

3 MR. ADAMIE: Objection, Your Honor. This
4 would be addressed by the previous question.

5 JUDGE MCCABE: That's sustained.
6 Mr. Wagstaff, if he can't name them, then he can't name
7 them. It doesn't matter what the smaller group is.

8 MR. WAGSTAFF: I'll move on, Your Honor.

9 Q. (BY MR. WAGSTAFF) How about the rebuttal
10 testimony filed by my clients? Did you read the
11 rebuttal testimony of Lauren Clark?

12 A. And you represent H11?

13 Q. Yes, sir.

14 A. Again, I don't remember the names of the
15 testimony -- associated with the testimonies. I read a
16 lot of testimonies.

17 Q. Okay. And what about the only rebuttal
18 testimony filed to your testimony by my client, Tom
19 Perini?

20 MR. ADAMIE: I'm going to object again,
21 Your Honor. Mr. Acosta has already answered this
22 question.

23 MR. WAGSTAFF: Not about rebuttal
24 testimony, he's not, Your Honor.

25 MR. ADAMIE: That was the previous question

1 he answered -- or previous question he answered, Your
2 Honor.

3 JUDGE SHENOY: All right. I'm not sure if
4 he answered that about rebuttal testimony, but I think
5 Mr. Acosta said that he can't specify which ones. So I
6 think that applies to both. You can confirm if that's
7 the case.

8 MR. WAGSTAFF: Well, I would like to
9 confirm it, because there was only one rebuttal
10 testimony filed to Mr. Acosta, and that was by me on
11 behalf of -- and sponsored by Tom Perini, and so I would
12 like to know if he read the only testimony that was
13 filed in rebuttal of his testimony.

14 JUDGE SHENOY: Okay. So would that --

15 MR. WAGSTAFF: And I think that's a fair
16 question at this point, Your Honor.

17 JUDGE SHENOY: I think this is a different
18 question.

19 So, Mr. Acosta, can you answer that
20 question.

21 A. I can say that I read all of the rebuttal
22 testimony that was rebuttal against my testimony --
23 sorry if that's not the right lingo. I read all the
24 rebuttal testimony against my direct testimony.

25 Q. (BY MR. WAGSTAFF) And so that would have been

1 by Tom Perini? Do you remember that name, as we sit
2 here?

3 A. If that's included in all of the -- the
4 rebuttal testimonies against my testimony, then, yes.

5 Q. All right. Well, we'll come back to that in a
6 minute. Now, as an engineer, you live in -- you deal in
7 objective findings when doing calculations and things of
8 that nature; true?

9 A. True.

10 Q. And what is the difference between a subjective
11 finding and an objective finding?

12 A. I was saying I agree that I use a lot of
13 mathematical formulas, and I'm used to -- I don't
14 remember the question now. I don't know --

15 Q. Okay.

16 A. I don't know that I can clearly define the
17 difference between objective and subjective.

18 Q. Well, subject would be if we were both standing
19 on the ground, looking at one of those transmission
20 towers, and you said, "You know, I believe that
21 transmission tower is about 150 foot tall." Objective
22 would be if we measured it, and it was actually it 175
23 foot tall. The objective -- the objective answer is 175
24 foot. The subjective opinion was 150 foot. Would you
25 agree with that analogy?

1 A. Subjective is what you are estimating, and
2 objective is what is measured? Is that what you're
3 stating?

4 Q. Well, objective has an actual factual basis for
5 it; correct?

6 A. Okay.

7 Q. Would you agree with that?

8 A. Yes.

9 Q. Okay. So, for example, one of the things that
10 you noted in this -- in your testimony was that -- that
11 Route 713 was going to cost over \$94 million more than
12 Route 552. Do you recall that testimony?

13 A. Yes.

14 Q. Now, that's objective, isn't it?

15 A. Although, in my testimony, I didn't state how
16 much more.

17 Q. Okay. Well --

18 A. I guess --

19 Q. I'll represent to you that the differences in
20 the two are 94-million plus; okay?

21 A. Okay.

22 Q. But that's based on objective data. That's
23 based on the price that was assigned to Route 552 versus
24 the price that was assigned to 713, and we can look back
25 at the appendix that you attached to your testimony if

1 need be --

2 A. I --

3 Q. -- but you agree that's objective data?

4 A. I agree.

5 Q. Okay. And based on that objective data, 552 is
6 more preferable than 713; you agree with that?

7 A. On that category, yes.

8 Q. Yes. Thank you. Now, one of the things that
9 you mention, that would be objective data in your
10 testimony, is that -- is that neither Route 552 nor
11 Route 713 within the -- are within the foreground visual
12 distance of a camp or recreational area; is that
13 correct?

14 A. I'm --

15 Q. And I'll find that for you.

16 A. Yeah, I'm getting there. If you can help,
17 that'd be --

18 Q. I'd be happy to. So Page 26, the first
19 question and answer on that page. You're asked if --
20 "In your opinion, would construction of the proposed
21 project on Route 713 mitigate some of the potential
22 impacts on aesthetic values?" True?

23 A. Correct. I say both Routes 713 and 552 have no
24 right-of-way within the foreground visual zone of parks
25 or recreational areas.

1 Q. Okay. And so in that situation, you would
2 state that actually, also both Route 713 and Route 552
3 mitigate some aesthetic impacts; true?

4 A. Yes.

5 Q. Now, the foreground visual zone, we've had that
6 identified and defined by the Oncor panel, but that's
7 essentially a half-mile of being able to visualize these
8 towers; true?

9 A. Give me one second. That sounds correct, yes.
10 Yes. One-half mile. Is that what you said?

11 Q. Yes, sir.

12 A. Yes, sir.

13 Q. And you agree with that?

14 A. Yes, sir.

15 Q. And you said that you had listened to portions
16 of the testimony in this case; is that correct?

17 A. Yes.

18 Q. And was -- did any of that -- any of those
19 portions involve the Oncor panel?

20 A. Did I review the testimonies of the Oncor
21 panel?

22 Q. No. You were asked if you had observed or
23 listened to any of the testimony in this case?

24 A. In this hearing --

25 Q. In the hearing.

1 A. -- past week.

2 Q. And you said "portions"?

3 A. Portions, yes.

4 Q. Okay. Which portions did you listen to?

5 A. Let's see. They were discussing proximity to a
6 cemetery.

7 Q. Okay.

8 A. I don't remember which cemetery. I was
9 checking in to see where we were in the progress of the
10 hearing.

11 Q. Okay. Do you recall listening to any testimony
12 about the proximity of Route 713 and the link involving
13 my clients to Camp Tonkawa, the Boy Scout camp?

14 A. No, sir, not in the hearing.

15 Q. All right. Do you recall hearing in the
16 hearing the testimony by the Oncor panel about Camp
17 Butman, the Methodist Church camp and recreation area on
18 further down the line from me, but still on Route 713 in
19 Link H12? Do you recall that testimony about Camp
20 Butman?

21 A. In the hearing, no.

22 Q. Did you recall -- do you recall reading in any
23 of these intervenor testimonies that you read, anything
24 about Camp Tonkawa or Camp Butman?

25 A. I don't recall the camps, but I recall -- I

1 recall statements of a camp that were not identified in
2 the environmental assessment.

3 Q. Okay. In fact, you said that you believed that
4 you had read all of the rebuttal testimony as it applied
5 to your testimony. And do you recall my client Tom
6 Perini testifying about Camp Tonkawa, and that the
7 line -- I think you said the line actually went through
8 part of Camp Tonkawa, the Boy Scout camp. Do you recall
9 that?

10 A. I -- something to that effect, yes.

11 Q. Okay. Well, we established through the Oncor
12 testimony that -- that the line is actually a couple
13 hundred feet away from the actual camp itself, camp land
14 itself, but it's -- but a couple hundred feet, and I
15 don't remember exactly what the feet was that they said,
16 but that that would certainly be within the half-mile of
17 the foreground visual zone for a recreational area. You
18 would agree with that?

19 A. I wasn't -- I did not hear that testimony.

20 Q. All right. Assume with me that that testimony
21 was elicited from the Oncor panel on, I believe,
22 actually, Tuesday of this week. I would like for you to
23 also agree with me that Camp Butman, the Methodist camp,
24 who had previously been designated as recreational area
25 in a prior hearing, was also acknowledged by the panel,

1 the Oncor panel of being a recreational area within
2 500 feet of the proposed line. Will you assume those
3 two things with me, Mr. Acosta?

4 A. So we're -- am I to consider this as a
5 hypothetical? Is that what we're doing?

6 Q. Well, I would like you to consider and assume
7 with me that the testimony in this case is that on
8 Route 713, that there are two -- not one, but two --
9 camp recreational areas between the half-mile foreground
10 visual zone. Will you assume that with me?

11 A. I'd just like to state that the EA stated there
12 was no -- no parks, but I will assume it with you.

13 Q. Thank you. And I acknowledge that the EA did
14 not include either one of these parks -- or these
15 recreational areas, these camps, but they also did agree
16 that these camps were within the area that should have
17 been included. Will you agree with that -- will you at
18 least assume that for the purpose of this question?

19 A. Okay.

20 Q. And we're still looking at your opinion
21 testimony on -- and really, it's not opinion testimony.
22 It is fact testimony on Page 26. If you assume with me
23 what I've asked you to assume, then we can't say that
24 both Route 713 and Route 552 have no right-of-way within
25 the foreground visual zone of parks or recreational

1 areas. We can only say -- only Route 552 has no
2 right-of-way within the foreground visual zone of parks
3 or recreational areas; true?

4 A. Given that, the point you're asking me to
5 assume, yes, I would agree with your statement.

6 Q. Thank you. And again, assuming that -- that
7 I've asked you to assume that testimony that's been
8 elicited, that would be another objective fact that
9 favors Route 552 over Route 713. You would agree with
10 that?

11 A. Yes.

12 Q. Thank you. If we go to Page 23 of your
13 testimony, starting on Line 17, is the -- is the heading
14 of recreational and park areas, and you are asked, "Are
15 any parks or recreational areas located within 1,000
16 feet of the centerline of any of the alternative
17 routes?" Do you see that?

18 A. Yes.

19 Q. Okay. And did you note -- and then on Page 24,
20 Line 5 and 6, that Routes 552 and Route 713 do not cross
21 parks or recreational areas, nor do they have parks or
22 recreational areas within 1,000 feet of its centerline;
23 is that what you said?

24 A. Yes, sir.

25 Q. Now, I'll agree with you that Routes 552 and

1 Route 713 do not cross parks or recreational areas, but
2 these parks that we've just talked about, based on the
3 assumptions I asked you to make from the testimony
4 that's been previously heard this week, you would agree
5 that Route 713 has two parks or recreational areas
6 within 1,000 feet of its centerline; true?

7 A. Based on what you asked me to assume, yes.

8 Q. Okay. And, again, this is another objective
9 factor that favors Route 552 versus 713; correct?

10 A. Correct.

11 Q. Now, to be fair, Mr. Acosta, you did -- you did
12 provide some objective data that actually could be
13 construed as favoring 713 over 552, as far as, like,
14 routes with -- that paralleled right-of-ways and
15 highways, and things of that nature; true?

16 A. True.

17 Q. And in that situation, Route 552 had a better
18 objective standard than Route 713; correct?

19 A. No, sir. Route 713 had the better objective.

20 Q. Well, I meant better in the standpoint that it
21 favored Route 713 as a best-meets route as opposed to
22 552, and I apologize for not being clear with the
23 question. But from an objective standard, that -- to be
24 fair to you, in your testimony, that's -- that's
25 something that actually makes 713 a better route than

1 552. Is that a better way to say that?

2 A. Sure, yes, sir.

3 Q. Okay. Habitable structures. You've already
4 talked a little bit about that, I believe, with the real
5 Mr. Brady and the -- the habitable structure from the --
6 from the application itself, that's an objective fact
7 that we can look at; true?

8 A. True.

9 Q. And in that situation, the objective fact would
10 favor Route 552 being the preferred route as opposed to
11 713. You agree with that?

12 A. On habitable structures?

13 Q. Yes.

14 A. Yes, sir.

15 Q. Okay. And I think, to be fair, both -- both
16 testimony of Route 552 and testimony from my clients
17 along our part of the route, and others, has identified
18 additional habitable structures, but I think if you -- I
19 think the testimony will show that there's still more
20 habitable structures within 5- -- the 520 feet that
21 they -- that they used as opposed to Route 552 versus
22 713. Do you have any reason to dispute that?

23 A. No, sir.

24 Q. Now, when we talk about something like
25 aesthetic values, that's kind of hard to put an

1 objective factor on, isn't it?

2 A. Yes, sir.

3 Q. And one way to evaluate aesthetic factors would
4 be to actually go and look at the -- at personal
5 reconnaissance of the various routes; true?

6 A. Yes, sir, that would be one way.

7 Q. Sure. And I understand your time was limited
8 from the time you even knew about these various proposed
9 routes, but that's something you could have done had you
10 chosen to do so; true?

11 A. Visited the routes --

12 Q. Yes.

13 A. -- myself?

14 Q. You were precluded from doing that?

15 A. No, I imagine I wasn't precluded.

16 Q. All right. Now, what was involved in your
17 analysis of the environmental impact on the various --
18 on this project was solely limited to the application
19 and the environmental analysis; true?

20 A. True.

21 Q. Again, you didn't consider any intervenors'
22 testimony, pro or con, good or bad; true?

23 A. I mean, I did read testimony, whether it
24 addressed environmental -- the environmental integrity
25 criteria. I don't recall anything that -- that changed

1 my perception from what was documented in the
2 environmental assessment.

3 Q. Well, in this truth and in fact, there's
4 nowhere in your testimony where you -- other than a
5 general statement that we've already read, that
6 evidently, you read some of the intervenor testimony,
7 nowhere in your testimony, anywhere, is any opinion by
8 you supported by any intervenor testimony; true?

9 A. True.

10 Q. You used the phrase in your testimony
11 "sensitive agricultural lands." Do you recall that?

12 A. Is that in my conclusion?

13 Q. I think it's actually on Page 28 --

14 A. Uh-huh.

15 Q. -- Line 7 and 8.

16 A. Yes.

17 Q. It says, "Route 713 performs favorably compared
18 to other alternatives by minimizing crossings of
19 sensitive agricultural lands." Do you recall that
20 testimony now?

21 A. Yes.

22 Q. And I asked you -- we sent you some requests
23 for -- requests -- do you recall receiving some requests
24 for information from my clients, the H11 Intervenors,
25 Link H11 Intervenors?

1 A. Yes, sir.

2 Q. And as you told Mr. Brady, that -- that, like
3 your testimony that you -- you filed sponsoring your
4 route, the direct testimony, these requests for
5 informations can be taken as your sworn testimony; true?

6 A. True.

7 Q. And I asked you on Question 10 to define
8 "sensitive agricultural lands." Do you have the
9 Link H11 Intervenors' Request for Information in front
10 of you?

11 A. Yes, sir.

12 Q. If you'll look at Link 11 Intervenors, Staff
13 1-10.

14 A. Yes.

15 Q. And what is your response?

16 A. So the question was: "Define sensitive
17 agricultural lands." Am I on the right response?

18 Q. Yes, sir.

19 A. "Sensitive agricultural lands are farm or ranch
20 properties where a proposed route could significantly
21 interfere with normal agricultural operations."

22 Q. And so you felt like Route 713 was less
23 sensitive than Route 552; is that what I understand --
24 your testimony?

25 A. I said that Route 713 performs favorably

1 compared to other alternatives by minimizing crossing of
2 sensitive agricultural lands.

3 Q. And so --

4 A. That's Page 28, Line 7 and 8. Sorry.

5 Q. Correct. That's what we just read. And now,
6 as my esteemed colleague, Mr. Quesada pointed out with
7 the staff -- or the panel for Oncor, sensitive
8 agricultural lands was not a term of art that they had
9 ever used before. Is that a -- is that a phrase you
10 use?

11 A. You're saying that the testimony in this
12 hearing previous to mine stated that the sensitive
13 agricultural lands is not a term that Oncor uses. Is
14 that what you're saying?

15 Q. Well, I said that they had never heard that
16 term of art, "sensitive agricultural lands," ever before
17 used in one of these situations. And so I was asking if
18 that was a term that you have now coined?

19 A. That's the phrase I used, yes.

20 Q. You agree that's a subjective phrase?

21 A. Yes.

22 Q. Okay. Have you ever testified previously in
23 one of these matters that agricultural land, including
24 cropland and pasture, can continue to be used for its
25 original purpose after construction is complete?

1 A. Yes.

2 Q. Okay. And you still agree with that; right?

3 A. Yes.

4 Q. Okay. And you agree with that in this case
5 that we're discussing; true?

6 A. True.

7 Q. Okay. And did you recall reading any of the
8 H11 Intervenors' testimony about their use of
9 groundwater and irrigation in my client's part of the
10 world?

11 MR. ADAMIE: I'm going to object. This has
12 already been asked and answered.

13 JUDGE SHENOY: Mr. Wagstaff, I think you're
14 rereading some of the same ground, and you did tell me
15 you had about 30 minutes, and we're getting pretty well
16 past that.

17 MR. WAGSTAFF: And part of that is because
18 of the not knowing what testimony he's read. He doesn't
19 know. I'm trying to refresh his recollection, because
20 every time I -- or not every time, but some of the times
21 I have refreshed his recollection, he says, "Oh, yeah, I
22 think I do recall something like that."

23 And so I'm trying to establish opposition
24 to what his opinion testimony is and see if he recalls
25 reading about my client's water use.

1 MR. ADAMIE: This is still not responsive
2 to the fact that Mr. Acosta has already answered that
3 question.

4 MR. WAGSTAFF: He's never answered that
5 question, Your Honor.

6 JUDGE SHENOY: About water use? No, I
7 don't think you've posed that question, but I'm going to
8 give you about five more minutes. We need to wrap this
9 up.

10 MR. WAGSTAFF: Well, I'm kind of having fun
11 Your Honor, but okay.

12 Q. (BY MR. WAGSTAFF) So, again, I'll ask you, do
13 you recall reading any testimony from the water use,
14 irrigation use, use on Christmas tree farms, use of
15 subsurface drip systems, using for watering cattle and
16 ranching operations. Do you recall any of that
17 testimony from my clients, the Link H11 Intervenors, the
18 Buffalo Gap Intervenors that are on 713? Do you recall
19 any of that?

20 A. No, sir, not that.

21 Q. So it would be fair that you did not compare
22 the sensitive agricultural lands on Route 552 with the
23 sensitive agricultural lands on Route 713. Would that
24 be fair?

25 A. I wasn't given that information during my

1 evaluation. It wasn't in the EA.

2 Q. Well, your evaluation didn't end until
3 April 16th of 2026; correct?

4 A. Correct.

5 Q. And my client's testimony was filed by April
6 the 8th of '26, so before your investigation ended. So
7 you could have compared the sensitive agricultural lands
8 had you so chosen; true? So chosen?

9 A. That didn't come out of my -- that -- that
10 didn't come out of my reading of the different
11 testimonies.

12 Q. All right. And as a designated expert on
13 providing routing analysis in a case such as this that
14 impacts over 12- or 1,300 landowners, at a minimum,
15 don't you think, to be fair to everybody, you ought to
16 read the testimony that's proffered before giving any
17 opinions, all the testimony?

18 A. It was impractical to read every single
19 testimony. I did my best to consider all the
20 testimonies. It was just infeasible for me to read all
21 the testimonies, all the filings, all the protests.

22 Q. Regardless of what you read, it's been
23 established that you didn't provide any ranking or
24 weighting or any kind of methodology to provide your
25 opinions in this case; true?

1 A. Correct.

2 Q. So it's true your opinions are subjective, not
3 objective; true?

4 A. They're based on my evaluation of all the
5 factors collectively and balancing them.

6 Q. Right. That's your opinion.

7 A. We established some of those were objective and
8 some of those are subjective.

9 Q. True. And ones we established were objective
10 were more in favor of Route 552 being the preferred
11 route than 713; true?

12 A. Of those we discussed, yes.

13 Q. All right. But even with those objective
14 factors in mind, it was still your opinion that, for
15 whatever reason, 713 is a better route than 552; true?

16 A. I concluded that Route 713 represents the best
17 overall routing option for the proposed project, yes,
18 sir, by balancing all the criteria.

19 MR. WAGSTAFF: I'll pass the witness, Your
20 Honor.

21 JUDGE SHENOY: Thank you.

22 Mr. Montgomery, I believe you're next.

23 Okay. Mr. Ross?

24 MR. ROSS: No questions, Your Honor.

25 JUDGE SHENOY: Thank you. Mr. Quesada?

1 MR. QUESADA: Thank you, Your Honor.

2 CROSS-EXAMINATION

3 MR. QUESADA:

4 Q. This is Tex Quesada. I represent the Butman
5 Methodist Camp & Retreat Center. Do you recognize --

6 MR. QUESADA: Madam Court Reporter, there
7 is a lady in my office, a law student, Claire,
8 C-l-a-i-r-e, Taylor, T-a-y-l-o-r, and I'm going to ask
9 her to show us, please, the first page of what we
10 submitted as Number 15, please.

11 It's not been admitted yet, Your Honors,
12 but we submitted it to the interchange, et cetera.

13 Q. (BY MR. QUESADA) And, Mr. Acosta, it's there
14 on the table in front of you in hard copy off to your
15 right, if you want to see a copy of it in paper. I also
16 gave a copy to your -- does it say "Boling"?

17 A. (Nodding).

18 Q. Yes, sir. Thank you. I also gave a copy to
19 your counsel -- do you recognize --

20 MR. QUESADA: Just pull that up whenever
21 you're ready, please, Ms. Taylor.

22 Mr. Acosta, do you understand that this is
23 not the first time that the Butman Methodist Camp &
24 Retreat Center has found itself under consideration for
25 a route? Do you understand that, sir?

1 A. No, I was not aware of that.

2 Q. (BY MR. QUESADA) Okay. Do you see on page --
3 on the exhibit there in front of you, do you see the
4 very first page, and that it appears to be the testimony
5 of Allen S. Boling, P.E.?

6 A. Yes, sir.

7 Q. And do you see that he worked for the -- the
8 Public Utility Commission of Texas when he was giving
9 this testimony? Do you see that?

10 A. Yes, sir.

11 MR. QUESADA: Ms. Taylor, could you go,
12 please, to Page 25 -- I'm sorry -- Page 26 of that
13 material?

14 Q. (BY MR. QUESADA) And so if you'll look -- it's
15 a little confusing. It should say 26 down in the bottom
16 right-hand corner. Sometimes the page numbers are a
17 little off. Do you see there, Mr. Acosta, that it says
18 recreational and park areas as part of the discussion of
19 Mr. Boling in his testimony?

20 A. Yes.

21 Q. And his answer beginning at Line 8 to the
22 question concerning other parks and recreational areas,
23 do you see that it includes him saying, quote --

24 MR. QUESADA: And please -- Ms. Taylor, if
25 you could zoom in on that so other people can see it,

1 just as tight as you can get it, please.

2 Q. (BY MR. QUESADA) In addition, two
3 park/recreational areas, Schreiner's Park church camp
4 near Mulberry Creek, et cetera, were identified. Do you
5 see that? Let me try again.

6 Look to the very second sentence beginning
7 "alternate routes." Do you see that? Mr. Acosta, do
8 you see that?

9 A. She's scrolling.

10 Q. Oh, yes, sir, but it's also in front of you if
11 you want to make it go a little faster.

12 A. Line 17. Got it.

13 Q. Thank you, sir. He begins, "Yes, alternate
14 routes in the Sweetwater East," and he lists it "would
15 be located directly across FM 126 from the Butman
16 Methodist Camp & Retreat Center entrance and
17 campgrounds." Do you see that?

18 A. Yes.

19 Q. Fair reading of this, you agree, is that the
20 PUC staff itself recognized Butman Methodist Camp &
21 Retreat Center as a recreational area within the meaning
22 of the PURA; true?

23 A. Yes, sir.

24 Q. Okay. And on the next page, I think he
25 mentions it again, that the Butman Methodist Camp &

1 Retreat Centers owned by the Northwest Texas Annual
2 Conference of The United Methodist Church. Do you see
3 that?

4 A. Yes.

5 Q. You understand from reading the direct
6 testimony that the ownership has changed and now it is
7 its own 501(c)(3). Do you happen to recall that?

8 A. I don't recall that, but I can assume that with
9 you.

10 Q. Well, let me ask this. If that is the case,
11 sir -- Mr. Acosta, if that is the case, do you
12 understand -- does a 501(c)(3), which owns this sort of
13 property, does that -- in this context, does that count,
14 in your mind, sir, as a recreational area?

15 A. Yes.

16 Q. Do you agree then that when these judges here
17 make a decision about which routes to approve, that they
18 should consider, among other things, that your proposed
19 Route 713 actually, contrary to what is in the EA and
20 in -- what is in your statement -- actually does affect
21 a recreational area? Do you agree with that, sir?

22 A. Yes.

23 Q. And there was testimony that the line does
24 not -- the proposed line does not just run near the
25 camp, but it actually crosses -- I'm going to say,

1 north, by at least 500 feet of the camp's southern
2 boundary passing over, as it turned out, a habitable
3 structure. In that case, it's not just the foreground,
4 is it, sir?

5 A. Not based on your characterization, no.

6 Q. Well, I don't want it to be my
7 characterization. You read the testimony, I take it, of
8 the camp director where he attached a map showing the
9 fence line. Do you recall that?

10 A. I do not recall --

11 Q. Okay.

12 A. -- every testimony, no, sir.

13 Q. Okay. Well, at any rate, if that is the case,
14 that the line passes over or through the camp, then
15 that's not just a visual foreground, is it, sir?

16 A. No.

17 Q. That's the line bisecting this property; true?

18 A. True.

19 Q. Now, the PUC has issued an opinion after
20 this -- after the date of the document you were looking
21 at, having to do with whether or not a recreational area
22 is open to the public, and I want to distinguish a
23 couple of things here with you, sir.

24 MR. QUESADA: Ms. Taylor, can we go to the
25 Exhibit Number 19 -- or we're going to go through 19,

1 20, and 21. You pull them up when you're ready, but I
2 want to go to the website, not just the exhibit. I want
3 to go to the actual website, please, Ms. Taylor.

4 Q. (BY MR. QUESADA) You're not going to have it
5 in front of you, but I do appreciate you holding on to
6 that testimony because you're going to need it again,
7 Mr. Acosta.

8 Now, then, the PUC has made it clear in a
9 case involving the scenic loop down in San Antonio that
10 we needed to be able to -- that it had to be open to the
11 public. I want to talk to you about that. You
12 understand that if this is a Methodist camp -- if this
13 is a camp open to everyone, Methodist, Baptist,
14 agnostic, atheist, any faith, does that count as public
15 in your mind, sir?

16 A. Yes.

17 Q. And do you recognize on the screen in front of
18 you, do you see the Texas Department of Criminal Justice
19 website?

20 A. Yes.

21 Q. All right.

22 MR. QUESADA: Scroll down to the bottom,
23 please, and let's go to the next link, please,
24 Ms. Taylor. And you see -- click on the next page that
25 we talked about earlier, please.

1 Q. (BY MR. QUESADA) Do you see that they are
2 advertising something called -- and I can't read it,
3 sir -- oh, there it is. What does it say above that
4 little shield, the little red and yellow shield? And I
5 can't make it out.

6 A. Yellow shield. Giving offenders, kids,
7 incentive and direction to succeed.

8 Q. Thank you.

9 MR. QUESADA: Let's scroll down to the
10 bottom, Ms. Taylor.

11 Q. (BY MR. QUESADA) Do you see that it gives some
12 links? She's going to go all the way down.

13 MR. QUESADA: Just scroll on down. Hover
14 over the link. What link are you about --

15 Q. (BY MR. QUESADA) What link is she about to
16 click there, sir? Because I can't see it.

17 A. "Kids' camps."

18 Q. Great.

19 MR. QUESADA: Click on that, please,
20 Ms. Taylor.

21 Q. (BY MR. QUESADA) And under "kids' camps," do
22 you see at the bottom there, I can make that one out.
23 "Butman Camp & Recreational Center." Do you see that?

24 A. Yes.

25 Q. Read into the record what it says, please, sir,

1 about the Butman Camp & Retreat Center?

2 A. "Butman Camp & Retreat Center has camps for
3 incoming 3rd through 12th graders with scholarships for
4 Angel Tree campers."

5 Q. Okay. And then does it direct the -- someone
6 to another link there?

7 A. Yes.

8 Q. And do you see that it's offering -- that it's
9 making itself available -- this is the summer of '25 --
10 to all sorts of people? Do you see it there, sir?

11 A. Yes.

12 Q. And does it say the amount that they're
13 charging? It may say -- is this the one about the
14 scholarship?

15 A. "Can attend or apply for the scholarship," the
16 Angel Tree scholarship.

17 MR. TAYLOR: Your Honor, I'm going to
18 object. We're reading things that are not in evidence
19 into the record from a web page.

20 JUDGE SHENOY: That's -- that is what's
21 happening, Mr. Quesada. What's your response?

22 MR. QUESADA: First of all, I'm going to
23 offer these snapshots into the record, and second, I
24 think it's relevant to the extent that it goes to the --
25 whether or not it is public -- open to the public, and

1 I'm about to tie that in, if I might be given just one
2 question here.

3 MR. TAYLOR: He's already got testimony
4 from his witnesses that the camp's open to the public.
5 No one's contesting that.

6 JUDGE SHENOY: I think that that fact is
7 established and we don't have to go about this
8 particular route of doing that.

9 MR. QUESADA: I accept that, Your Honor, as
10 long as that's to everyone's satisfaction. Let me try
11 it this way.

12 Q. (BY MR. QUESADA) Do you understand,
13 Mr. Acosta, that this is a little different than, say, a
14 private park owned by a homeowners association as was
15 discussed in San Antonio? Do you understand that?

16 MR. ADAMIE: I'm going to object to this as
17 just -- Brett Adamie with Commission Staff. I'm going
18 to object to this as being outside of the scope of
19 Mr. Acosta's testimony, and in the interest of time, I
20 would like us to move forward.

21 MR. QUESADA: I appreciate that, but I've
22 got to establish the public nature of it, and this is
23 cross-examination --

24 JUDGE SHENOY: Mr. Quesada, I think you've
25 made your point through other testimony and other

1 information that's already in the record.

2 MR. QUESADA: Thank you, Your Honor. I'll
3 move on.

4 Let me -- Ms. Taylor, would you go back to
5 that first exhibit, please.

6 Q. (BY MR. QUESADA) In terms -- do you recognize,
7 sir, that the last time -- would it surprise you to
8 learn that the last time, Mulberry Canyon, which is
9 where the camp is located, was recognized by PUC staff
10 as its own individual community?

11 MR. QUESADA: Go, if you would, please,
12 Ms. Taylor, to Page 25 of that material from the first
13 one.

14 Q. (BY MR. QUESADA) Mr. Acosta, it's written
15 there in front of you in the paperwork there on Page 25.

16 And do you see that your predecessor is
17 describing that there is a, quote, "strong sense of
18 community," end quote, in the Mulberry Creek area with
19 regards to these power lines, or in that case, in other
20 power lines?

21 A. I see that.

22 Q. Okay. Now, then, I'm going to try to give this
23 a cursory look. Do you know what "cursory" means,
24 Mr. Acosta?

25 A. Yes, sir.

1 Q. Okay. And what does "cursory" mean to you in
2 this context, please?

3 MR. ADAMIE: I'm going to object, please,
4 relevance.

5 MR. QUESADA: I think it's highly relevant,
6 Your Honor. Cursory is the evidence from the PUC
7 Staff's response. It's the word "cursory" sponsored by
8 this witness, and I'd like to know how this witness
9 defines it.

10 JUDGE SHENOY: Okay. So point him to what
11 you're asking about, because right now we have something
12 else on the screen.

13 MR. QUESADA: We can take that down,
14 Ms. Taylor.

15 JUDGE SHENOY: All right. And if you're
16 pointing him to his own testimony to ask a question,
17 then tell him where you're looking.

18 MR. QUESADA: It was in the request for
19 information previously marked as exhibit -- Spade
20 Exhibit 19. It's in the black notebook, sir.

21 JUDGE SHENOY: That's something that he has
22 in front of him?

23 MR. QUESADA: Should be.

24 JUDGE SHENOY: Okay.

25 A. This is the black notebook I have.

1 Q. (BY MR. QUESADA) Yes, sir. Look at Tab Number
2 19 there. I'm just asking do you understand -- what is
3 your definition of the word "cursory"?

4 A. A quick search.

5 Q. Okay. Thank you. Now, then, in terms of
6 ownership community values, you understand that there
7 are thousands of people, according to the testimony, who
8 attend this camp. You get that -- you understand that;
9 right?

10 A. I wasn't aware of that.

11 Q. Okay. It's in the rebuttal testimony. I think
12 it was 6 -- 2,750 youth and children last year, and
13 6,100 adults. That's a good number of individuals;
14 correct, sir?

15 A. Yes.

16 Q. And you understand that they are literally --
17 that is the literal definition of a community; true?

18 MR. ADAMIE: I'm going to object. He's
19 asking Mr. Acosta to assume a definition of "community."

20 Q. (BY MR. QUESADA) Okay. Let me try it this
21 way. A community might be people coming together to
22 share common experiences. Is that a fair meaning of
23 "community" in your -- in your world, Mr. Acosta?

24 A. One more time. I'm having a hard time
25 following. What are you asking?

1 Q. Yes, sir. A group of people coming together to
2 have a shared experience. Is that a good definition, a
3 working definition of "community"?

4 A. I wouldn't agree with that statement, no.

5 Q. Tell us your definition of the word
6 "community," as you use it, please.

7 A. A community is the population of the -- of a
8 geographical area.

9 Q. Okay. You say it's only population. Do you
10 recognize that this is a group of people that has come
11 together and spending time in recreation and outdoor
12 activities?

13 MR. ADAMIE: Objection, Your Honor. He's
14 attempting to offer testimony in the form of a question.

15 JUDGE SHENOY: Mr. Quesada, can we simplify
16 this a little more? What are you trying to get at here?

17 MR. QUESADA: Well, I think, Your Honor,
18 that the question is whether or not -- it just goes to
19 the point that these are folks that have a value, that
20 are -- they're expressing their value by the way they
21 spend their free time.

22 JUDGE SHENOY: You can ask him that.

23 MR. QUESADA: Very well.

24 Q. (BY MR. QUESADA) Do you understand that these
25 are -- that this appears to be a group of people who

1 seem to value outdoor recreation and being in the
2 outdoors, and that's how they're spending their time.
3 Do you recognize that that is a value that they are
4 expressing?

5 A. Sure. This is a -- that could be a way to view
6 it, but there's no way to tell if those people are from
7 within that geographic area.

8 Q. Just like there's no way to tell where all of
9 the protests are coming from; true?

10 A. Protestors are -- the protestors and the
11 testimony -- testimony -- are people who are located on
12 segments that affect -- or are on their tract of land.

13 Q. Sir, there's no requirement that a protestor be
14 identified --

15 A. Testimony, testimony.

16 Q. Say again?

17 A. Testimony. Testimony, intervenors.

18 Q. Okay. Okay. So protestors may or may not be
19 connected to a community; true?

20 A. They are protesting -- they are protesting
21 aspects of the route in this docket.

22 Q. But my question was more specific than that.
23 They may or may not be connected to the community; true?

24 A. I couldn't make that determination.

25 Q. Exactly. I couldn't either. And we're going

1 to come back to that.

2 Let me ask you this, please. When you
3 were -- when -- in Exhibit Number 19 there, in the black
4 notebook, Spade Exhibit 19, do you see that?

5 A. Yes, sir.

6 Q. When they asked about how you made a
7 determination of drawing reason- -- or drew reasonable
8 conclusions, the answer -- and see if I didn't -- if I
9 don't get this right -- "Mr. Acosta didn't quantify the
10 level of opposition." Did I read that properly?

11 A. Yes.

12 Q. Instead, "there was a cursory search on the
13 interchange based on pleading titles alone." Did I read
14 that properly?

15 A. No, sir. You said "instead."

16 Q. I apologize. I'm going to read it again. Make
17 sure I get it right, please, Mr. Acosta.

18 "A cursory search on the interchange based
19 on pleading titles alone indicates that opposition was
20 disproportionately focused on Links A2, C2, and C3."
21 Did I read that properly?

22 A. Yes.

23 Q. Now, in engineering school, when you learned to
24 reach your engineering conclusions, was there ever --
25 was there ever a time that you were taught that a basis

1 for reaching your engineering opinions was, quote,
2 "based on pleading titles alone," end quote?

3 MR. ADAMIE: Objection, Your Honor. This
4 is not relevant.

5 MR. QUESADA: Your Honor, I think it is
6 relevant. It goes to the basis of this man's testimony
7 and his opinions.

8 JUDGE SHENOY: It's overruled.

9 Q. (BY MR. QUESADA) Please answer the question,
10 Mr. Acosta.

11 A. Now I've lost your question. You're asking --
12 one more time, please.

13 Q. Yes, sir. In your engineering training, when
14 you were taught to determine things such as community
15 values, were you ever taught to use pleading titles
16 alone as a basis for reaching an opinion, sir?

17 A. No.

18 Q. Can you point the -- the judges here to any
19 published material, any recognized material, any
20 literature whatsoever that says when deciding levels of
21 oppositions, it's okay for professional engineers to
22 rely on, quote, "pleading titles alone," end quote?

23 MR. ADAMIE: I'm going to object to this as
24 argumentative.

25 JUDGE SHENOY: That's overruled. He can

1 answer.

2 A. I'm explaining that if you look at the pleading
3 titles, you can -- it's obvious that there's more
4 opposition on A3, C2, and C3.

5 MR. QUESADA: Your Honor, I'm going to
6 object to not being responsive.

7 Q. (BY MR. QUESADA) My question was different
8 than that, sir. My question was can you point us to any
9 published material, any published standard, any
10 published literature, any published guideline that says
11 when engineers, such as yourself, go to espouse
12 opinions, that it's okay to base those opinions upon,
13 quote, "pleading titles alone" in this -- can you, sir?

14 A. No.

15 Q. Now, the problem with pleading titles is, first
16 of all, many of these are for public comments; true?

17 A. True.

18 Q. And the administrative judges cannot take into
19 account just the public comments, can they, sir?

20 A. The judges can't -- one more time.

21 Q. Yes, sir. Let me try it this way. Do you
22 understand that the judges have to take into account
23 only items that are admitted into evidence?

24 A. I wasn't aware of that.

25 Q. Okay. And were you aware that what the

1 pleading title says may or may not be what the pleading
2 is? Were you aware of that?

3 A. True.

4 Q. Okay. You can't tell us that the pleading
5 titles actually reflect the contents of the pleadings,
6 that is, the statements; correct?

7 A. True.

8 Q. You can't tell us where these individuals are
9 from; correct?

10 A. True.

11 Q. Mr. Acosta, is this the very first time and the
12 only time you have ever formulated and espoused your --
13 espoused your opinion to administrative law judges about
14 community values based in part on the pleading titles
15 from the interchange? Is this the very first and only
16 time you've ever done that?

17 A. Yes.

18 Q. Is this the first and only time you have ever
19 recommended a route that bisected a recreational area
20 like Camp Butman that was open to the public?

21 A. My recommendation was before that was revealed
22 to me.

23 Q. Now that it has been revealed to you, wouldn't
24 it be better to go on another route?

25 A. I stand by my testimony that was prepared on --

1 at the -- based at the time of my -- at the time I
2 prepared it, sir.

3 Q. Yes, sir. I appreciate that. But now that
4 you've seen it, now that you've seen that maybe Oncor
5 missed it and that the PUC staff missed it this time,
6 but they caught it last time, wouldn't it be better to
7 go to another route?

8 A. I stand by my testimony.

9 Q. So I stand by my question. I'd like an answer
10 to it. Is this the first, last, and only time you have
11 ever --

12 MR. ADAMIE: Objection, Your Honor. This
13 has been answered.

14 JUDGE SHENOY: Mr. Quesada, that's
15 sustained. Do you have any other questions?

16 MR. QUESADA: I don't think I do. Thank
17 you, Your Honor.

18 JUDGE SHENOY: All right.

19 MR. QUESADA: I would offer the exhibits
20 that we showed. That is Exhibit Number -- sorry. One
21 second here -- Exhibit Number 15, which was the direct
22 testimony of Mr. Boling, and also Exhibits 19, 20,
23 and 21, which are printouts of the TDCJ website.

24 JUDGE SHENOY: Any objections?

25 MR. TAYLOR: Yes, Your Honor, to all the

1 website printouts as well as the testimony from a prior
2 docket two decades ago.

3 JUDGE SHENOY: To 15 and the other --

4 MR. TAYLOR: Correct. None of them were
5 authenticated. This witness had no knowledge of any of
6 them.

7 JUDGE SHENOY: And, Mr. Quesada, the 19
8 and 20 are all the website one -- I --

9 MR. QUESADA: It is, Your Honor. It
10 was 19, 20, and 21.

11 JUDGE SHENOY: Are the website printouts.

12 MR. QUESADA: Printouts.

13 JUDGE SHENOY: And 15 is the prior CREZ
14 case?

15 MR. QUESADA: The prior testimony from the
16 PUC staff, yes. And it was a CREZ case.

17 JUDGE SHENOY: Yeah.

18 MR. QUESADA: Yes.

19 JUDGE SHENOY: Mr. Adamie?

20 MR. ADAMIE: Commission Staff will join in
21 that objection.

22 JUDGE SHENOY: Okay.

23 MR. QUESADA: If I might be heard, Your
24 Honor. I don't know what the legal objection is other
25 than it's old.

1 JUDGE SHENOY: Okay. And I don't need to
2 hear more. So you've already gotten what you wanted
3 from that prior case read into the record, and to the
4 extent that it is on an -- I believe the interchange
5 goes back that far, and so it can easily be pulled up as
6 part of the interchange if we needed that.

7 So 15 is excluded. And the website
8 pictures, we're not going to include those. That's also
9 excluded.

10 MR. QUESADA: I appreciate that. I
11 understand your ruling. Thank you, Your Honor. That's
12 all the questions I had.

13 JUDGE SHENOY: Okay. We have about ten
14 minutes left. Mr. Perkins, do you have testimony -- or
15 questions that can be asked in about ten minutes?

16 MR. PERKINS: No, Your Honor, we don't have
17 any questions.

18 JUDGE SHENOY: Okay. Well, then, that
19 answers that.

20 Ms. Hicks?

21 MS. HICKS: No questions, Your Honor.

22 JUDGE SHENOY: Okay. I think that's --
23 Mr. Katz?

24 MR. KATZ: No, Your Honor, no questions for
25 this witness.

1 JUDGE SHENOY: All right. Mr. Miller?

2 Mr. Craddock?

3 Ms. Long-Weaver?

4 MS. LONG-WEAVER: No questions, Your Honor.

5 JUDGE SHENOY: Thank you.

6 Ms. Valenciano?

7 MS. VALENCIANO: No questions, Your Honor.

8 JUDGE SHENOY: For Spencer Fane? I don't

9 see Ms. Webking or Ms. Vandrovec here. Okay.

10 Mr. Howard?

11 MR. HOWARD: No questions, Your Honor.

12 JUDGE SHENOY: All right. Mr. Decker?

13 MR. DECKER: No questions, Your Honor.

14 JUDGE SHENOY: Mr. Hyatt?

15 MR. HYATT: Yes, Your Honor. I can be real

16 quick.

17 JUDGE SHENOY: Okay. You've got about

18 seven minutes. Go for it.

19 MR. HYATT: Perfect.

20 CROSS-EXAMINATION

21 BY MR. HYATT:

22 Q. Mr. Acosta, my name is Blue Hyatt. I represent
23 what I'm calling the Kirk Ranch family. So I've got
24 just a real quick question for you.

25 Now, we've talked about Routes 552 and 713.

1 If you look at three other routes --

2 MR. HYATT: And I'm going to ask if
3 Mr. Zabel would please pull up his Exhibit Number 3 that
4 has already been admitted, which is for -- Exhibit 3
5 from the -- Ernest Cannon and Windy Hill Rents LLC is
6 the intervenor.

7 MR. ZABEL: Hey, Blue, I think Vadim can
8 pull it up.

9 MR. HYATT: Okay.

10 MR. ZABEL: Vadim, go ahead and pull it up.

11 MR. HYATT: Thank you, Tom.

12 MR. ZABEL: You bet.

13 Q. (BY MR. HYATT) So, Mr. Acosta, some of the
14 things that you talked about in your direct testimony
15 and some of the things that Oncor talked about in their
16 direct testimony and what they've testified to that were
17 very important are length, cost, but then really
18 important was length of route parallel to right-of-ways
19 and then also habitable structures; correct? Would you
20 agree with me that those are important?

21 A. Yes, sir.

22 Q. Okay. So if you look outside the box -- I
23 mean, we've talked about 713 and 552, but looking at
24 Mr. Zabel's Exhibit 3, Routes 240, 540, and 542, they
25 all cover less habitable structures. So would that be

1 important to you? Would that make those three routes
2 good potential routes?

3 JUDGE SHENOY: And, Mr. Hyatt, nothing is
4 being displayed right now. So the witness doesn't --

5 MR. ZABEL: Sorry. Vadim is on here with
6 me. I don't know why he's not pulling it up. I mean, I
7 might be able to try to get it myself. Give me a
8 second.

9 MR. HYATT: You know what, that's okay.

10 Q. (BY MR. HYATT) Let me just ask you this, if we
11 can't pull it up -- there we go. Perfect.

12 MR. ZABEL: He's pulling it up now. He's
13 pulling it up now.

14 Q. (BY MR. HYATT) Can you see that now, sir?

15 A. Yes.

16 Q. Okay. Let's skip down where it talks about
17 habitable structures. You see Route 240, 540, and 542.
18 There we go. Those each have -- cover less habitable
19 structures than either 552 and 713; correct?

20 A. It went away again. I'm sorry.

21 Q. Can you see it now?

22 A. Yes, sir.

23 Q. Okay. All right. Perfect.

24 MR. BAYLIFF: Your Honor, objection. This
25 is what you said you didn't want to hear, which was

1 pointing to numbers and saying this number is bigger
2 than that one. It's already in the record. This looks
3 like an exhibit that was used the other day. I object
4 to the use of this exhibit and this line of cross.

5 MR. HYATT: Okay. Your Honor, this witness
6 has not seen this information, and he hasn't talked
7 about this information.

8 JUDGE SHENOY: Okay. Mr. Hyatt, I'll give
9 you, like, two questions on this. Pick your best ones.

10 MR. HYATT: Perfect.

11 Q. (BY MR. HYATT) Is it important the number of
12 habitable structures that a route crosses?

13 A. Yes.

14 Q. Okay. Is it important that the length of the
15 route paralleling other right-of-ways, the percentage of
16 the route, is that important?

17 A. Yes.

18 Q. Okay. So that would mean 240, 540, and 542
19 would be good potential routes looking at those two
20 elements; right?

21 A. Sure. Yes.

22 Q. And if -- and if Oncor has already said that
23 they could build 240, 540, and 542, you have no reason
24 to complain about that then, would you?

25 A. Based on those two criteria?

1 Q. Those -- those two criteria. It is also
2 comparable in estimated cost, estimated length, stream
3 crossings, riparian area, other important factors;
4 right?

5 A. Sorry. I'm reviewing your table.

6 Q. Sure.

7 A. It's more -- those -- your -- 240, 540, 542 are
8 more expensive than Routes 552 and 713. Links are --

9 Q. They're comparable. They're within the realm
10 of reason; correct?

11 A. Oh, I'm not prepared to pass judgment on that,
12 no. I don't know.

13 Q. Okay. That's fine. If those three routes
14 are -- let's just say they are comparable in multiple
15 elements. You're not just married to Route 713. Other
16 routes, as long as Oncor is willing to build them, you
17 would be fine with them; correct?

18 A. If you're asking -- I'm not married to 713.
19 My --

20 Q. That sounds good. Thank you.

21 MR. HYATT: I'll pass the witness.

22 JUDGE SHENOY: Okay. That's a good place
23 for us to stop. We will reconvene on Zoom only.

24 And the folks who are on Zoom with us right
25 now, you can use the same Zoom information to join us

1 again at 9:00 o'clock on Monday morning. We will go, at
2 most, one more day. All right?

3 MR. DECKER: Your Honor, just one question.
4 James Decker, the Northern Routes. The order that you
5 put out on the nonrepresented parties, the represented
6 parties, if our stuff is already in the Egnyte and the
7 name has been changed to admitted, we're good; correct?

8 JUDGE SHENOY: I'm -- you're -- you're the
9 lawyer.

10 MR. DECKER: Right.

11 JUDGE SHENOY: I'm going to leave that to
12 you to sort out.

13 MR. DECKER: But everything is through
14 Egnyte; correct?

15 JUDGE MCCABE: Yes, the submission to -- of
16 the admitted exhibits is going to be on Egnyte. I'm
17 not -- I'm not sure how they -- it's built out for the
18 represented parties to submit it. My understanding is
19 it was going to be a folder that would be -- you would
20 drop into, but I'm not sure, because I have not seen
21 that -- that layout, that architecture.

22 MR. TAYLOR: Your Honor, it's happening
23 right now. So if people keep checking back. There may
24 be some lag, but those folders are being created and the
25 documents from your order placed in there currently.

1 JUDGE MCCABE: But the represented party
2 folder, is that -- that's being created right now too?

3 MR. TAYLOR: That is Step 2.

4 JUDGE MCCABE: Okay. So you're handling
5 the self-represented, and then you'll get the
6 represented folder created. Okay.

7 MS. VALENCIANO: Your Honor, could I have a
8 little clarification. I thought there was a little
9 inconsistency on that. I have it open right now.

10 Jaren, did you just say you're changing the
11 title of the folder as we speak, or there's a created
12 folder to drag and drop? Because my folder is
13 renamed -- my folder is renamed.

14 MR. TAYLOR: Yes, we have tried to clarify
15 the names of the parties based on how they've been
16 represented here.

17 Stephanie, help me out if I'm wrong.

18 JUDGE MCCABE: Let's go off the record and
19 let you guys kind of chat and figure that out.

20 JUDGE SHENOY: Actually, one thing I do
21 want to say on the record, because it's important in
22 terms of timing, the deadlines for briefing are going to
23 change. We're not going to be able to get an order out
24 until next week, but we want to give you -- because
25 we're shorting ourselves on time, we're hoping that by

1 giving you a little extra time, you can give us some
2 really good work product that we can look at and use,
3 because we're relying on some of that synthesis to
4 happen from your experts and your view of it. So it's
5 going to be the -- Monday, the 18th -- that's a Monday?
6 Yes.

7 MR. BRADY: That's the next working day.

8 JUDGE SHENOY: Yes. Did I get that right?

9 Yes, Monday, the 18th, for initial briefs,
10 and Monday, the 25th, for response briefs and for
11 findings of fact and conclusions. So don't let me down.
12 Do a good job on that.

13 UNIDENTIFIED SPEAKER: That's Memorial Day.

14 JUDGE MCCABE: Oh. Yeah.

15 JUDGE SHENOY: So, yes, it will be
16 the 26th. And I'm sorry to give you a deadline over
17 Memorial Day, but...

18 MR. ADAMIE: I'm sorry. Could you repeat
19 what she said? I wasn't able to hear that.

20 JUDGE SHENOY: Yes. So the deadlines will
21 be changed. We'll issue an order. But the initial
22 briefing deadline will be 5:00 o'clock on the 18th,
23 Monday, the 18th, and the response briefs will be
24 due 5:00 o'clock on Tuesday, the 26th, because that is
25 the day after Memorial Day.

1 And let me make clear for those of you who
2 are not represented, you -- we are not asking for any
3 particular briefing outline or anything like that. If
4 parties want to suggest one and maybe circulate that
5 amongst yourselves and agree to something, that's great,
6 but we're not trying to impose additional burdens on
7 people who aren't represented.

8 So you can write a closing statement
9 letting us know what you want us to understand from
10 this. You're not required to. So I want you to
11 understand that as well. You are not required to do
12 written closing. You can do just a written closing or
13 you can not do a written closing, and you can just
14 respond to what other people write. That's all fine,
15 but it needs to be by those deadlines. I hope that
16 helps.

17 MR. TAYLOR: Your Honor, if I can just
18 clarify one thing. I think it would be helpful if you
19 could walk folks through the fact that a closing
20 statement is not a time for testimony or admitting
21 anything new into the record.

22 JUDGE SHENOY: Yes. That's a good point.

23 So this is -- the closing statement is just
24 a way of you getting a chance to sum up what was
25 introduced into evidence already in this hearing, the

1 exhibits that we admitted, the testimony that other
2 parties gave. You can discuss that and let us know what
3 you think is important out of that and that we need to
4 focus on. But do not attach new information. We cannot
5 consider it.

6 MR. TAYLOR: And one other update on the
7 folders. For represented parties, we are changing your
8 folder over to "admitted." It is your responsibility to
9 go in and delete the things that you may have uploaded
10 into Egnyte that are not admitted into evidence. For
11 all the pro se folks, we are doing that manually. They
12 have nothing else they need to do. But for the
13 represented parties, that's on y'all.

14 JUDGE SHENOY: Okay. Does anybody have any
15 questions?

16 Hopefully -- I mean, we're doing this
17 at 5:04 p.m. on a Friday. I hope this is coming across
18 clearly.

19 MR. ROSS: Your Honor, this is Joe Will
20 Ross. One question to Jaren.

21 My stuff was in -- my two exhibits were
22 admitted. They're all in one list, simultaneous. Do I
23 need to do anything else?

24 MR. TAYLOR: No. I considered you a pro se
25 landowner, Joe. We took care of that. I'm just -- but,

1 no, that is -- as long as it's all admitted, everything
2 you loaded into Egnyte, it'll just happen automatically.

3 MR. ROSS: Perfect. Thank you.

4 Thank you, Your Honor.

5 JUDGE SHENOY: Is there anything else that
6 we need to discuss on the record?

7 UNIDENTIFIED SPEAKER: Not on the record.

8 MR. MANZONI: Judge Shenoy, excuse me.
9 This is Mr. Manzoni.

10 JUDGE SHENOY: Mr. Manzoni.

11 MR. MANZONI: Where will you put those
12 closing statements? On Egnyte for self-represented?

13 JUDGE SHENOY: No. No, the interchange
14 only. That's all you have to do with closing
15 statements. And thank you for bringing that up. It's
16 only on the interchange. Everyone's closing statements
17 will be on the interchange so you can also pull up other
18 people's closing statements and respond to them by the
19 response deadline.

20 MR. MANZONI: Thank you.

21 JUDGE SHENOY: Okay. And, like I said, we
22 will be issuing an order. I just wanted to get those
23 dates in your calendar ahead of time because, otherwise,
24 it would have been next Friday, the original deadline,
25 which I didn't want you to leave here thinking that was

1 going to happen.

2 MR. BRADY: Thank you.

3 JUDGE SHENOY: Okay. Anything else on the
4 record?

5 JUDGE MCCABE: Mr. Schwarz, I see a hand
6 raised. I'm going to --

7 MR. SCHWARZ: Yes, sir. Thank you. I was
8 just wondering if I missed the opportunity for
9 self-represented to ask more than five questions.

10 JUDGE MCCABE: Yes. I'm sorry, sir. We
11 did last call.

12 MR. SCHWARZ: Okay. I was just wondering.

13 JUDGE MCCABE: Yeah, I'm sorry you missed
14 it, but I'll say we've gotten a lot of testimony in the
15 record, and so we do have a lot of that information, so
16 yeah.

17 MR. SCHWARZ: Okay. All right. Thank you.

18 JUDGE MCCABE: And then Ms. -- I saw
19 Ms. Whitley had her hand raised as well, but it looked
20 like she lowered it. Did you get your question
21 answered, Ms. Whitley?

22 MS. WHITLEY: Just I wanted to clarify, on
23 the unrepresented what we had to do with -- if we had to
24 do anything in any of the interchange or Egnyte or
25 anything.

1 JUDGE MCCABE: So for your admitted
2 exhibits, no.

3 MS. WHITLEY: Okay.

4 JUDGE MCCABE: That's over. We've directed
5 Oncor to load those in for the court reporter.

6 MS. WHITLEY: Okay. So the next thing --
7 we don't have any other responsibilities to do unless we
8 want to write a closing statement; is that correct?

9 JUDGE MCCABE: So we are coming back Monday
10 for a hearing --

11 MS. WHITLEY: Right.

12 JUDGE MCCABE: To finish up the hearing.
13 How much you want to participate in that is up to you.
14 And then there are deadlines for filing those closing
15 statements. That's kind of the -- and then once the
16 reply deadline's done, it's to us, and Judge Shenoy and
17 I will be going at it, and we'll be --

18 MS. WHITLEY: Well, tell me about what you
19 have to do after we do all this, please.

20 JUDGE MCCABE: Review and write a proposal
21 for decision, and then we give a recommendation.

22 MS. WHITLEY: Okay.

23 JUDGE MCCABE: It's our analysis along the
24 findings of facts and conclusions of law.

25 MS. WHITLEY: Okay. So will you be picking

1 a route that you think is the best?

2 JUDGE MCCABE: We give a proposal, we do
3 give a recommendation.

4 MS. WHITLEY: Okay.

5 JUDGE MCCABE: And then the Commission will
6 take that up and issue a final order.

7 MS. WHITLEY: Okay. Well, thank you for
8 really helping us unrepresented parties and being
9 understanding with us this week.

10 JUDGE MCCABE: All right. Thank you.

11 JUDGE SHENOY: Thank you. Anything else on
12 the record?

13 I think we are good on the record, then.
14 So we're off record, adjourned for today. We'll
15 reconvene on Monday.

16 (Proceedings adjourned 5:08 p.m.)

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COUNTY OF TRAVIS)

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