

Testimony of Bill Burchette

General Counsel

East Texas Electric Cooperative, Inc.

Bill.Burchette@hklaw.com

Holland & Knight LLP

800 17th St. N.W., Suite 1100

Washington, DC 20006

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To the Subcommittee on Water, Power, and Oceans, of the House Committee on Natural Resources

Honorable Chairman Fleming, Minority Spokesman Huffman, and Members,

Thank you for the opportunity to provide testimony to the Subcommittee on H.R. 3062, a recent legislative proposal from Representative Womack of Arkansas that would essentially kill Clean Line Energy's Plains & Eastern project and set a terrible precedent for large energy infrastructure projects going forward. I'd like to provide an overall summary of who I am and why I am here today, and then briefly introduce the East Texas Electric Cooperatives and then speak to a few concerns about this legislation.

My name is Bill Burchette and I have had the privilege of being the General Counsel to the East Texas cooperatives for over forty years. The East Texas Electric Cooperatives are a group of four generation and transmission (G&T) cooperatives who collectively serve ten not-for-profit distribution cooperatives and their 333,000 member-owners throughout East Texas – from just east of Dallas to just north of Houston, as well as some small load in Louisiana. The four G&T cooperatives include the East Texas Electric Cooperative, Inc. ("ETEC"), Northeast Texas Electric Cooperative, Inc. ("NTEC"), Sam

Rayburn General and Transmission Cooperative (“SRG&T”), and Tex-La Electric Cooperative of Texas (“Tex-La”). Collectively, the East Texas cooperatives own over 1,270 MW (net) of generation assets valued at approximately \$1.5 billion in three states—Texas, Arkansas, and Louisiana—partially serving total member requirements of 7,000 GWh and 1,850 megawatts (“MWs”).

The mission of the East Texas cooperatives is to provide long-term, reliable and affordable electric power to our member-owners with a focus on environmental stewardship and a commitment to improving the quality of life of our members. In staying true to this mission -- especially in today’s increasingly regulated energy industry, along with costly new environmental regulations from Washington, DC – it is critically important to keep all energy options on the table. For example, we recently completed a 50 MW biomass facility, and just started construction on a run-of-the-river hydroelectric facility in Livingston, Texas. In addition, we have been looking to access cheap wind power in the Oklahoma/Texas panhandle areas to serve load in the southern part of our MISO South service territory that has been plagued by costly-transmission congestion. In a word, in the MISO South area of East Texas, we simply can’t access the cheap wind because it is too costly to transport the wind energy across the existing transmission system. This problem likely exists throughout the southeast United States, and ultimately, the end-use customer is the one who gets hurt with higher electricity prices.

The Plains & Eastern Clean Line project represents a \$2 billion investment in infrastructure that will provide low-cost renewable energy to the Mid-South and Southeast regions of the United States, areas currently lacking access to renewable, affordable energy. The infrastructure project will support thousands of jobs in manufacturing, construction, and operations while meeting the increase in demand for additional electric transmission capacity to deliver low-cost renewable energy. The East Texas Cooperatives have signed an option agreement to own up to 50 megawatts of capacity on the Plains & Eastern Clean Line project and a portion of the project’s assets – allowing us to potentially realize the

benefits from owning important new energy infrastructure while maintaining our commitment to provide long-term, reliable and affordable electric power to our members.

The East Texas cooperatives oppose H.R. 3062 and other legislative efforts to derail the Plains & Eastern transmission project for the reasons set forth below:

- First, this legislation would create new regulatory requirements that would most likely kill the \$2 billion-plus Plains & Eastern project. This is the case because the Plains & Eastern project has been approved by regulators in Oklahoma and Tennessee, but was denied approval in Arkansas, which means that the requirement in this legislation that a project under consideration by the Department of Energy under Section 1222 be approved by the Chair of a state Commission and by the Governor of the state before the federal government can act in that state would be an insurmountable barrier. Such an action would foreclose the ability of the East Texas cooperative members to realize the benefits of the Plains & Eastern project.
- A private company spends tens of millions of dollars over a multiyear period to develop and build a transmission line to bring affordable wind energy to the southeast in part on reliance on a bipartisan law -- Section 1222 -- only to have the Congress try to change the rules in the middle of the game?? We need a stable investment climate for major energy infrastructure projects in America today. Section 1222 has been the law of the land for a decade now. Clean Line Energy, operating with Section 1222 in place, has spent tens of millions of dollars piloting the NEPA review process and obtaining other required regulatory approvals. As a member of Congress, you should be deeply concerned about the attitude of energy investors toward future energy infrastructure projects if such investors develop a concern that their very large investments can be undermined by volatile legislative activity at the 11th hour of a multi-year process. If

investors are not willing to invest in such infrastructure projects due to legislative policy risk, we will certainly all face higher energy prices. We oppose S. 485/H.R. 3062 because it attempts to change the rules in the middle of the game after tens of millions of private dollars have been invested in good faith under an existing program – the legislation creates an environment unfriendly to future private infrastructure investment.

- Third, the legislation would effectively repeal Section 1222 of the landmark Energy Policy Act of 2005, which was designed to facilitate public private partnerships for the construction of electric transmission lines. Following the California Energy Crisis and massive 2003 blackout in the eastern United States, Section 1222 was included in the Energy Policy Act of 2005 after considerable debate and discussion at that time. It enjoyed broad bipartisan support, and was passed by a Republican House, a Republican Senate, and was enacted by President George W. Bush. The legislation arose following the success of the “Path 15” project in California, which, similar to the Plains & Eastern Project, was a public-private-partnership. If the transmission siting authority of Section 1222 is effectively eliminated, then an untold number of future infrastructure projects that are supported by market participants may never get off the ground. Any future project, using any resource (coal, hydro, wind, it doesn’t matter), from any state touched by the Western Area Power Administration or Southwestern Area Power Administration—which means California to Arkansas and North Dakota to New Mexico—would be unable to avail itself of assistance from the Department of Energy to assure completion of a project under Section 1222.
- Finally, killing this project reduces energy options and could ultimately lead to higher electricity prices. The not-for-profit East Texas cooperatives, like many utilities around the country, are

facing new environmental regulations that make compliance difficult and very costly – costs that are shouldered by the folks who can least afford it: our member-owners. The recently finalized Clean Power Plan and the Best System of Emissions Reduction (“BSER”) calculation relies heavily on the addition of new renewable energy resources like wind and solar. How are utilities in the Southeastern United States, including TVA, going to access renewable power that make sense from an economic perspective? The Plains & Eastern project is a potentially valuable compliance tool for utilities and states in meeting current and future renewable mandates. It seems contradictory for the federal government to impose costly new renewable energy mandates through the Clean Power Plan, yet now Congress is attempting to deprive the utilities of a transmission tool to help meet those new requirements. Unfortunately it’s the end-user consumer who ultimately gets hurt with higher electricity costs. To the best of my knowledge, the proponents of the legislation have not produced any cost estimate, of any kind, as to the higher prices that could be faced by American consumers as a result of this legislation.

In closing, I would like to thank the Subcommittee for allowing me to testify today. I appreciate that there are always concerns about projects like pipelines and electric transmission lines that use eminent domain. But utilities are always required to meet a high threshold to prove that their energy projects serve the public need and benefit. That threshold is appropriately high. But once that standard is met, projects must be able to move forward. I am deeply concerned that this legislation takes energy options off the table and changes the rules of the game at the 11th hour. We ask you to support necessary electrical infrastructure projects by opposing S. 485/H.R. 3062.