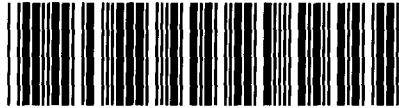


Control Number: 45866



Item Number: 1544

Addendum StartPage: 0

SOAH DOCKET NO. 473-16-4342

PUC DOCKET NO. 45866

RECEIVED

2017 JAN 17 PM 4:08

PUBLIC UTILITY COMMISSION
FILING CLERK

| | | |
|--------------------------------|---|-------------------------|
| APPLICATION OF LCRA | § | BEFORE THE STATE OFFICE |
| TRANSMISSION SERVICES | § | |
| CORPORATION TO AMEND A | § | |
| CERTIFICATE OF CONVENIENCE AND | § | OF |
| NECESSITY FOR THE ROUND ROCK- | § | |
| LEANDER 138-KV TRANSMISSION | § | |
| LINE IN WILLIAMSON COUNTY | § | ADMINISTRATIVE HEARINGS |

POST-HEARING REPLY BRIEF OF
LEANDER INDEPENDENT SCHOOL DISTRICT

TABLE OF CONTENTS

| | | |
|-----|--|----|
| I. | REPLY TO INTERVENORS | 1 |
| A. | Community Values. | 3 |
| 1. | Support for CoL-1 is Not Uniform | 3 |
| 2. | Nature of Comprehensive Plans..... | 7 |
| 3. | Balancing the Values of the Communities..... | 9 |
| B. | Recreational and Park Areas..... | 13 |
| C. | Compatible Rights of Way and Prudent Avoidance | 15 |
| II. | CONCLUSION | 16 |

1544

SOAH DOCKET NO. 473-16-4342

PUC DOCKET NO. 45866

| | | |
|--------------------------------|---|-------------------------|
| APPLICATION OF LCRA | § | BEFORE THE STATE OFFICE |
| TRANSMISSION SERVICES | § | |
| CORPORATION TO AMEND A | § | |
| CERTIFICATE OF CONVENIENCE AND | § | OF |
| NECESSITY FOR THE ROUND ROCK- | § | |
| LEANDER 138-KV TRANSMISSION | § | |
| LINE IN WILLIAMSON COUNTY | § | ADMINISTRATIVE HEARINGS |

POST-HEARING REPLY BRIEF OF

LEANDER INDEPENDENT SCHOOL DISTRICT

The Leander Independent School District (the “School District”) submits this, its Post-Hearing Reply Brief. Pursuant to SOAH Order 19 in this Docket, reply briefs are due on January 17, 2017. Accordingly, this reply brief is timely filed.

I. REPLY TO INTERVENORS

Oddly, at least in the context of this Docket, the School District finds itself in agreement with the City of Leander – “no Route is perfect.”¹ PURA² and the Public Utility Commission’s governing rules contemplate compromise as a core principal when routing transmission lines. When choosing a route, the Commission has a sole imperative: “the line shall be routed to the extent reasonable to moderate the impact on the affected community and landowners.”³ Not eliminate, moderate. To that end, the Commission must consider the use of compatible rights-of-way, paralleling existing rights of way, paralleling property lines or other natural features, and

¹ City of Leander’s Initial Brief at 4.

² Public Utility Regulatory Act, Tex. Util. Code §§ 11.001-58.303 (West 2016), §§ 59.001-66.017 (West 2007 & Supp. 2016) (“PURA”).

³ 16 Tex. Admin. Code § 25.101(b)(3)(B) (emphasis added).

prudent avoidance.⁴ The Commission must also consider the factors in PURA, which include community values, recreational and park areas; historical and aesthetic values; and environmental integrity.⁵

To implement its broad authority to consider multiple factors, some of which compete, “the [Commission] may in some cases be required to adjust or accommodate the competing policies and interests involved.”⁶ In this Docket, the School District simply asks that the Commission do just that: accommodate the competing policies and interests involved.

At first blush, the primary competing policies and interests relative to the School District are the values and needs of the School District relative to a large tract of land it owns at the intersection of CR 175 and FM 2243 (the “School Tract”) and the “community values” expressed by several other governmental units: the cities of Leander, Cedar Park, Georgetown, and Round Rock. This conflict exists despite the fact that the School District serves families within the jurisdiction of each of these cities. However, an analysis of the actual “community values” of the residents of these cities, and what these residents do and do not support, shows that the competing interests of these parties are more easily harmonized than first supposed.

If the Commission approves a route that uses CR-175 as its primary north-south corridor, including the route modifications proposed by the School District will best “accommodate the competing policies and interests involved.”⁷

⁴ 16 Tex. Admin. Code § 25.101(b)(3)(B).

⁵ Tex. Util. Code § 37.056(c)(4).

⁶ *Public Util. Comm'n v. Texland Elec. Co.*, 701 S.W.2d 261, 266 (Tex. App.—Austin 1985, writ ref'd n.r.e.).

⁷ *Id*

A. Community Values.

The Commission must consider community values when approving a CCN.⁸ Neither PURA nor the Commission's rules define "community values".⁹ The working definition of "community values" recognized in several CCN dockets by the Commission and Commission Staff is "a shared appreciation of an area or other natural resource by a national, regional, or local community."¹⁰ "Adverse affects upon community values consist of those aspects of a proposed project that would significantly and negatively alter the use, enjoyment, or intrinsic value attached to an important area or resource by a community."¹¹

The parties supporting the route proposed by the City of Leander, dubbed "CoL-1," urge the Commission to rely on their respective city councils to express the community values of the entire study area through resolutions and comprehensive plans. However, the resolutions do not express a unified front in this matter and the comprehensive plans are neither as forceful nor as "comprehensive" as they appear. Furthermore, the positions taken by some of the cities conflict with the wishes expressed by the public. On balance, the competing interests and policies of the cities and the School District are accommodated by including the School District's proposed route modifications.

1. Support for CoL-1 is Not Uniform

The support for CoL-1 by the cities of Leander, Cedar Park, Georgetown and Round Rock is not a "unified expression of community values."¹² In fact it is far from it. Rather than a unified

⁸ Tex. Util. Code § 37.056(c)(4)(a)

⁹ LCRA TSC Ex. 1, Attachment 1(EA) at 2-36.

¹⁰ EA at 2-36; Tr. at 511:7-12 (Meaux Cross) (Nov. 15, 2016).

¹¹ PUC Docket No. 33978, Order at 33, Finding of Fact 118 (October 10, 2008), *rehearing denied November 12, 2008*.

¹² City of Leander's Initial Brief at 6.

front wholeheartedly endorsing a comprehensive route, the governing bodies of the cities have looked almost exclusively to their own boundaries in determining each cities' preferred route. Some cities have not even endorsed CoL-1 at all. Others only endorse CoL-1 because it follows Route 31 within their jurisdiction. Additionally, many of the cities have altered the route that best suits them as the case has evolved.

The City of Round Rock, which has the most right of way within its boundaries under CoL-1,¹³ does not endorse CoL-1 in any kind of wholesale fashion. There is no evidence that the Round Rock city council supports CoL-1 at all. Round Rock initially supported Route 31 proposed by LCRA Transmission Services Corporation (LCRA TSC).¹⁴ However, this support was limited. On March 10, 2016, the Round Rock city council adopted Resolution No. R-2016-3279 to protect "the economic development of the City and its extraterritorial jurisdiction, and the continued growth of its tax base."¹⁵ This resolution supports Route 31, generally, but only those specific segments between the Round Rock substation and to Segment M in Leander, located near the School Tract at the intersection of Ronald Reagan Boulevard and FM 2243.¹⁶ Although Round Rock later endorsed CoL-1 through staff, this endorsement is based on the fact that "[t]he segments of CoL-1 within the City of Round Rock are consistent with Primary Alternative Route 31."¹⁷ The Round Rock city council has expressed no opinion on a route north of the intersection of FM 2243 and Ronald Reagan Boulevard, whether contained in Route 31 or CoL-1. Any support that CoL-1 now enjoys from Round Rock is due to the fact that CoL-1 made no changes to the segments within Round Rock's jurisdiction.

¹³ LCRA TSC Ex. 13.

¹⁴ City of Round Rock Ex. 1, Direct Testimony of Brad Wiseman at 5:6.

¹⁵ City of Round Rock Ex. 1, Direct Testimony of Brad Wiseman, Attachment C, Resolution No. R-2016-3279 at 1.

¹⁶ City of Round Rock Ex. 1, Direct Testimony of Brad Wiseman, Attachment C, Resolution No. R-2016-3279 at 2.

¹⁷ City of Round Rock Ex. 2, Cross-Rebuttal Testimony of Brad Wiseman at 4.

The City of Georgetown's support for CoL-1 is similarly limited. Georgetown also initially supported Route 31.¹⁸ Georgetown is unique amongst the participants in that it holds a certificated retail electric service area.¹⁹ One of Georgetown's main concerns in this docket is protecting its electrical service territory.²⁰ Its other concern is protecting future and existing development within Georgetown.²¹ Georgetown ultimately supported CoL-1 for the reason that it avoids using Leander Road, avoids Georgetown's electric service area and is "significantly similar to the Lower Colorado River Authority Transmission Services Corporation's (LCRA TSC) alternative route 31, which Georgetown believes best meets the statutory routing criteria."²² Georgetown did acknowledge that CoL-1 was at least equal to Route 31 in meeting the routing criteria.²³

The City of Cedar Park initially supported Route 31 and Route 29.²⁴ Similar to Round Rock, the city council of Cedar Park only officially endorsed those routes up to Segment M.²⁵ On October 19, 2016, Cedar Park city council officially endorsed CoL-1 because "it is solely within Leander's jurisdiction and does not affect the City of Cedar Park."²⁶ Cedar Park dropped its support for Route 29 after Round Rock filed testimony against Segment T2, which is included in Route 29.²⁷ Cedar Park opposes use of Ronald Reagan Boulevard for the line.²⁸ However, this opposition is necessarily limited to that portion of Ronald Reagan Boulevard within the city's

¹⁸ City of Georgetown Ex. 1, Direct Testimony of Jim Briggs at 4.

¹⁹ City of Georgetown Ex. 1; Direct Testimony of Jim Briggs at 5.

²⁰ City of Georgetown Ex. 1, Direct Testimony of Jim Briggs at 5.

²¹ City of Georgetown Ex. 1, Direct Testimony of Jim Briggs at 5.

²² City of Georgetown Ex. 2, Cross-Rebuttal Testimony of Jim Briggs at 3.

²³ *Id.*

²⁴ City of Cedar Park Ex. 1, Direct Testimony of Daron Butler at 4.

²⁵ City of Cedar Park Ex. 1, Direct Testimony of Daron Butler at CP Exhibit 1.5 Cedar Park City Council Resolution No. R055.16.01.28.G.2a.

²⁶ City of Cedar Park Ex. 3, Cross-Rebuttal Testimony of Daron Butler at CP Exhibit 3.2, Cedar Park City Council Resolution No. R011.16.10.19.B1.

²⁷ City of Cedar Park Ex. 3, Cross-Rebuttal Testimony of Daron Butler at CP Exhibit 3.2, Cedar Park City Council Resolution No. R011.16.10.19.B1.

²⁸ *Id.*

jurisdiction as Cedar Park's opposition is due to Ronald Reagan Boulevard's position as "a major element" of Cedar Park's comprehensive plan.²⁹ Cedar Park supports the northern portion of CoL-1 because "it is consistent with what the City of Leander, the city affected the most by that portion, desires."³⁰ Leander's proposed CoL-1 has no effect on the City of Cedar Park and Cedar Park only endorses the route because of the community values expressed by the Leander city council, not the community values of Cedar Park.

The City of Leander's support for CoL-1, the route it proposed, is also not a blanket endorsement of the route in its entirety. The Leander City Council's recommendation is limited to "the specific route Segments identified in the [LCRA] Application that are located in the City limits or the City's extraterritorial jurisdiction."³¹ Additionally, the City of Leander is only willing to accept the route that it proposes, which utilizes Substation Site 2-6, "as long as the second substation site is located in Cedar Park, rather than Leander's [c]ity limits or extraterritorial jurisdiction."³²

Rather than a united front that represents the community values of the entire study area, the cities in this case have cobbled together a route that suits their individual needs. The cities of Leander, Cedar Park, Round Rock and Georgetown have each chosen routes that accomplish the goals of protecting "the future development of the City's tax base,"³³ "future development areas,"³⁴ "the economic development of the City,"³⁵ and "the City's ability to provide reliable,

²⁹ City of Cedar Park Ex. 1, Direct Testimony of Daron Butler at 6.

³⁰ City of Cedar Park Ex. 1, Direct Testimony of Daron Butler at 5.

³¹ City of Leander Ex. 1, Direct Testimony of Tom Yantis, Exhibit TY-2, City of Leander Resolution 16-014-00, August 4, 2016 at 2 (emphasis added).

³² City of Leander Ex. 1, Direct Testimony of Tom Yantis, Exhibit TY-2, City of Leander Resolution 16-014-00, August 4, 2016 at 2.

³³ City of Cedar Park Ex. 1, Direct Testimony of Daron Butler at CP Exhibit 3.2, Cedar Park City Council Resolution No. RO11.16.10.19.B1.

³⁴ City of Leander Ex. 1, Direct Testimony of Tom Yantis, Exhibit TY-2, City of Leander Resolution No. R-16-014-00, August 4, 2016 at 2.

³⁵ City of Round Rock Ex. 1, Direct Testimony of Brad Wiseman, Attachment C, Resolution No. R-2016-3279.

well planned, and cost effective electrical infrastructure.”³⁶ CoL-1 is less a community-wide effort to reach consensus and more a fortuitous alignment of each individual city’s efforts to protect their tax base and development.

Granted, Round Rock, Leander and Cedar Park all support routes that are in their jurisdictions. Leander and Round Rock simply have no choice. The two end points of the project are within their city limits.³⁷ Any route chosen, no matter how configured, will have significant length within their city limits.³⁸ Both Route 31 and CoL-1 skirt the far eastern edge of Cedar Park’s city limits using Segment Q2.³⁹ In an actual act of true cooperation among the cities, Cedar Park dropped support for Route 29, which uses Segment T2, after the City of Round Rock opposed Segment T2.⁴⁰ In doing so, Cedar Park dropped its support for a route that would have entirely avoided Cedar Park’s jurisdiction.⁴¹ In contrast, Leander chose a route specifically conditioned on placing a substation within the boundaries of its neighbor, Cedar Park.⁴²

The only party that supports the portion of the project that affects the School District is the City of Leander. In performing the balancing act between the competing community values in this case, the relevant values are those represented by the Leander city council and the Leander Independent School District.

2. Nature of Comprehensive Plans

Parties supporting CoL-1 in its entirety emphasize the importance of the comprehensive plans submitted by the City of Leander and the City of Cedar Park to the factor of community

³⁶ City of Georgetown Ex. 1, Direct Testimony of Jim Briggs at 5.

³⁷ LCRA TSC Ex. 1, Attachment 1(EA) at Figure 1-1.

³⁸ Tr. at 1016:15-20 (Yantis Cross) (November 17, 2016).

³⁹ City of Leander Ex. 2, Cross-Rebuttal Testimony of Tom Yantis, Exhibit TY-25.

⁴⁰ City of Cedar Park Ex. 2, Cross-Rebuttal Testimony of Daron Butler, Ex. 3.2, City of Cedar Park Resolution No. R011.16.10.19.B1 at 2.

⁴¹ LCRA TSC Ex. 2.

⁴² City of Leander Ex. 1, Direct Testimony of Tom Yantis, Exhibit TY-2, City of Leander Resolution 16-014-00, August 4, 2016 at 2.

values. It is important for the Commission to understand the true nature of these documents. A comprehensive plan does not regulate current, actual land use. It is a planning tool. Leander's comprehensive plan in particular is an incomplete planning tool.

A comprehensive plan is a flexible, changing document by design and by statute. Much of the statutory language related to comprehensive plans is permissive – a city “may” adopt a comprehensive plan and a city “may” define the content and design of the comprehensive plan, which may or may not include provisions on land use, transportation and public facilities.⁴³ A comprehensive plan may be adopted or amended by ordinance, and a city has the authority to establish procedures for adopting and amending a comprehensive plan.⁴⁴ Leander's comprehensive plan will be amended “at the discretion of the City Council.”⁴⁵ Leander's current comprehensive plan was adopted in 2015.⁴⁶ The prior comprehensive plan was adopted in 2009.⁴⁷

A comprehensive plan is not zoning. A comprehensive plan does not regulate the actual use of property within the city limits or the extraterritorial jurisdiction. A comprehensive plan is simply used to “coordinate and guide the establishment of development regulations.”⁴⁸ To strengthen this distinction, Texas law requires the following notation on any future land use map: “A comprehensive plan shall not constitute zoning regulations or establish district boundaries.”⁴⁹ After adoption of the comprehensive plan, zoning regulations must be adopted in accordance with the comprehensive plan.⁵⁰ Each city has the latitude to set the standards for determining the consistency between a plan and development regulations.⁵¹ Leander simply requires that all

⁴³ Tex. Loc. Gov't Code § 213.002(a), (b)(1).

⁴⁴ Tex. Loc. Gov't Code § 213.003(b).

⁴⁵ City of Leander Ex. 2, Cross-Rebuttal Testimony of Tom Yantis, Attachment TY-27 at 2.

⁴⁶ City of Leander Ex. 2, Cross-Rebuttal Testimony of Tom Yantis, Attachment TY-27 at 3.

⁴⁷ City of Leander Ex. 2, Cross-Rebuttal Testimony of Tom Yantis, Attachment TY-27 at 18.

⁴⁸ Tex. Loc. Gov't Code § 213.002(b)(3).

⁴⁹ Tex. Loc. Gov't Code § 213.005.

⁵⁰ Tex. Loc. Gov't Code § 211.004.

⁵¹ Tex. Loc. Gov't Code § 213.002(c).

“[Z]oning change applications be “acted on in accordance with the Comprehensive Plan.”⁵² However, no city has the authority to zone within its extraterritorial jurisdiction.⁵³

Leander’s comprehensive plan only addresses utility infrastructure in a limited fashion. The Leander comprehensive plan allowed for considerable public involvement during its development.⁵⁴ The comprehensive plan addresses water and wastewater services.⁵⁵ However, the plan does not address placement of electricity infrastructure.⁵⁶

The only expression of the Leander community’s thoughts related to utility infrastructure comes from the Leander city council. However, the Leander city council did not develop its position on this transmission line with public involvement comparable to the comprehensive plan.⁵⁷ Leander city council only discussed the resolutions in regular meetings and in city council retreats.⁵⁸ Public involvement in regular meetings is limited to a three-minute public comment period.⁵⁹ The public has no right to speak at a council retreat.⁶⁰

Leander’s comprehensive plan is an expression of what Leander would like to see in the future. It does not control what is actually happening on the ground unless a property owner seeks to change the current zoning of a piece of property. Leander’s comprehensive plan offers ideas of what future development should look like. However, the plan does not offer any insight into electricity infrastructure. Accordingly, this flexible, ideals-based document has limited use in this Docket.

3. Balancing the Values of the Communities

⁵² City of Leander Ex. 2, Cross-Rebuttal Testimony of Tom Yantis, Attachment TY-27 at 2.

⁵³ Tr. at 862:3, Butler Cross, November 16, 2016.

⁵⁴ Tr. 1062:13-18, Yantis Cross (November 17, 2016).

⁵⁵ City of Leander Ex. 2, Cross-Rebuttal Testimony of Tom Yantis, Attachment TY-27 at 92.

⁵⁶ Tr. at 1062:13-20, Yantis Cross (November 17, 2016).

⁵⁷ Tr. at 1062:21-22, Yantis Cross (November 17, 2016).

⁵⁸ Tr. at 1062:23-25, Yantis Cross (November 17, 2016).

⁵⁹ Tr. at 1032:10-14, Yantis Cross (November 17, 2016).

⁶⁰ Tr. at 1063:5, Yantis Cross (November 17, 2016).

In this Docket, the Commission must “accommodate the competing policies and interests” expressed as community values.⁶¹ The Commission must balance the interests expressed by the City of Leander, namely preservation of a commercial corridor with compact walkable blocks, and the School District, which seeks to move a portion of the line off of property that will be used for schools that will serve surrounding neighborhoods. The proper balance becomes clear following examination of the provisions of Leander’s comprehensive plan and a comparison of the community values expressed by the City of Leander with those revealed as part of LCRA TSC’s routing study.

a. Leander’s City Council is at Odds with Community Values.

There is no evidence that the Leander city council conducted any significant public outreach in developing its position related to the project in this Docket. All evidence is to the contrary. In contrast, LCRA TSC took direct public comments to gauge the community values within the study area relative to its project through questionnaires.⁶² The Commission often relies on these questionnaires of the study area performed by the applicant to gather information on the factor of community values.⁶³ In those questionnaires, the greatest concern of the community is maximizing the distance from residences (51%).⁶⁴ This is a direct expression of the community values of the study area on the placement of electricity infrastructure which is lacking from Leander’s comprehensive plan and the resolutions of its city council.

⁶¹ *Public Util. Comm’n v. Texland Elec. Co.*, 701 S.W.2d 261, 266 (Tex. App.—Austin 1985, writ ref’d n.r.e.).

⁶² LCRA Ex. 1, Attachment 1 (EA) at 4-5.

⁶³ See *Dunn v. Public Utility Comm. of Texas*, 246 S.W.3d 788, 794 (Tex. App.—Austin 2008, no pet.) (relying on questionnaires obtained by Oncor to determine community desire to avoid residences);

⁶⁴ LCRA Ex. 1, Attachment 1 (EA) at 4-5.

Under Leander's comprehensive plan, the School Tract, and all of the land to its east and south is designated for neighborhood residential use.⁶⁵ To the extent that the comprehensive plan is a reflection of community values, the Leander community wants this area to be developed for residential use. However, rather than maximizing the distance of the transmission line from future homes, the City of Leander would rather place the line within a neighborhood for the sake of sparing a commercial area.⁶⁶ This is contrary to the community values expressed in the study area and is not required by Leander's comprehensive plan.

b. Leander's Comprehensive Plane Can Accommodate the School District's Proposed Modifications.

If the Commission decides that approaching the Leander substation from the south along CR 175, the School District recommends utilizing one of two general routes: (1) the "Reagan Route" which crosses land south of the School Tract to connect with Ronald Reagan Boulevard south of the tracts owned by Riverside Resources before heading north to FM 2243; and (2) the "Southern Boundary Routes" which primarily crosses the western boundary of the School Tract before connecting with Ronald Reagan Boulevard north of Brushy Creek.⁶⁷

Leander's primary argument against the routes modifications proposed by the School District is that it will disrupt the planned development of an "Activity Center" at the intersection of Ronald Reagan Boulevard and FM 2243 with compact, walkable blocks and shallow setbacks.⁶⁸ Coincidentally, this intersection is the location of Segment M initially endorsed by Cedar Park and Round Rock. However, this "Activity Center" does not necessarily include land south of FM 2243

⁶⁵ City of Leander Ex. 2, Cross-Rebuttal Testimony of Tom Yantis, Exhibit TY-27 at 106.

⁶⁶ City of Leander Ex. 1, Direct Testimony of Tom Yantis at 18:10-25.

⁶⁷ LISD Ex. 1 at 6-8; See Attachment A to the Initial Brief of LISD.

⁶⁸ City of Leander Ex. 1, Yantis Direct, at 17:14.

based on Leander's comprehensive plan. According to the Future Land Use Map, the epicenter of the Activity Center is between Hero Way and FM 2243, which brings in an area south of 2243 and a portion of the School Tract.⁶⁹ The map titled "Commercial Service Center Service Areas" shows the epicenter of this Activity Center located farther north, at the intersection of Hero Way and Ronald Reagan Boulevard.⁷⁰ Moving the epicenter on the Future Land Use map north to Hero's Way pulls the land south of FM 2243, including a portion of the School Tract, out of this Activity Center, as shown in Attachment A, attached hereto.

**c. Use of the School District's Proposed Routes Best
Accommodates the Competing Interests.**

To resolve the apparent conflict between the values expressed by the City of Leander and the values expressed by the Leander Independent School District, the Commission must decide whether it is consistent with the express community values to route a 138-kV transmission line across school property and neighborhoods in order to preserve Leander's desire for pleasant street frontage. The School District's proposed routes move the transmission line out of areas designated by Leander's comprehensive plan for residential use. This is consistent with the public sentiment directly expressed to LCRA TSC. Members of the public involved in Leander's comprehensive plan expressed no opinion on the location of electricity infrastructure. The Leander city council elected to avoid "future development areas" and specified commercial corridors, including Ronald Reagan Boulevard,⁷¹ by approving a route that places the line within areas that the comprehensive plan designates for neighborhoods. This is contrary to the community values directly expressed in this case. Accordingly, if the Commission approves a route that uses CR 175 as its primary

⁶⁹ Leander Ex. 2, Attachment TY-27 at 106.

⁷⁰ Leander Ex. 2, Yantis Cross-Rebuttal, Attachment TY-27 at 104.

⁷¹ City of Leander Ex. 1, Direct Testimony of Tom Yantis, Ex. TY-2 at 2.

north-south corridor, the Commission should include one of the route modifications proposed by the School District. Utilizing either the Reagan Route or the Southern Boundary Routes will best “accommodate the competing policies and interests” of the School District and the City of Leander.

B. Recreational and Park Areas

The City of Leander opposes the route adjustments proposed by the School District based largely on impact to city-owned parkland.⁷² First, Leander is concerned about the use of Segment U4 by the Reagan Route and Southern Boundary 2, which crosses Tract U4-002.⁷³ Second, the City of Leander is concerned about the use of Segment V4 by Southern Boundary 1 and Southern Boundary 2.⁷⁴

U4-002 is owned by the City of Leander and is located at the point where Ronald Reagan Boulevard crosses Brushy Creek and is immediately adjacent to Ronald Reagan Boulevard.⁷⁵ At this point, Ronald Reagan Boulevard is a four-lane highway that crosses Brushy Creek via two separate bridges.⁷⁶ There is a distribution line on the east side of Ronald Reagan that also crosses Tract U4-002.⁷⁷ Additionally, the area surrounding Tract U4-002 is zoned for general commercial to the north and multifamily and general commercial to the south.⁷⁸ Any impact that using Segment U4 would have on Tract U4-002 is mitigated by the existing transportation and utility infrastructure as well as the planned high-intensity use of the area surrounding it.

⁷² City of Leander’s Initial Brief at 11.

⁷³ City of Leander’s Initial Brief at 11.

⁷⁴ City of Leander’s Initial Brief at 12.

⁷⁵ LCRA Ex. 2, Intervenor Map.

⁷⁶ Meritage Homes Ex. 8 (Photo of Ronald Reagan Blvd. crossing Brushy Creek).

⁷⁷ Tr. at 1069:14-17 (Yantis Cross) (November 17, 2016); Meritage Homes Exhibit 9 (Photo of east side of Ronald Reagan Blvd.).

⁷⁸ Joint Meritage Homes and LHO of CR 175 Ex. 1 at Exhibit BCA-7 (City of Leander Zoning Map).

Leander's concerns regarding the Southern Boundary Routes center on their proximity to the Sarita Valley Greenbelt using Segment V4.⁷⁹ Leander believes a line on this route "will be a looming presence over the Sarita Valley Greenbelt causing adverse visual aesthetic affects to all users."⁸⁰ Leander does not cite any evidence for this proposal and there is none.⁸¹ In fact, Leander's concern that the line will "loom" over users of the greenbelt is contradicted by the very next sentence – "[t]he Sarita Valley Greenbelt is also heavily treed."⁸² Arguably, heavy tree cover along the trail would block the view of the lines on the School Tract.

Leander is also concerned about clearing of trees within the greenbelt.⁸³ However, placing the line on the School Tract will not result in removal of trees on the greenbelt. The portion of V4 immediately adjacent to the Sarita Valley Greenbelt is entirely on property to the north of the greenbelt, including the School Tract.⁸⁴ Although deviations are possible during construction that would cause Segment V4 to encroach on the greenbelt, the Commission typically orders that all minor deviations can only occur with the consent of affected landowners that received notice.⁸⁵ Commission Staff has recommended the inclusion of such an order.⁸⁶ Additionally, LCRA TSC's agrees to cooperate with directly affected landowners to implement minor deviations in the approved route to minimize the impact of the Project.⁸⁷

Installing the line on the back of the School Tract will not negatively affect the Sarita Valley Greenbelt. LCRA TSC anticipates no significant impacts to wetland resources, including

⁷⁹ City of Leander's Initial Brief at 12.

⁸⁰ *Id.*

⁸¹ *Id.*

⁸² *Id.*

⁸³ *Id.*

⁸⁴ LCRA Ex. 2, Intervenor Map.

⁸⁵ See e.g. PUC Docket No. 38354, Order at 24-25 (November 24, 2011); *rehearing denied March 2, 2011*.

⁸⁶ Commission Staff's Initial Brief at 23, numbered paragraphs 8 and 9.

⁸⁷ LCRA Exhibit 7 at 9.

Brushy Creek, as a result of the construction of the project in this Docket.⁸⁸ LCRA TSC will implement a stormwater pollution prevention plan to minimize erosion sedimentation that could flow onto the Sarita Valley Greenbelt.⁸⁹

The City of Leander's concerns regarding the impact of the School District's route modifications are not supported by the evidence in this Docket. Any impact on Tract U4-002 is minimal given the current and planned development surrounding this tract. There is no evidence that placing the line along Segment V4 will negatively impact the visual aesthetics of people using the Sarita Valley Greenbelt. In fact, the evidence contradicts such a statement. Inclusion of the recommended orders addressing deviations and LCRA TSC's agreements should allay if not eliminate Leander's concerns regarding negative environmental impacts to the Sarita Valley Greenbelt. Accordingly, when balancing the competing interests in this case, impacts on the Sarita Valley Greenbelt should not tip the scales against use of the School District's proposed route modifications.

C. Compatible Rights of Way and Prudent Avoidance

The City of Leander's concerns regarding Segment V4 within the Southern Boundary Routes, which are not supported by the evidence, are outweighed by beneficial characteristics of Segment V4. Segment V4 addresses two of the Commission's mandatory considerations: paralleling compatible rights of way and conformance with prudent avoidance.⁹⁰

⁸⁸ LCRA TSC Ex. 8 at 23.

⁸⁹ LCRA TSC Ex. 12 at 17.

⁹⁰ 16 Tex. Admin. Code § 25.101(b)(3)(B)(ii), (iv).

LCRA TSC added Segment V4 specifically because it parallels an existing water utility pipeline.⁹¹ Using Segment V4 also avoids areas of residential and commercial development along Ronald Regan Boulevard.⁹²

In addition to paralleling an existing water utility line, LCRA TSC added segment V4 added to maximize distances to habitable structures, enhancing compliance with the policy of prudent avoidance.⁹³ Prudent avoidance requires limiting of exposures to electric and magnetic fields that can be avoided with reasonable investments of money and effort.⁹⁴ All routes comply with prudent avoidance.⁹⁵ Segment V4 is especially pertinent to prudent avoidance. Segment V4 enhances prudent avoidance by paralleling the existing water utility easement and using open space corridors to maximize the distance to habitable structures.⁹⁶ Additionally, Segment V4 moves the lines away from the schools that will be built on the tract.⁹⁷

II. CONCLUSION

In the exercise of the Commission's broad authority under PURA and the Commission's substantive rules, the Commission is called on to examine the statutory factors as they apply to various routes and various affected parties. The Commission must accommodate the competing interests and policies of the parties and choose a route that moderates the impact on the community and the affected landowners. Leander Independent School District is both a community and a landowner in this Docket. As is the City of Leander. To accommodate the interests of these two entities, the School District has proposed a modification to the routes proposed by LCRA TSC and

⁹¹ LCRA Ex. 9 at 10.

⁹² LCRA Ex. 9 at 10.

⁹³ LCRA Ex. 9 at 10.

⁹⁴ P.U.C. Subst. R. 25.101(a)(4).

⁹⁵ Tr., p. 246, l. 25 – p. 247, l. 3.

⁹⁶ LCRA Ex. 9 at 10.

⁹⁷ EA at 2-37 (acknowledging that schools will be built on the School Tract; Leander Ex. 1, Direct Testimony of Tom Yantis, at 32 (Attachment TY-8); Leander Ex. 2, Attachment TY-27 at 16.

the City of Leander. If the Commission chooses a route that uses CR 175 as its primary north-south route, as advocated by LCRA TSC and Leander, the School District requests that the Commission use either the Reagan Route or one of the Southern Boundary Routes. While the Reagan Route avoids the School Tract entirely and a larger area of future neighborhoods, it will affect more of the Ronald Reagan Boulevard commercial corridor. The Southern Boundary routes will only affect the most-northern portion of the Ronald Reagan corridor south of FM 2243. However, these routes cross property owned by the School District. The School District believes that either the Reagan Route or the Southern Boundary routes best accommodate the competing interests of the City of Leander and Leander Independent School District. Accordingly, the School District respectfully requests that one of these route modifications be included in any order approving a route using CR-175 as its primary north-south corridor.

[Submittal and Certification of Service on the following page.]


Respectfully submitted,



Jason M. Rammel
The Law Office of Jason M. Rammel
State Bar No. 24056179
17080 Hwy. 46 West, Suite 108-C
Spring Branch, Texas 78070
(512) 981-8868 (cell)
Fax: 866 561-5512
therammelfirm@gmail.com

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the above was filed on the PUC Interchange on the 17th day of January 17th, 2017, in accordance with SOAH Order No. 1 in this proceeding.



Jason M. Rammel

