

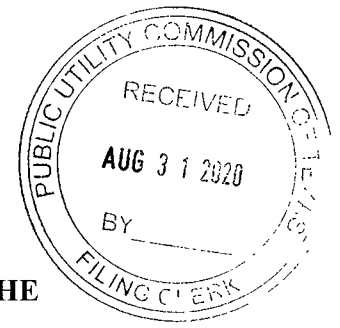


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PUC DOCKET NO. 51023

APPLICATION OF THE CITY OF SAN ANTONIO TO AMEND ITS CERTIFICATE OF CONVENIENCE AND NECESSITY FOR THE SCENIC LOOP 138-KV TRANSMISSION LINE IN BEXAR COUNTY §
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BEFORE THE PUBLIC UTILITY COMMISSION OF TEXAS

CPS ENERGY’S RESPONSE, CLARIFICATION, COMMENT, AND OBJECTION REGARDING CERTAIN REQUESTS TO INTERVENE

COMES NOW the City of San Antonio, acting by and through the City Public Service Board (CPS Energy) and, pursuant to 16 Tex. Admin. Code § 22.78(a) and Order No. 1, files this Response, Clarification, Comment, and Objection Regarding Certain Requests to Intervene. This Response is timely filed within five working days of each of the Requests to Intervene addressed below.

I. INTRODUCTION

CPS Energy appreciates that participation in an administrative proceeding before the Public Utility Commission of Texas (Commission) can be a confusing and at times difficult process. CPS Energy also recognizes that the notice rules prescribed by the Commission for transmission line certificate of convenience and necessity (CCN) proceedings are not necessarily indicative of landowners who may have a justiciable interest in participating in the proceeding. As such, CPS Energy generally does not object to landowners intervening who live in proximity to a proposed transmission line segment (or substation site) and does not object to requests to participate based on strict adherence to formal compliance with the Commission’s Procedural Rules related to intervention. Some of the filings in this proceeding, however, necessitate some response, clarification, comment, or objection from CPS Energy related to the potential participation of the filing parties.

II. STANDING TO INTERVENE

16 TAC § 22.103(a)(3) sets forth the standing requirements for persons who wish to intervene in proceedings before the Commission: “A person has standing to intervene if that person: (1) has a right to participate which is expressly conferred by statute, commission rule or

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order or other law; or (2) has or represents persons with a justiciable interest which may be adversely affected by the outcome of the proceeding.”

Under well-established Commission precedent, a showing of a “justiciable interest” requires some interest peculiar to the person individually and not as a member of the general public.¹ In the interest of permitting broad participation, CPS Energy has construed the Commission’s rules liberally and does not object to requests to intervene filed by persons that have demonstrated a potential justiciable interest on the basis that they own property within the project study area.

III. LANDOWNERS IN THE STUDY AREA WHO DID NOT RECEIVE DIRECT MAIL NOTICE

Based on CPS Energy’s research of information available online through the Bexar County Appraisal District, the following landowners, although not on CPS Energy’s official notice list for the project,² do own property within the study area in proximity to a potential segment of a proposed transmission line route. CPS Energy does not object to the requested intervention of the following landowners:

Gerald Deitchle – Interchange Filing #66 (Property on BCAD listed as owned by Deitchle Family Trust)

Ronald Schappaugh – Interchange Filing #67

Richard Hauptfleisch – Interchange Filing #68

Joel Comp – Interchange Filing #69 (Joint ownership at same address as Cortney Comp)

Daniel Lonergan – Interchange Filing #76

Cortney Comp – Interchange Filing #77 (Joint ownership at same address as Joel Comp)

¹ *Application of Cross Texas Transmission, LLC to Amend its Certificate of Convenience and Necessity for the Proposed Salt Fork to Gray 345-kV Transmission Line in Gray and Donley Counties*, Docket No. 43731, Order No. 9 Denying Motion to Intervene at 1 (Apr. 10, 2015) (citing *Hunt v. Bass*, 664 S.W.2d 323 at 324 (Tex. 1984); *Application of American Electric Power Texas Central Company to Amend a Certificate of Convenience and Necessity (CCN) for a 345 kV Double Circuit Transmission Line in Kenedy County, Texas*, Docket No. 34298, Order Denying Appeal of Order No. 5 at 2 (Oct. 29, 2007)).

² It is important to note that, out of an abundance of caution and in order to ensure broad notice and participation in this proceeding, in addition to all landowners directly affected by a proposed route of the project (owning property that would be crossed by a potential route or with a habitable structure within 300 feet), CPS Energy sent direct mail notice to all landowners owning property within at least 300 feet of the centerline of a potential route of the proposed project.

Chandler Mross – Interchange Filing #82

Roberto Sanchez – Interchange Filing #83

Elis Latorre-Gonzalez – Interchange Filing #85

Gregory Godwin – Interchange Filing #88

Michael Hope-Jones – Interchange Filing #91 (Joint ownership at same address as Michael Hope Jones)

Maria R. Hope-Jones – Interchange Filing #93 (Joint ownership at same address as Michael Hope Jones)

Several Requests to Intervene were filed from landowners within the Clearwater Ranch area that are not directly affected landowners but are within proximity to a potential segment of a proposed transmission line route (Interchange Filings #99, #100, #101, #104, #105, and #110). CPS Energy does not object to these landowners participating with the Clearwater Ranch POA as requested in the filings.

Two landowners (David Walts – Interchange Filings #73 and #90 and Jim Flores – Interchange Filing #79) provided addresses in their Requests to Intervene that, according to *Google Earth*, are located within the Anaqua Springs Ranch area but are not directly affected by a proposed route of the transmission line project. CPS Energy was unable to verify address and ownership information for either Mr. Walts or Mr. Flores within the Bexar County Appraisal District online records. Accordingly, at this time CPS Energy respectfully requests additional information is necessary to verify the justiciable interest of Mr. Walts and Mr. Flores in the project.

IV. RESPONSE TO CERTAIN RECENT FILINGS

In order to avoid confusion later in this proceeding regarding the requested party status of certain persons, CPS Energy provides specific comments or objections regarding the following filings:

- Interchange Filing #70 – The filing contains no name, address or other contact information for the party purporting to intervene. ***CPS Energy considers this filing to be an anonymous public comment.***
- James Middleton (Interchange Filing #75) – Interchange Filing #75 was made by James Middleton. However, the filing itself bears no identifying information. Although it purports to be a motion to intervene, the filing contains no name, address, or other

contact information for the party purporting to intervene, nor a signature for any party requesting intervention. CPS Energy believes the filing was made by James Middleton who owns property within the study area, but without additional information in the motion to intervene, ***CPS Energy is unable to definitively conclude that the James Middleton who owns property within the study area is intending to intervene in this matter.***

- Sonia Villarreal (Interchange Filing #89) – Ms. Villarreal’s filing is a picture and comment and does not formally request participation in this proceeding. To its knowledge, CPS Energy did not send notice of its application to Ms. Villarreal and is not able to verify that Ms. Villarreal owns property in the study area or otherwise has a justiciable interest in the project. ***CPS Energy considers Ms. Villarreal’s filing as public comment and not a request to intervene.***
- Lori Espinoza (Interchange Filing #92) – CPS Energy sent notice of its application in this proceeding to a Lori Espinoza (see CPS Energy’s Affidavit of Notice, Exhibit A, page 3). ***The filing on the interchange, however, is not in a readable format for CPS Energy to evaluate the merits of Ms. Espinoza’s filing.***
- Carrie Clayton (Interchange Filing #97) – To its knowledge, CPS Energy did not send notice of its application to Ms. Clayton and is not able to verify that Ms. Clayton owns property in the study area or otherwise has a justiciable interest in the project. The address listed in Ms. Clayton’s motion is several miles outside of the study area. ***CPS Energy objects to Ms. Clayton’s motion to intervene pending further information demonstrating that Ms. Clayton has a justiciable interest in this proceeding.***

V. CONCLUSION

As stated above, CPS Energy supports the participation in this proceeding by all landowners potentially impacted by a route of the proposed transmission line project if they so desire. As such, formal objection to requested intervention has been avoided to the extent possible. This filing is made in an effort to inform the Honorable Administrative Law Judge of the nature of certain filing parties and seeking clarification where necessary.

Respectfully submitted,

/s/ Kirk D. Rasmussen

Kirk D. Rasmussen
State Bar No. 24013374
Craig R. Bennett
State Bar No. 00793325
Jackson Walker LLP
100 Congress Avenue, Suite 1100
Austin, Texas 78701
(512) 236-2000
(512) 691-4427 (fax)
Email: krasmussen@jw.com
Email: cbennett@jw.com

ATTORNEYS FOR CPS ENERGY

CERTIFICATE OF SERVICE

I certify that a copy of this document was served on all parties of record on this date via the Commission's Interchange in accordance with the Commission's order in Docket No. 50664 suspending PUC Procedural Rule 22.74.

/s/ Kirk D. Rasmussen

Kirk D. Rasmussen