



Control Number: 51023



Item Number: 327

Addendum StartPage: 0



**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 SECOND 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 Second 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

327

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.<sup>1</sup> 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. HAMZEH ALRAFATI AND JAMES MIDDLETON**

On August 25, 2020, CPS Energy sought further clarification regarding the blank Request to Intervene that was apparently filed by Mr. Hamzeh Alrafati (Interchange Filing #53). On August 27, 2020, Mr. Alrafati filed a completed Request to Intervene (Interchange Filing #96). CPS Energy has no further concerns regarding Mr. Alrafati’s standing to participate in this proceeding.

On August 31, 2020, CPS Energy sought further clarification regarding the blank Request to Intervene that was apparently filed by Mr. James Middleton (Interchange Filings #75). On September 1, 2020 another blank Request to Intervene was apparently filed by Mr. James Middleton (Interchange Filing #135). On September 1, 2020 a filing was inadvertently made in error by a Mr. James Middleton. For the reasons stated in CPS Energy’s filing of August 31, 2020, while CPS Energy believes it is likely his intent to do so, it is still unable to conclude that James Middleton who owns property within the study area for the project intends to intervene in this proceeding.

### **IV. LORI ESPINOZA**

On August 31, 2020, CPS Energy noted that the Interchange Filing of Ms. Lori Espinoza (Interchange Filing #92) was not in a readable format. On September 1, 2020, Ms. Espinoza filed a “First Supplement to Motion to Intervene and Response to Bexar Ranch, L.P.’s Motion for

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<sup>1</sup> *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)).

Clarification” (Interchange Filing #167, which includes a miss-spelling of Ms. Espinoza’s name as “Espionza”) that did not also include a request to intervene. As noted in CPS Energy’s filing of August 31, 2020, Ms. Espinoza was mailed a notice of CPS Energy’s application in this proceeding. CPS Energy believes Ms. Espinoza is intending to intervene in this proceeding and considers her filing as a request to intervene. CPS Energy has no further concerns regarding Ms. Espinoza’s standing to participate in this proceeding.

**V. 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,<sup>2</sup> do own property within the study area in proximity to a potential segment of a proposed transmission line route, but not within the distance required for notice under the Commission’s rules. However, CPS Energy does not object to the requested intervention of the following landowners:

Miao Zhang – Interchange Filing #111

Ronald Meyer – Interchange Filing #112

Ed Chalupa – Interchange Filing #113

Margaret Couch – Interchange Filing #122

Gregory Altemose – Interchange Filing #126 (Listed as “Altemore” on the Interchange)

Mark Dooley – Interchange Filing #127 (Property on BCAD listed as owned by Dooley Properties LLC)

Raul and Katie Garcia – Interchange Filing #152

Adam Sanchez – Interchange Filing #166

Vic Vaughan – Interchange Filing #170

Clifford Stratton – Interchange Filing #176

Scott Lively – Interchange Filing #178

Beatriz Odom – Interchange Filing #181

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<sup>2</sup> 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.

Bernd Vogt and Inge Lechner-Vogt – Interchange Filing #183

Gail Ribalta – Interchange Filings #184, 185, 186

Kenneth and Tawana Timberlake – Interchange Filing #188

Douglas Comeau – Interchange Filing #193 (Property on BCAD listed as owned by  
Comeau Family Trust)

Alfred L. and Janna Shacklett – Interchange Filing #197

Ruben and Kristin Mesa – Interchange Filing #198

Robert Ralph – Interchange Filing #200

Several parties made filings titled “First Supplement to Motion to Intervene and Response to Bexar Ranch, L.P.’s Motion for Clarification” that did not also file a request to intervene. CPS Energy believes these parties are intending to intervene in this proceeding and consider such filings as requests to intervene. None of these filers are on CPS Energy’s official notice list for the project, but all are listed on the Bexar County Appraisal District records as owning property within the study area in proximity to a potential segment of a proposed transmission line route, but not within the distance required for notice under the Commission’s rules. However, CPS Energy does not object to the requested intervention of the following landowners:

Eric and Laurie White – Interchange Filing #140

Sanjay Kumar – Interchange Filing #141 (Received Direct Mail Notice of the Application)

Martin Salinas, Jr. – Interchange Filing #146

Lynn Ginader – Interchange Filing #149 (Joint ownership at same address as Lauren  
Pankratz)

Lauren Pankratz – Interchange Filing #151 (Joint ownership at same address as Lynn  
Ginader)

Michael Berry – Interchange Filing #156

Guillermo M. Cantu, Jr. – Interchange Filing #168

Amanda Barrella – Interchange Filing #192

On August 31, 2020, CPS Energy addressed the Requests to Intervene of David Walts and Jim Flores, noting that the addresses listed appear to be within the Anaqua Springs Ranch area, but CPS Energy was unable to verify address and ownership information for either person. Subsequent to CPS Energy’s filing, Mr. Flores and Mr. Walts filed “First Supplement to Motion

to Intervene and Response to Bexar Ranch, L.P.s Motion for Clarification” (Interchange Filings #160 and #164, respectively), but did not provide any further information regarding the address or ownership information addressed previously by CPS Energy. CPS Energy remains unable to verify Mr. Flores’ or Mr. Walts’ address and property ownership from information publicly available at the Bexar County Appraisal District.

## VI. 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:

- Stephen Rockwood (Interchange Filing #171) – To its knowledge, CPS Energy did not send notice of its application to Mr. Rockwood and is not able to verify that Mr. Rockwood owns property in the study area or otherwise has a justiciable interest in the project. The address listed in Mr. Rockwood’s motion is in Austin, Texas. *CPS Energy objects to Mr. Rockwood’s motion to intervene pending further information demonstrating that Mr. Rockwood has a justiciable interest in this proceeding.*
- Bruce Reid (Interchange Filing #190) – Interchange Filing #190 was made by Bruce Reid. 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 Bruce Reid 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 Bruce Reid who owns property within the study area is intending to intervene in this matter.*

## VII. 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

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**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