



Control Number: 51023



Item Number: 341

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 THIRD 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

341

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. STEPHEN ROCKWOOD

On September 8, 2020, CPS Energy objected to the intervention of Mr. Stephen Rockwood (Interchange Filing #171) pending further information demonstrating that Mr. Rockwood has a justiciable interest in this proceeding. On September 11, 2020, Mr. Rockwood communicated with counsel for CPS Energy regarding his 1/8 ownership interest in the Rockwood Family Trust, Rockwood Family Properties, and High Country Residence Trust, all of which are properties to which CPS Energy sent direct-mail notice of the project. ***Based on Mr. Rockwood’s communication and clarification regarding his ownership interests, CPS Energy withdraws its objection to Mr. Rockwood’s request to intervene in this proceeding for the properties listed above.***

### IV. SPECIFIC INTERVENTION REQUESTS

Interchange Filings #294 (Richard Olivarez), #295 (Eloy Olivarez), and #296 (Dora Broadwater) are comment forms with attached letters labeled as “Request to Intervene.” CPS Energy sent direct mail notice of the filing of the Application to Messrs. Olivarez and Ms. Broadwater. ***CPS Energy considers the filings of Mr. Richard Olivarez, Mr. Eloy Olivarez, and Ms. Dora Broadwater as requests to intervene and does not object thereto.***

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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)).

CPS Energy sent direct mail notice of the filing of the Application to Ms. Linda Hansen (Interchange Filing #318). Ms. Hansen's filing states only that it is a "Request for Intervention" with the property address. *Although it is a minimal filing, CPS Energy does not object to Ms. Hansen's intervention.*

#### **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. CPS Energy does not object to the requested intervention of the following landowners:

Lawrence Barocas – Interchange Filing #260

James Lee – Interchange Filing #282

Yvette Reyna – Interchange Filing #299

John Taylor – Interchange Filing #315

John Jared Phipps – Interchange Filing #336

Based on CPS Energy's research of information available online through the Bexar County Appraisal District, it is unable to verify ownership of property within the study area by Mr. Brian Lee (Interchange Filing #317). Based on the assertions in Mr. Lee's filing regarding his ownership of a lot within the Anaqua Springs Ranch development, CPS Energy does not object to Mr. Lee's participation in this proceeding as an intervenor.

#### **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:

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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.

- Joshua and Kristi-Marie Standing Cloud (Interchange Filing #285) – Mr. and Ms. Standing Cloud were sent direct mail notice of the filing of the Application by CPS Energy. The filing by Mr. and Ms. Standing Cloud does not indicate anywhere within the document whether intervention is requested or intended. ***CPS Energy is treating this filing as a public comment at this time.***
- Evangelina Reyes (Interchange Filing #286) – Ms. Reyes was sent direct mail notice of the filing of the Application by CPS Energy. The filing by Ms. Reyes appears to be a deed for the property. Ms. Reyes’ filing does not indicate anywhere within the filing whether intervention is requested or intended. ***CPS Energy is treating this filing as a public comment at this time.***
- Denise Baker (Interchange Filing #326) – Ms. Baker’s filing is a picture, filing instructions, and a blank intervention form. To its knowledge, CPS Energy did not send notice of its application to Ms. Baker and is not able to verify that Ms. Baker owns property in the study area or otherwise has a justiciable interest in the project. ***CPS Energy considers Ms. Baker’s filing as public comment and not a request to intervene.***

## 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

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: kasmussen@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