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Addendum StartPage: 0

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PUBLIC UTILITY COMMISSION
HEARING CLERK

APPLICATION OF THE CITY OF	§	BEFORE THE STATE OFFICE
SAN ANTONIO ACTING BY AND	§	
THROUGH THE CITY PUBLIC	§	
SERVICE BOARD (CPS ENERGY)	§	
TO AMEND ITS CERTIFICATE OF	§	OF
CONVENIENCE AND NECESSITY	§	
FOR THE PROPOSED SCENIC	§	
LOOP 138-KV TRANSMISSION	§	
LINE IN BEXAR COUNTY	§	ADMINISTRATIVE HEARINGS

CLEARWATER RANCH POA’S OPPOSITION TO JOINT MOTION CHALLENGING ROUTE ADEQUACY AND REQUEST FOR ROUTE ADEQUACY HEARING

Clearwater Ranch POA (“Clearwater”), Intervenors in this proceeding, files this their Opposition to Anaqua Springs Homeowners’ Association (“Anaqua”) and Brad Jauer/BVJ Properties, LLC (“Jauer”) Joint Motion Challenging Route Adequacy and Request for Route Adequacy Hearing and in support thereof would show the following:

Route Adequacy Standard

The routes proposed in a utility’s application are considered adequate when there are a number of reasonable differentiated alternative routes. This requirement allows ALJs to conduct a thorough hearing on the merits and the Commission to perform a proper evaluation of the utility’s application. In its referral to SOAH in this proceeding, the PUC provides guidance to the ALJs in determining route adequacy. As a part of the analysis, the PUC instructs the ALJs to consider:

the number of proposed alternatives, the locations of the proposed transmission line, and any associated proposed facilities that influence the location of the line. Consideration may also be given to the facts and circumstances specific to the geographic area under consideration, and to any analysis and reasoned justification presented for a limited number of alternative routes. *A limited number of alternative routes is not in itself a sufficient basis for finding an application inadequate when the facts and circumstances or a reasoned justification demonstrates a reasonable basis for presenting a limited number of alternatives.*¹

¹ Order of Referral and Preliminary Order at 3 (Sep 29, 2020) (emphasis added).

397

Additionally, the purpose of a route adequacy hearing is to “perform a more cursory review of the application to determine whether the application contains an adequate justification for the routes selected and whether additional routes should be added to the application at an early stage in the contested case process.”² An applicant is not required to “disprove the viability of every conceivable routing permutation developed by other parties.”³

Argument

Here, CPS’ Application contains 57 transmission line segments and 29 alternative routes in a relatively compact study area of 5.2 miles long by 6.1 miles wide. CPS also included five tap-in locations and seven substation sites. Anaqua and Jauer have mischaracterized the study area as Northern and Southern routes, when in reality there are Northern, Central, and Southern routes, each reaching substations in a varied manner. All of these elements are located at different enough points in the study area to give the ALJs and PUC the ability to evaluate the application under PURA standards.

1. CPS gave reasonable justifications for the elimination of Segment 12.

In its challenge to route adequacy, Anaqua and Jauer argue that CPS should have done more to keep Segment 12 in the application, when all evidence pointed to it as non-viable option. CPS

² See *Application of Brazos Electric Power Cooperative, Inc , to Amend its Certificate of Convenience and Necessity for a Proposed 138-kV Double Circuit Transmission Line and Substation in Collin County, Texas*, Docket No. 34276, Order No. 22 at 9 (Feb 15, 2008).

³ Docket No. 44547, Order No. 5 at 3-4; see *Application of LCRA Transmission Services Corporation to Amend its Certificate of Convenience and Necessity (CCN) for a 138-kV Transmission Line in Kerr County*, Docket No. 33844, Order No. 10 at 11 (July 27, 2007) (“Having placed a reasonable number of reasonably differentiated routes on the table, LCRA TSC was not obligated to disprove the viability of every conceivable routine permutation developed by the other parties.”).

received a letter from the Army and Air Force, outlining its opposition to Segment 12.⁴ In it, the Army and Air Force gave multiple reasons why a transmission line would be a complicated, unworkable option – not only would they need the support of the Nature Conservancy and the landowner (which they did not have and said so in the letter), they would need to have to an entire consultation process under Section 7 of the Endangered Species Act and they would need to find replacement Golden Cheek Warbler habitat for mitigation credits.⁵ Additionally, the terms of the conservation easement only allows for utilities on the property to existing houses, not transmission lines.⁶ Then aside from the conservation easement issues, the letter states the transmission line would negatively impact ongoing military missions at Camp Bullis.⁷ Based on this letter and other communications, CPS reasonably relied on the explanations and removed Segment 12 before it submitted its application.

Under a route adequacy challenge, CPS does not have to propose alternatives to Segment 12 or pursue every irrational lead that Anaqua and Jauer have proposed to keep it in the application. All they must do is demonstrates a reasonable basis for presenting a limited number of alternatives, They did just that by including the letter from the Army and Air Force in the application, explaining why Segment 12 would not work. Anaqua and Jauer’s intransigence does not give rise to a route adequacy challenge and therefore should not be considered as basis for a hearing.

⁴ See Appendix A, *Application of the City of San Antonio, acting by and through the City Public Services Board (CPS Energy) to Amend its Certificate of Convenience and Necessity for the Proposed Scenic Loop 138-kV Line Project in Bexar County, Texas*, Docket No. 51023, (July 22, 2020).

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

2. CPS sited substations around the intersection of Scenic Loop and Toutant Beauregard in order to carry the load between the Fair Oaks and La Sierra circuits.

Next, Anaqua and Jauer argue that the substation siting improperly forces a route along Toutant Beauregard and therefore the proposed routes are inadequate. As noted in its Application, CPS needs to position the Scenic Loop substation in between the Fair Oaks and La Sierra circuits to shore up reliability and increasing loads in the area.⁸ The intersection of Toutant Beauregard and Scenic Loop best serves this purpose, however, there are only two substations that are directly at that intersection. The seven proposed substations provide geographically diverse options for the PUC to consider. Of the seven proposed substations, only one of them cannot realistically connect to the “Southern” routes due to forward progressing. Specifically, the Substation 6 site is further south on Scenic Loop, away from Toutant Beauregard, making it closer to the “Southern” tap points, rather than the “Northern” ones. While there are certainly substation sites that would be connected by route on Toutant Beauregard, those sites could also be connected by a route along Scenic Loop. Not only has CPS provided multiple, different substation sites, they have also provided a reasonable justification as to why those sites are closer to the intersection of Toutant Beauregard and Scenic Loop.

3. CPS’ decision to tap into the electrical grid through the Ranchtown to Menger Creek 138kV transmission line should not be addressed in a route adequacy challenge.

Next, Anaqua and Jauer challenges CPS’ cost to connect Substation 6 to the La Sierra to UTSA Tap B tap, but this is an improper argument for a route adequacy challenge. As stated in its Order

⁸ *Id.* at 18 (“proposed Scenic Loop Substation will provide CPS Energy with a load serving substation geographically intermediate to the Fair Oaks Ranch and La Sierra substations in a manner that will cut the average length and loading of distribution circuits serving end-use customers by 50 percent or more.”)

of Referral from the PUC, when the ALJs are to consider the adequacy of the application, the main question is “Does the application contain an adequate number of reasonable differentiated alternative routes to conduct a proper evaluation?”⁹ Here, CPS satisfies this requirement. The cost of tapping into the La Sierra transmission line goes to the need for the project and routing considerations. Specifically, in the Order of Referral, these arguments go to “Need – 2. Are the proposed facilities necessary for the service, accommodation, convenience, or safety of the public within the meaning of PURA2 § 37.056(a) taking into account the factors set out in PURA § 37.056(c)?” or “Route – 5. Are there alternative routes or facilities configurations that would have a less negative impact on landowners? What would be the incremental cost of those routes?”¹⁰

However, if the ALJs entertain arguments regarding tapping into the Ranchtown transmission line, it should be noted that Ranchtown remains the better performing option, as stated in CPS’ Application. In their calculations in their Joint Motion Challenging Route Adequacy, Anaqua and Jauer failed to account for the \$8 million cost to build the substation when it compared the Ranchtown transmission line connecting to Substation site 1 to the La Sierra transmission line connecting to Substation site 6. Specifically, their \$41.262 million amount is just the cost of mileage (4.6 miles x 1.3 x \$6.9 million dollars). In comparison, the amount for just mileage from the Ranchtown transmission line to Substations site 1 is \$38.3 million (4.27 x 1.3 x \$6.9 million dollars). This is not a \$5 million savings. As argued previously, in addition to cost consideration, a substation closer to the intersection of Scenic Loop and Toutant Beauregard promotes greater

⁹ Order of Referral and Preliminary Order at 3 (Sep 29, 2020).

¹⁰ *Id.* at 7.

reliability and load management. CPS did consider the costs of connecting the Scenic Loop substation to La Sierra transmission line and eventually, it was a costlier option.

Ultimately, Anaqua and Jauer argued issues for routing criteria, not issues of route adequacy. They present a multitude of possibilities, but CPS is not required to disprove every conceivable option developed by the parties. All of Anaqua's arguments for a route adequacy challenge are directly addressed in the application and therefore CPS provided adequate justification for the routes selected. Because there is geographic diversity in these segments, routes, and substations, the application provides a "number of reasonable differentiated alternative routes" as required by the Commission.

Conclusion

WHEREFORE, PREMISES CONSIDERED, Clearwater respectfully requests that the ALJs deny Anaqua and Jauer's Joint Motion Challenging Route Adequacy and Request for Route Adequacy Hearing Request and any relief requested in their Motion.

Respectfully submitted,

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ATTORNEYS FOR CLEARWATER RANCH POA

CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on December 3, 2020 in accordance with Public Utility Commission Procedural Rule 22.74.

/s/Patrick L. Reznik
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