

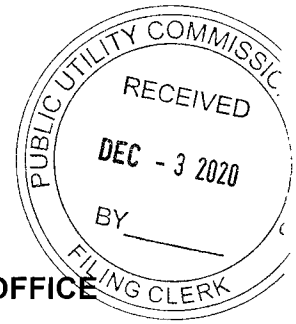


Control Number: 51023



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SOAH DOCKET NO. 473-21-0247
PUC DOCKET NO. 51023

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

BEFORE THE STATE OFFICE

OF

ADMINISTRATIVE HEARINGS

**BEXAR RANCH, L.P.'S OPPOSITION IN RESPONSE TO JOINT MOTION CHALLENGING
ROUTE ADEQUACY AND REQUEST FOR ROUTE ADEQUACY HEARING**

Intervenor BEXAR RANCH, L.P. ("Bexar Ranch"), files this, its Opposition in Response to Anaqua Springs Homeowners' Association and Brad Jauer/BVJ Properties, LLC's (together, "Anaqua/BVJ") Joint Motion Challenging Route Adequacy and Request for Route Adequacy Hearing, and respectfully shows:

1. A route adequacy challenge is based on a burden-shifting analysis. The applicant, CPS Energy, can meet its *prima facie* case of route adequacy by showing it has proposed an adequate number of reasonably differentiated routes in the pending application for the Administrative Law Judges and the Commission to conduct a proper evaluation.¹

2. In particular, CPS's Application contains 29 alternative routes, made up of a variety of 57 segments, 5 tap-in locations (on the west side of the study area) and 7 substation sites (on the east side), all in a relatively compact study area that measures approximately 31 square miles, or 5.2 miles long by 6.1 miles wide. Taken together, these elements are located at different enough points in the study area to give the

¹ 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,*

Administrative Law Judges and Commission the ability to evaluate the application under the applicable routing standards.

3. Once the applicant meets its initial burden, which CPS has here, the burden shifts to the movant, here Anaqua/BVJ, to present evidence showing the inadequacy of the routes presented.²

4. Here, Anaqua/BVJ asserts issues relating to route selection (for example, habitable structure counts); the configuration of a particular segment (but not that the segment no longer exists); and the removal of Segment 12 (although it admits CPS cannot condemn that land later). Anaqua/BVJ does this all with clever references to the segments that would “impact” it (as opposed to “cross” it) and a mischaracterization of the study area as only having a “Northern/Southern” dichotomy.

5. Nevertheless, assuming Anaqua/BVJ has met its burden, which is denied, CPS may then rebut these arguments by offering a reasoned justification as to why the proposed additional routes should not be included.³ In doing so, an applicant is not required to “disprove the viability of every conceivable routing permutation developed by other parties.”⁴ Indeed, “drawbacks” and “unanswered questions” are enough.⁵

6. CPS has explained in its application and in discovery the engineering and reliability rationale it relied on in deciding to site the proposed substations as it has; why it cannot add substation sites at certain southerly nodes; why certain segments are configured as they are; and why it chose to remove Segment 12 from the application.

² *Id.*

³ *Id.*

⁴ *Id.*; see also 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.”).

⁵ *Id.*

CPS also presented the Direct Testimony of George J. Tamez, a professional engineer with over 24 years of experience, who testified as to the geographic diversity of the proposed routes and the basis for them.

7. Here, Bexar Ranch is located in both the central and southern portions of the study area. Of CPS'S 29 alternative routes, **14 routes actually cross Bexar Ranch.** Stated differently, nearly half of the alternative routes cross Bexar Ranch. While Bexar Ranch would certainly prefer that Route 12 would have remained viable – it cannot credibly claim that the facts here warrant a route adequacy hearing.

8. Notably, only 9 routes actually cross Anaqua Springs/BVJ combined and only 1 route, Route T, crosses BVJ alone.

9. As stated in its Order of Referral from the PUC, the Administrative Law Judges are to consider the adequacy of the application, the main question being “Does the application contain an adequate number of reasonable differentiated alternative routes to conduct a proper evaluation?”⁶ Here, CPS satisfies this requirement, providing 29 routes to consider, with further variations of those routes possible as well.

10. Ultimately, Anaqua/BVJ has argued issues as to routing generally, not issues of route adequacy. They present possibilities, yet CPS is not required to disprove every conceivable option developed by the parties.⁷

11. Because there is geographic diversity in the segments and routes, the application provides a “number of reasonable differentiated alternative routes” as required by the Commission, the application is adequate, and therefore, Anaqua/BVJ's motion and request for hearing should be in all things denied.

⁶ Order of Referral and Preliminary Order at 3 (Sep 29,2020).

⁷ Docket No. 44547, Order No. 5 at 3-4.

PRAYER

WHEREFORE, PREMISES CONSIDERED, BEXAR RANCH, L.P., respectfully requests that the Administrative Law Judges deny Anaqua/BVJ's Request for a Hearing on Route Adequacy and otherwise deny any and all relief requested in that Motion. BEXAR RANCH prays for all other and further relief, both in law and in equity, to which it is justly entitled.

Respectfully submitted,
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CERTIFICATE OF SERVICE

I hereby certify that the foregoing document has been filed in the records of Docket 51023 and served on the parties in compliance with PUC Procedural Rule 22.74 and the Orders in the above-captioned proceedings, on this 3rd day of December, 2020.



Soledad M. Valenciano