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PUBLIC UTILITY COMMISSION OF TEXAS



In re 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 Project in Bexar County, Texas

Docket Number: 51023
SOAH Docket No. 473-21-0247
PATRICK CLEVELAND'S
REPLY TO CPS ENERGY'S RESPONSE TO STATEMENTS OF ROUTE ADEQUACY

Introduction

I, Patrick Cleveland, respectfully submit this Reply to CPS Energy's Response to Statements of Route Adequacy in the above titled and numbered case.

Clarification and Amendment

First, I must apologize for an error made in my initial Statement of Route Adequacy regarding Segment 42 not following a property line. What I intended to state is that Segment 49 (not Segment 42) could have followed the south property line of property B-006, but instead it dissects property B-006. See CPS Application, Attachment 6, Sheet 5. As can be seen on the map, proposed Segment 49 follows an old ranch trail through Property B-006. This is an example of a common pattern in CPS Energy's Application and proposed routing as explained further below. The pattern is that CPS Energy has ignored the criteria in 16 Tex. Admin. Code § 25.101 in creating proposed routes, and instead, has used cost as the number one criterion. CPS Energy cleverly disguises this criterion, when convenient, by claiming certain routes are not desired due to environmental, aesthetic and cultural reasons, as well as "engineering constraints."

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1 Looking at the map identified above, it's clear that CPS Energy proposed Segment 49 in its
2 current location because of cost, in that the length is shorter than following the property line, the
3 land is relatively level, and there are less trees to clear.
4

6 **Additional Reply to CPS Energy's Response on Route Adequacy**

7 With respect to Segment 17, CPS Energy stated in its Response to Statements on Route
8 Adequacy (hereinafter Response) that my alternative route "would result in the line taking
9 several 90 degree turns in close proximity to each other, resulting in the clearing of significant
10 existing trees and wildlife habitat, and significantly increasing both the estimated cost and
11 aesthetic impact of the routing." Just to clarify, my proposed route wouldn't necessarily have to
12 follow the property line exactly, just as other segments proposed by CPS Energy do not. See for
13 example, Segments 26, 43, 44, 45 and 49. As can be seen on the map, there is a line of cleared
14 trees on Property A-132 that runs in a northwest to southeast angle as it goes into Property A-
15 128. See CPS Application, Attachment 6, Sheet 7. Then, the proposed route could follow the
16 west property line of Property A-128. *Id.* The result is that there would be no additional right
17 angles and actually less trees to clear than the existing route (based on map appearance). Most
18 importantly, such a route would not affect the 23 properties of the Scenic Hills development.
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21 With respect to Segment 32, CPS Energy stated in its Response that my alternative route
22 "would result in the requirement to include significant angle structures, backtracking of the
23 routing or cutting interior through properties, resulting in the same increased costs and
24 environmental and aesthetic impacts" I disagree. As it stands, that specific area of
25 Segment 32 goes through two properties, C-029 and C-028, with one angle. See CPS
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1 Application, Attachment 6, Sheet 7. In my initial Statement, I indicated that the proposed
2 segment could've followed the west property lines of C-029, T-052, T-051, K-012 and K-014,
3 but there are also other options in an effort to avoid the Sundance Ranch development. Another
4 proposed segment could turn east at the south property line of Property C-029 in which case the
5 segment in that area would go through one property, C-029, and have two angles if it was
6 slightly away from the property line: One near the middle of Property C-029 and one at the
7 south property line of Property C-029. Most importantly, such a route would not affect the 23
8 properties in the Sundance Ranch development.

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11 With respect to Segment 55, CPS Energy stated in its Response that my alternative route
12 “would cross directly over the area of active subdivision and development of that area.” I
13 disagree. My proposed segment would follow the southern property line of Property O-084 in an
14 area that according to the appearance of the map, is not developed. See CPS Application,
15 Attachment 6, Sheet 13. If CPS Energy is alluding that Property O-084 is going to be developed,
16 then their northern route is not any different than my southern route, as both would hug the
17 property line. Also, my proposed segment would have no more angles than the existing
18 segments if it did not hug the property line exactly. In addition, there is already an existing
19 segment (Segment 56) that goes through this “area of active subdivision and development”
20 Most importantly, my proposed route would not be adjacent to and affect the 26 properties in the
21 Canyons development.

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24 With respect to my proposed segment following Toutant Beauregard Road to Balcones
25 Creek, CPS Energy obviously chose cost over the criteria in 16 Tex. Admin. Code § 25.101, as
26 its main complaint in its Response is “higher estimated costs”. Even this argument, however, is
27 empty as my proposed route would be shorter than 13 other existing proposed routes. CPS

1 Energy's other reasons for not proposing such a route is that the route might have more
2 "potential natural and cultural impacts than many other routes already existing in the
3 Application." This argument is without merit. There is not one proposed route by CPS Energy
4 that adheres to all the criteria in 16 Tex. Admin. Code § 25.101. Not a single one. On the other
5 hand, the most obvious route should be a route that adheres to all the criteria in 16 Tex. Admin.
6 Code § 25.101. This obvious route is one that follows Toutant Beauregard Road to Balcones
7 Creek. First, such a route would follow Toutant Beauregard Road, a two lane highway. Second,
8 there are existing electrical distribution lines along the entire length of such route. Third, such a
9 route would follow property lines. Finally, such a route would adhere to prudent avoidance. In
10 other words, 100% of the length of the route could adhere to 100% of the criteria in 16 Tex.
11 Admin. Code § 25.101. Yet, CPS Energy failed to propose such a line because of cost, which is
12 an empty argument as stated above. The true reason is lack of diligence caused by a pattern of
13 choosing the shortest possible routes while being blind to the criteria required by law.
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17 The foregoing are just some of the examples where CPS Energy proposed segments
18 based on cost alone (in some cases because they are the shortest and in other cases because of
19 terrain making it less costly). But there are others. Segments 26, 27 38, 43, 44, and 45 all could
20 have followed property lines but they do not. Also, it's difficult to imagine any expert proposing
21 the following segments unless such route was chosen by cost rather than environmental
22 evaluation:
23

24 1) Segment 15 crosses a cultural resource site and is within 1,000 feet of 10 other
25 cultural resource sites.

26 2) Segment 26 crosses a cultural resource site (presumably a cemetery) and is
27 within 1,000 feet of five other cultural resource sites

1 Similarly, it is difficult to imagine any expert proposing Segments 2, 27, 31, 38, 40, 43,
2 44, 45, 48, and 49 because a significant portion of each of these segments satisfies none of the
3 ROW criteria in 16 Tex. Admin. Code § 25.101 in that it follows no roads, existing electrical
4 lines or property lines.
5

6 7 **Conclusion**

8 The above evidence shows that CPS Energy put the cart before the horse by creating
9 proposed segments and routes based on cost, then, evaluating these segments and routes through
10 its Environmental Assessment. The result is that many of the proposed segments and routes
11 inadequately comply with the criteria in PURA § 37.056(c) which include community values . . .
12 recreational and park areas . . . historical and aesthetic values [and] environmental integrity. Nor
13 do many of the segments and routes comply with the criteria in 16 Tex. Admin. Code § 25.101,
14 which include following roads, existing electrical lines and property lines, and prudent
15 avoidance. In effect, the land owners in northwest Bexar County have been forced into an unfair
16 fight whereby they must somehow choose the best option out of a field of inadequate and
17 unviable options. This should not be. The land owners have a legal right to choose the best
18 segments and routes out of an adequate number of viable routes.
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22 23 **PRAYER FOR RELIEF**

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25 WHEREFORE, for the above reasons, I, Patrick Cleveland, respectfully request that CPS
26 be ordered to, 1) conduct a valid evaluation of primary alternative routes based upon the
27 requirements set forth in 11 PURA § 37.056(c)(4)(A)–(D), 16 Tex. Admin. Code §
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ADEQUACY - 5

1 25.101(b)(3)(B), the Commission's application requirements, and the issues commonly included
2 for consideration in the Commission's preliminary orders for CCN applications; and 2) include a
3 proposed segment that would follow Toutant Beauregard Road to Balcones Creek, then follow
4 existing electrical distribution ROW to the Ranchtown to Menger Creeek transmission line.
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6 I hereby waive hearing on this matter and submit this Response and my previous
7 Statement on Route Adequacy as evidence in lieu of oral testimony and argument, unless CPS
8 Energy is in disagreement with any of the foregoing, in which case, I request a hearing.
9

10 Dated this 4th day of December, 2020.
11

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13 /Patrick Cleveland/

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CERTIFICATE OF SERVICE

I certify that notice of the filing of this document was provided to all parties of record via electronic mail on December 4, 2020, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/Patrick Cleveland/

Patrick Cleveland