

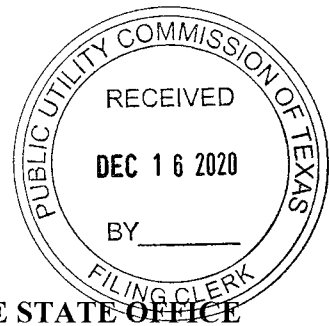


Control Number: 51023



Item Number: 432

Addendum StartPage: 0



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

APPLICATION OF THE CITY OF § BEFORE THE STATE OFFICE
SAN ANTONIO TO AMEND ITS §
CERTIFICATE OF CONVENIENCE § OF
AND NECESSITY FOR THE §
SCENIC LOOP 138-KV TRANSMISSION § ADMINISTRATIVE HEARINGS
LINE IN BEXAR COUNTY §

**CPS ENERGY’S RESPONSE TO PATRICK CLEVELAND’S
FIRST REQUEST FOR INFORMATION TO CPS ENERGY**

COMES NOW the City of San Antonio, acting by and through the City Public Service Board (CPS Energy) and files this Response to Patrick Cleveland’s First Request for Information (RFI). This Response is timely filed. CPS Energy agrees and stipulates that all parties may treat these responses as if the answers were filed under oath.

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 SOAH Order No. 3.

/s/ Kirk D. Rasmussen

Kirk D. Rasmussen

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**CPS ENERGY’S RESPONSE TO PATRICK CLEVELAND’S
FIRST REQUEST FOR INFORMATION TO CPS ENERGY**

Patrick Cleveland Question No. 1-1:

Please provide the names of any CPS Energy employees, agents, or board members who own property within the study area and the Bexar County tax identification of such property.

Response No. 1-1:

CPS Energy has over 3,000 employees, plus agents (as defined in this request), and board members, some of whom may own property within the study area. In preparing the Application for this proceeding, CPS Energy has not attempted to determine the names of any CPS Energy employees, agents, or board members who own property within the study area. Pursuant to an agreement with the requesting party, the following response is being provided in lieu of the requested information:

One or more members of the CPS Energy project team (employees of CPS Energy and its consultants and contractors involved in the routing analysis and filing of the Application at the Public Utility Commission of Texas) are aware of the following CPS Energy energy employee, agent, or board member who owns property within the study area:

Janna Junkin, Bexar County Property ID 1266593

Prepared By: Adam R. Marin	Title: Regulatory Case Manager
Sponsored By: Adam R. Marin	Title: Regulatory Case Manager

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**CPS ENERGY’S RESPONSE TO PATRICK CLEVELAND’S
FIRST REQUEST FOR INFORMATION TO CPS ENERGY**

Patrick Cleveland Question No. 1-2:

Please identify every CPS Energy employee, agent or board member who is related to or has a relationship with any property owner within the study area, the name of the property owner, the Bexar County tax identification of such property, and the nature of that relationship.

Response No. 1-2:

CPS Energy has over 3,000 employees, plus agents (as defined in this request), and board members, some of whom may own property within the study area. In preparing the Application for this proceeding, CPS Energy has not attempted to determine the names of any person who has a relationship with a CPS Energy employee, agent, or board member who owns property within the study area. Pursuant to an agreement with the requesting party, the following response is being provided in lieu of the requested information:

One or more members of the CPS Energy project team (employees of CPS Energy and its consultants and contractors involved in the routing analysis and filing of the Application at the Public Utility Commission of Texas) are aware of the following person who has a relationship with a CPS Energy energy employee, agent, or board member who owns property within the study area:

Robert & Barta Busby, Bexar County Property ID 251068, Father- and Mother- Inlaws to Darrell Clifton

Prepared By: Adam R. Marin	Title: Regulatory Case Manager
Sponsored By: Adam R. Marin	Title: Regulatory Case Manager

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**CPS ENERGY’S RESPONSE TO PATRICK CLEVELAND’S
FIRST REQUEST FOR INFORMATION TO CPS ENERGY**

Patrick Cleveland Question No. 1-3:

Please identify every CPS Energy employee, agent or board member who owns property adjacent to or within 500 feet of Toutant Beauregard Road from Crow Karsch Road to Balcones Creek and the Bexar County tax identification of such property.

Response No. 1-3:

CPS Energy has over 3,000 employees, plus agents (as defined in this request), and board members, some of whom may own property within the study area. In preparing the Application for this proceeding, CPS Energy has not attempted to determine the names of any person who has a relationship with a CPS Energy employee, agent, or board member who owns property within the study area. Pursuant to an agreement with the requesting party in order to avoid CPS Energy filing objections to this request on the grounds of relevance and burden, the following response is being provided in lieu of the requested information:

No member of the CPS Energy project team (employees of CPS Energy and its consultants and contractors involved in the routing analysis and filing of the Application at the Public Utility Commission of Texas) is aware of any CPS Energy energy employee, agent, or board member who owns property adjacent to or within 500 feet of Toutant Beauregard Road from Crow Karsch Road to Balcones Creek.

Prepared By: Adam R. Marin	Title: Regulatory Case Manager
Sponsored By: Adam R. Marin	Title: Regulatory Case Manager

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**CPS ENERGY’S RESPONSE TO PATRICK CLEVELAND’S
FIRST REQUEST FOR INFORMATION TO CPS ENERGY**

Patrick Cleveland Question No. 1-4:

Please identify every CPS Energy employee, agent or board member who is related to or has a relationship with any person who owns property that is adjacent to or within 500 feet of Toutant Beauregard Road from Crow Karsch Road to Balcones Creek, the name of the property owner, the Bexar County tax identification of that property, and the nature of the relationship.

Response No. 1-4:

CPS Energy has over 3,000 employees, plus agents (as defined in this request), and board members, some of whom may own property within the study area. In preparing the Application for this proceeding, CPS Energy has not attempted to determine the names of any person who has a relationship with a CPS Energy employee, agent, or board member who owns property within the study area. Pursuant to an agreement with the requesting party, the following response is being provided in lieu of the requested information:

No member of the CPS Energy project team (employees of CPS Energy and its consultants and contractors involved in the routing analysis and filing of the Application at the Public Utility Commission of Texas) is aware of any person who has a relationship with a CPS Energy energy employee, agent, or board member who owns property that is adjacent to or within 500 feet of Toutant Beauregard Road from Crow Karsch Road to Balcones Creek.

Prepared By: Adam R. Marin	Title: Regulatory Case Manager
Sponsored By: Adam R. Marin	Title: Regulatory Case Manager

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**CPS ENERGY’S RESPONSE TO PATRICK CLEVELAND’S
FIRST REQUEST FOR INFORMATION TO CPS ENERGY**

Patrick Cleveland Question No. 1-5:

Please provide all of the reasons CPS Energy did not propose a segment that would follow Toutant Beauregard Road until it intersects with Balcones Creek and then follow the existing distribution line ROW to the Ranchtown to Menger Creek transmission line.

Response No. 1-5:

Because of the constraints north of Segment 54, any additional segment added along Toutant Beauregard Road to Balcones Creek to the existing transmission line would still have to travel down into the Study Area and connect with existing segments. Such a route would be farther from the proposed new substation sites at an equal or greater estimated cost, length, and potential natural and cultural impacts than many routes already existing in the Application.

Prepared By: Lisa B. Meaux
Sponsored By: Lisa B. Meaux

Title: Project Manager, POWER Engineers, Inc.
Title: Project Manager, POWER Engineers, Inc.

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**CPS ENERGY’S RESPONSE TO PATRICK CLEVELAND’S
FIRST REQUEST FOR INFORMATION TO CPS ENERGY**

Patrick Cleveland Question No. 1-6:

Please explain the details and provide documentation of any promises or agreements made by or between CPS Energy and any intervenors or property owners (or parties representing property owners) with regards to the CPS-Scenic Loop Project, including the names of the property owners or parties, the location of any property, the amount of property, and the amount of money, property or anything else to be exchanged.

Response No. 1-6:

Please refer to CPS Energy’s response to Anaqua Springs Question Nos. 1-8 and 1-11, and *Toutant Ranch, Ltd., ASR Parks, LLC, Pinson Interests Ltd. LLP, and Crighton Development Co.’s Statement on Route Adequacy and Request for Approval of Proposed Agreed Amendments to CPS Energy’s Application*, which was filed in this docket on November 24, 2020. There are no additional documents responsive to this request.

Prepared By: Adam R. Marin	Title: Regulatory Case Manager
Sponsored By: Adam R. Marin	Title: Regulatory Case Manager

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**CPS ENERGY’S RESPONSE TO PATRICK CLEVELAND’S
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Patrick Cleveland Question No. 1-7:

Please provide the formula or formulas and/or spreadsheets containing the formulas used to create the cost estimates provided in Attachment 3 of the CPS Application.

Response No. 1-7:

Please refer to CPS Energy’s response to Brad Jauer & BVJ Properties Question No. 1-7. Documents responsive to that request are being made available electronically in their native format to the requesting party.

Prepared By: Scott D. Lyssy
Sponsored By: Scott D. Lyssy

Title: Manager Civil Engineering
Title: Manager Civil Engineering

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Patrick Cleveland Question No. 1-8:

Please provide any documentation of the estimated revenue and profits expected to be generated from the CPS-Scenic Loop Project.

Response No. 1-8:

CPS Energy is a non-profit organization and does not calculate revenue on any specific transmission lines.

Prepared By: Adam R. Marin	Title: Regulatory Case Manager
Sponsored By: Adam R. Marin	Title: Regulatory Case Manager

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**CPS ENERGY'S RESPONSE TO PATRICK CLEVELAND'S
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Patrick Cleveland Question No. 1-9:

Please provide any and all correspondence, documentation and the substance of any oral communications made between Texas Parks and Wildlife Department and CPS Energy relating to the CPS-Scenic Loop Project after August 1, 2019.

Response No. 1-9:

See Attachment.

Attachment:

Attachment Cleveland 1-9: Correspondence, 45 Pages, Various Authors, Various Dates

Prepared By:	Lisa B. Meaux Adam R. Marin	Title:	Project Manager, POWER Engineers, Inc. Regulatory Case Manager
Sponsored By:	Lisa B. Meaux Adam R. Marin	Title:	Project Manager, POWER Engineers, Inc. Regulatory Case Manager

From: [Meaux, Lisa](#)
To: [Williams, Denise](#)
Cc: [Hoefer, Aaron](#)
Subject: FW: TPWD Review (#42121) CPS Scenic Loop 138-kV Bexar Co.
Date: Friday, August 02, 2019 8:48:02 AM
Attachments: [WL42121 CPS ScenicLoop 138kV Bexar C 08-01-2019.pdf](#)

Please review and consider in the EA.

LISA BARKO MEAUX
PROJECT MANAGER
ENVIRONMENTAL DEPARTMENT MANAGER
16825 Northchase Drive, Suite 1200
Houston, Texas 77060

281-765-5507 direct
713-962-8476 cell
lisa.barko@powereng.com

POWER Engineers, Inc.
www.powereng.com

From: Russell Hooten <Russell.Hooten@tpwd.texas.gov>
Sent: Thursday, August 01, 2019 3:27 PM
To: Meaux, Lisa <lisa.barko@powereng.com>
Cc: Russell Hooten <Russell.Hooten@tpwd.texas.gov>
Subject: TPWD Review (#42121) CPS Scenic Loop 138-kV Bexar Co.

Hi Lisa,

TPWD's comments regarding the project referenced in the Subject line above are attached. Please contact me with any questions.

Russell

Russell Hooten
Wildlife Habitat Assessment Program
TPWD-Wildlife Division
6300 Ocean Drive, NRC 2501
Unit 5846
Corpus Christi, TX 78412
361-825-3240
russell.hooten@tpwd.texas.gov



Life's better outside.®

August 1, 2019

Lisa Barko Meaux
POWER Engineers, Incorporated
16825 Northchase Drive, Suite 1200
Houston, TX 77060

Commissioners

Ralph H. Duggins
Chairman
Fort Worth

S. Reed Morian
Vice-Chairman
Houston

Arch "Beaver" Aplin, III
Lake Jackson

Oliver J. Bell
Cleveland

Anna B. Galo
Laredo

Jeanne W. Latimer
San Antonio

James H. Lee
Houston

Dick Scott
Wimberley

Kelcy L. Warren
Dallas

Lee M. Bass
Chairman Emeritus
Fort Worth

T. Dan Friedkin
Chairman Emeritus
Houston

Carter P. Smith
Executive Director

RE: Proposed Scenic Loop 138-kV transmission line and Substation Project,
Bexar County, Texas
POWER Engineers Project No. 156816

Dear Ms. Barko Meaux:

Texas Parks and Wildlife Department (TPWD) received the preliminary request regarding the project referenced above. On behalf of CPS Energy, POWER Engineers, Incorporated (POWER) is preparing an Environmental Assessment (EA) to support CPS Energy's internal and external regulatory activities associated with the project.

Project Description

CPS Energy is proposing to construct a new double circuit 138-kV transmission line in Bexar County, Texas. The proposed line would extend approximately five miles from the proposed Scenic Loop Substation to be located in the vicinity of the intersection of Toutant Beauregard Road and Scenic Loop Road, to the existing CPS Energy Ranchtown to LCRA Menger Creek transmission line located north of State Highway (SH) 16. POWER is collecting and evaluating environmental data for the study area and will identify potential alternative route segments between the end points.

TPWD staff reviewed the information provided and offer the following comments and recommendations.

Recommendation: When new construction is the only feasible option, TPWD recommends routing new transmission lines along existing road, pipeline, transmission line or other utility right-of-way (ROW) or easements to reduce habitat fragmentation. By utilizing previously disturbed areas, existing utility corridors, county roads, railroads, and highway ROW, adverse impacts to fish and wildlife resources would be mitigated by avoiding and/or minimizing impacts to undisturbed habitats. A copy of *TPWD Recommendations for Electrical Transmission Distribution Line Design and Construction*, which include general recommendations for transmission line construction are available online at TPWD's Wildlife Habitat Assessment Program website.

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Federal Regulations

Clean Water Act

Section 404 of the Clean Water Act (CWA) establishes a federal program to regulate the discharge of dredged and fill material into waters of the U.S., including wetlands. The U.S. Army Corps of Engineers (USACE) and the Environmental Protection Agency (EPA) are responsible for making jurisdictional determinations and regulating wetlands and other waters under Section 404 of the CWA.

TPWD identified several aquatic resources in the project study area. These include:

- Leon Creek
- Pecan Creek
- Helotes Creek
- Chimenea Creek
- Los Reyes Creek
- Rundale Spring
- Morales Spring

as well as named and unnamed springs and ponds, potential wetlands and other features, which may be natural or manmade.

Recommendation: TPWD recommends developing a route for the proposed transmission line that avoids or minimizes the number of water body crossings. All waterways and associated floodplains, riparian corridors (including those established along manmade water features) and wetlands, regardless of their jurisdictional status, provide valuable wildlife habitat and should be preserved to the maximum extent possible. Natural buffers contiguous to any wetland or aquatic system should remain undisturbed to preserve wildlife cover, food sources, and travel corridors. Transmission line support structures should be located as far from waterbodies as possible to preserve riparian vegetation.

Waterways in the study area, including those that have been manipulated or are completely manmade, provide habitat for wildlife. The destruction of inert microhabitats in waterways such as snags, brush piles, fallen logs, creek banks, pools and gravel stream bottoms should be avoided, as these provide habitat for a variety of fish and wildlife species and their food sources. Necessary waterway crossings should be made perpendicular to channels to minimize disturbance of riparian habitat.

Best management practices (BMPs) for erosion control and sediment runoff should be installed prior to construction and maintained until disturbed areas

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are permanently revegetated using site-specific native vegetation. BMPs should be properly installed in order to effectively minimize the amount of sediment and other debris entering the waterways. During construction, trucks and equipment should use existing bridge or culvert structures to cross waterways, ponds or depressional wetlands, and equipment staging areas should be located in previously disturbed areas away from aquatic areas and outside of riparian corridors.

If the proposed project would impact waterways or associated wetlands, TPWD recommends consulting with the USACE for potential impacts to waters of the U.S. including jurisdictional determinations, delineations, and mitigation.

Migratory Bird Treaty Act

The Migratory Bird Treaty Act (MBTA) prohibits direct and affirmative purposeful actions that reduce migratory birds, their eggs, or their nests, by killing or capturing, to human control, except when specifically authorized by the Department of the Interior. This protection applies to most native bird species, including ground nesting species. Additional information regarding the MBTA is available from the U.S. Fish and Wildlife Service (USFWS)-Southwest Regional Office (Region 2) at (505) 248-7882.

Review of aerial photography and the Ecological Mapping Systems of Texas (EMST), indicate that, overall, the study area consists primarily of Edwards Plateau: Live Oak Motte and Woodland, Ashe Juniper Motte and Woodland, and Ashe Juniper-Live Oak Shrubland. Habitats within the proposed project area are diverse, including woodlands, shrublands, and grasslands that provide suitable habitat for wildlife species. Available habitats may provide cover, feeding, nesting and loafing habitat for many species of birds. Additionally, the project area is in the middle of the Central Migratory Flyway through which millions of birds pass during spring and fall migration.

Recommendation: TPWD recommends identifying existing utility corridors or other previously disturbed areas (e.g., existing roads, utility corridors or easements) to parallel the proposed transmission line. The location of the transmission line should avoid bisecting bird roosting and feeding areas that are identified during pre-construction avian surveys which TPWD recommend be conducted. Additionally, TPWD recommends scheduling any vegetation clearing or trampling to occur outside of the March 15 - September 15 migratory bird nesting season in order to comply with the MBTA.

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If vegetation clearing must be scheduled to occur during the nesting season, TPWD recommends the vegetation to be impacted should be surveyed for active nests by a qualified biologist. Nest surveys should be conducted no more than five days prior to the scheduled clearing to ensure recently constructed nests are identified. If active nests are observed during surveys, TPWD recommends a 150-foot buffer of vegetation remain around the nests until the young have fledged or the nest is abandoned.

The potential exists for birds to collide with transmission lines and associated guy wires and static lines. Bird fatalities can also occur due to electrocution if perching birds simultaneously make contact with energized and grounded structures.

Recommendation: TPWD strongly recommends that transmission lines should be marked with line markers or bird flight diverters to reduce the potential of birds flying into the lines. Line alterations to prevent bird electrocutions should not necessarily be implemented *after* such events occur as all electrocutions may not be known or documented. Incorporation of preventative measures along portions of the routes that are most attractive to birds (as indicated by frequent sightings) prior to any electrocutions is a much preferred alternative

TPWD recommends the transmission line design should utilize avian safety features described in the revised:

Avian Power Line Interaction Committee (APLIC). 2012. *Reducing Avian Collisions with Power Lines: The State of the Art in 2012*. Edison Electric Institute and APLIC. Washington, D.C.

In particular, the overhead ground wire should be marked with line markers to increase its visibility. Additional recommendations are available in the document entitled, “*TPWD Recommendations for Electrical Transmission Distribution Line Design and Construction*” available on TPWD’s website.

Endangered Species Act

Federally-listed animal species and their habitat are protected from take on any property by the Endangered Species Act (ESA). Take of a federally-listed species can be allowed if it is incidental to an otherwise lawful activity and must be permitted in accordance with Section 7 or 10 of the ESA. Federally-listed plants are not protected from take except on lands under federal/state jurisdiction or for which a federal/state nexus (i.e., permits or funding) exists. Any take of a federally-

Ms. Lisa Barko Meaux
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listed species or its habitat without the required take permit (or allowance) from the USFWS is a violation of the ESA.

Recommendation: TPWD recommends that the EA identify federally-listed and candidate species with potential to occur within the study area. TPWD recommends POWER conduct site surveys of the route alternatives to identify suitable habitat for federally-listed species, to assess potential impacts to federally-listed species and their habitat, and to determine route adjustments that would assist in avoiding or minimizing adverse impacts to federally-listed or candidate species and their habitats.

If impact to a federally-listed species or its habitat is anticipated, TPWD recommends POWER consult with the USFWS-Ecological Services office in Austin pursuant to the ESA. The USFWS should be contacted for additional species occurrence data, guidance, permitting, survey protocols, and mitigation for federally-listed species.

Karst invertebrates

The southern half of the project study area is located in karst habitat. Portions are located in Karst Zones 1 and 2, defined as areas known to contain endangered karst invertebrate species and areas having a high probability of containing suitable habitat for endangered karst invertebrate species, respectively. Additionally, a portion of the project study area overlaps a karst invertebrate critical habitat unit (Unit #22). Approximately one-third of the proposed project study area is located in Karst Zones 3 and 4. Karst invertebrates are troglobites, spending their entire lives underground, inhabiting caves and mesocavernous voids in karst limestone. Surface activities that may fill voids, cap or seal cave entrances, alter surface vegetation or alter drainage patterns can affect karst invertebrates. Excavations on the surface to construct foundations for transmission line poles could inadvertently alter subsurface cave habitat.

Recommendation: The USFWS has developed a five-step approach for determining if karst invertebrates may be present in a project area. More information and the karst survey protocol are available online at the USFWS, Ecological Services Southwest Region-Austin website. TPWD recommends contacting the USFWS-Ecological Services Office in Austin (512-490-0057) regarding appropriate measures to take to ensure potential impacts to karst invertebrates are avoided and/or minimized. At a minimum, a survey should be conducted by a qualified karst geologist or karst biologist with demonstrated experience identifying karst features.

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Golden-cheeked warbler

There are several Texas Natural Diversity Database (TXNDD) records for the golden-cheeked warbler located in the areas surrounding the project area. Golden-cheeked warbler's nest only in Central Texas in mixed ashe juniper and oak woodlands on slopes and in ravines and canyons. They eat insects and spiders found on the leaves and bark of oaks and other trees and use long strips of ashe juniper bark and spider webs to build their nests. They come to Texas in March to nest and raise their young and leave in July to spend the winter in Mexico and Central America.

Recommendation: Prior to any vegetation clearing, TPWD recommends surveying for suitable golden-cheeked warbler habitat within the project area according to USFWS guidelines, including a 300-foot buffer of the project site boundary. Even if habitat for these species would not be directly impacted by vegetation removal, if nesting pairs are present in the surrounding vegetation, they could be disrupted by noise and activity during construction. Because the definition of take in the ESA includes harming or harassing a listed species, this disturbance could constitute a violation of the ESA. If suitable habitat for this species is present within the project area, TPWD recommends assuming presence for the species and conducting project activities outside of the breeding and nesting season in any area where suitable habitat may occur (with the appropriate authorization from the USFWS). TPWD recommends coordinating this project with the USFWS for species occurrence data, guidance, permitting, survey protocols, and mitigation for this federally-listed species. If the USFWS determines that suitable habitat is present and that there is a possibility for "take", TPWD recommends enrolling in the Southern Edwards Plateau Habitat Conservation Plan (SEP-HCP).

State Regulations

Parks and Wildlife Code

Nongame Birds

State law prohibits any take or possession of nongame birds, including their eggs and nests. Laws and regulations pertaining to state-protection of nongame birds are contained in Chapter 64 of the Texas Parks and Wildlife (TPW) Code; specifically, Section 64.002 provides that no person may catch, kill, injure, pursue, or possess a bird that is not a game bird. TPW Code Section 64.003, regarding destroying nests or eggs, provides that, no person may destroy or take the nests, eggs, or young and

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any wild game bird, wild bird, or wild fowl. TPW Code Chapter 64 does not allow for incidental take and therefore is more restrictive than the MBTA.

Although not documented in the TXNDD, many bird species which are not listed as *threatened* or *endangered* are protected by Chapter 64 of the TPW Code and are known to be year-round or seasonal residents or seasonal migrants through the proposed project area.

Recommendation: Please review the *Federal Regulations: Migratory Bird Treaty Act* section above for recommendations as they are applicable for Chapter 64 of the Parks and Wildlife Code compliance.

State-listed Species

State law prohibits the capture, trap, take or kill (incidental or otherwise) of state-listed species. Laws and regulations pertaining to state-listed endangered or threatened animals are contained in Chapters 67 and 68 of the Texas Parks and Wildlife (TPW) Code; laws pertaining to endangered or threatened plants are contained in Chapter 88 of the TPW Code. There are penalties, which may include fines and/or jail time in addition to payment of restitution values, associated with take of state-listed species. Please see "Laws and Regulations Applicable to TPWD Review" that are available online at TPWD's Wildlife Habitat Assessment Program website.

For purposes of relocation, surveys, monitoring, and research, terrestrial state-listed species may only be handled by persons permitted through the TPWD Wildlife Permits Program. For more information regarding Wildlife Permits, please visit TPWD's Wildlife Permits website. For the above-listed activities that involve aquatic species please contact the TPWD Kills and spills Team (KAST) for the appropriate authorization.

The potential occurrence of state-listed species in the project area is primarily dependent upon the availability of suitable habitat. Direct impacts to high quality or suitable habitat therefore are directly proportional to the magnitude and potential to directly impact state-listed species. State-listed reptiles that are typically slow moving or unable to move due to cool temperatures are especially susceptible to being directly impacted during ROW clearing and construction of the transmission line.

Recommendation: TPWD recommends reviewing the most current TPWD annotated county lists of rare species for Bexar County, as state-listed species could be present depending upon habitat availability. These lists are available

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online at the TPWD Wildlife Diversity website. Environmental documents prepared for the project should include an inventory of existing natural resources within the alternative transmission line routes. As with federally-listed species, specific evaluations should be designed to predict project impacts upon these natural resources including potential impacts to state-listed species.

The following General Construction Recommendations are provided to assist in project planning and to avoid and/or minimize potential impacts to wildlife, including state-listed species.

Recommendation: In general, TPWD recommends the judicious use and placement of sediment control fence to exclude wildlife from areas to be disturbed. In many cases, sediment control fence placement for the purposes of controlling erosion and protecting water quality can be modified minimally to also provide the benefit of excluding wildlife access to construction areas. The exclusion fence should be buried at least six inches and be at least 24 inches high. The exclusion fence should be maintained for the life of the project and only be removed after the project activities are completed and the disturbed sites have been revegetated or otherwise stabilized. Construction personnel should be encouraged to examine the inside of the exclusion area daily to determine if any wildlife species have been trapped inside the area of impact and provide safe egress opportunities prior to initiation of construction activities. Regarding trenches or excavations for support structure foundations, etc., TPWD recommends that any open trenches or deep excavation areas be covered overnight and/or inspected every morning to ensure no wildlife species have been trapped. For open trenches and excavated areas, escape ramps should be installed at an angle of less than 45 degrees (1:1) in excavated areas that will allow trapped wildlife to climb out on their own. If any state-listed species are trapped in trenches or excavated areas, they should be removed by personnel permitted by TPWD to handle state-listed species.

Recommendation: For soil stabilization and/or revegetation of disturbed areas within the proposed project area, TPWD recommends erosion and seed /mulch stabilization materials that avoid entanglement hazards to snakes and other wildlife species. Because the mesh found in many erosion control blankets or mats pose an entanglement hazard to wildlife, TPWD recommends the use of no-till drilling, hydromulching and/or hydroseeding due to a reduced risk to wildlife. If erosion control blankets or mats would be used, the product should contain no netting or contain loosely woven, natural fiber netting in which the mesh design allows the threads to move, therefore allowing expansion of the mesh openings. Plastic mesh matting should be avoided.

Ms. Lisa Barko Meaux
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The following state-listed species have the potential to occur within the study area if suitable habitat is available:

Cascade Caverns salamander (*Eurycea latitans*)
Black-capped vireo (*Vireo atricapilla*)
Black bear (*Ursus americanus*)
Texas horned lizard (*Phrynosoma cornutum*)

Cascade Caverns salamander

The TXNDD identified an occurrence of the Cascade Caverns salamander within or near the proposed project's study area. This species is subaquatic, occurring in springs and caves within the Edwards Aquifer area.

Recommendation: Please review the *Federal Regulations Clean Water Act* section above for recommendations as they are applicable as BMPs that would minimize potential negative impacts to amphibians including the Cascade Caverns salamander.

Black-capped vireo

Black-capped vireos occur in oak-juniper woodlands in central Texas. The TXNDD identified multiple occurrences of the black-capped vireo in the proposed project's study area. Although removed from federal listing, the black-capped vireo remains state-listed endangered.

Recommendation: Please review the *Federal Regulations Migratory Bird Treaty Act* section above for recommendations as they are applicable for Chapter 64 of the Parks and Wildlife Code compliance.

Black bear

Historically, black bears occurred in the mountainous Trans-Pecos region of west Texas. However, over the past 15 years, black bear populations have increased and expanded into the western portions of the Edwards Plateau and South Texas Plains. There has been an increase in black bear observations reported between the Big Bend area and Maverick County in recent years. A black bear occurrence within the project study area has been documented in the TXNDD.

Recommendation: Black bears are typically shy and elusive. They use travel corridors to move between feeding areas and bedding areas. In order to avoid attracting black bears to work areas, garbage containers, particularly if they

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contain food waste, should have lids that can be secured. If a black bear is observed within the study area, TPWD requests that the observation be reported to TPWD mammologist Jonah Evans at (830) 331-8739. For more information, please see the black bear fact sheet available on the TPWD website.

Texas horned lizard

Suitable habitat for the Texas horned lizard may occur within the project area. The Texas horned lizard can be found in open, arid, and semi-arid regions with sparse vegetation, including grass, scattered brush or scrubby trees.

If present in the project area, the Texas horned lizard could be impacted by ground disturbing activities, including ROW clearing. A useful indication that the Texas horned lizard may occupy the area is the presence of Harvester ant (*Pogonomyrmex* sp.) nests as they are the primary food source of horned lizards. Texas horned lizards may hibernate on-site in loose soils a few inches below ground during the cooler months from September/October to March /April. Construction in these areas could harm hibernating lizards. Horned lizards are active above ground when temperatures exceed 75 degrees Fahrenheit. If horned lizards (nesting, gravid females, newborn young, lethargic from cool temperatures or hibernation) cannot move away from noise and approaching construction equipment, they could be negatively affected by construction activities.

Recommendation: TPWD recommends developing routes that avoid high quality or suitable habitat for state-listed species, if possible. TPWD recommends that a pre-construction survey be conducted to determine if horned lizards are present within the preferred transmission line corridor. As stated above, a useful indicator of potential occupancy is the presence of Harvester ants. Surveys should be conducted during warmer months of the year when horned lizards are active.

TPWD recommends avoiding disturbance of the Texas horned lizard and colonies of the Harvester ant during clearing and construction. TPWD recommends a permitted biological monitor be present during construction to attempt to capture and relocate Texas horned lizards if found. If the presence of a biological monitor is not feasible, state-listed species observed during construction should be allowed to safely leave the site on their own.

Species of Concern

In addition to state- and federally-protected species, TPWD tracks special features, natural communities, species of concern (SOC), and species of greatest

Ms. Lisa Barko Meaux
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conservation need (SGCN) in the TXNDD and actively promotes their conservation. TPWD considers it important to evaluate and, if necessary, minimize impacts to rare species and their habitat to reduce the likelihood of endangerment.

Based on a review of TXNDD information and aerial photographs of the area, the following SOC's and vegetation communities have potential to occur within the study area if suitable habitat is available:

- Strecker's chorus frog (*Pseudacris streckeri*)
- Texas salamander (*Eurycea neotenes*)
- Western hog-nosed skunk (*Conepatus leuconotus*)
- Tricolored bat (*Perimyotis subflavus*)
- Common garter snake (*Thamnophis sirtalis*)
- Bracted twistflower (*Streptanthus bracteatus*)
- Glass Mountains coral-root (*Hexalectris nitida*)
- Heller's marbleseed (*Onosmodium helleri*)

Rookery

The TXNDD is intended to assist users in avoiding harm to rare species or significant ecological features. Given the small proportion of public versus private land in Texas, the TXNDD does not include a representative inventory of rare resources in the state. Absence of information in an area does not imply that a species is absent from that area. Although it is based on the best data available to TPWD regarding rare species, the data from the TXNDD do not provide a definitive statement as to the presences, absence or condition of special species, natural communities, or other significant features within your project area. These data are not inclusive and **cannot be used as presence/absence data**. They represent species that could potentially be in your project area. This information cannot be substituted for on-the-ground surveys. The TXNDD date is updated continuously based on new, updated and undigitized records; therefore, TPWD recommends requesting the most recent TXNDD data on a regular basis. TXNDD data can be requested through the TXNDD website.

Please be aware that determining the actual presence of a species in a given area depends on many variables including daily and seasonal activity cycles, environmental activity cues, preferred habitat, transiency and population density (both wildlife and human). The absence of a species can be demonstrated only with great difficulty and then only with repeated negative observations, taking into account all the variable factors contributing to the lack of detectable presence.

Ms. Lisa Barko Meaux
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August 1, 2019

Numerous plant species designated "SGCN" or "SOC" are included on the Annotated County List of Rare Species for Bexar County.

Recommendation: Please review the TPWD county list for Bexar County as rare species, including plant species, in addition to those listed above could be present, depending on the availability of suitable habitat. TPWD recommends that surveys for the presence of rare plant species should be conducted along the alternative routes that are developed or selected for the project. Plant surveys should be conducted by qualified botanists familiar with the rare plant species of Texas.

Vegetation

Based on data from TPWD's high resolution land classification map, the EMSI (attached), the project area consists of the following vegetation types:

- Barren
- Edwards Plateau: Ashe Juniper-Live Oak Shrubland
- Edwards Plateau: Ashe Juniper Motte and Woodland
- Edwards Plateau: Ashe Juniper-Live Oak Slope Shrubland
- Edwards Plateau: Ashe Juniper Slope Forest
- Edwards Plateau: Deciduous Oak-Evergreen Motte and Woodland
- Edwards Plateau: Floodplain Ashe Juniper Forest
- Edwards Plateau: Floodplain Hardwood-Ashe Juniper Forest
- Edwards Plateau: Floodplain Hardwood Forest
- Edwards Plateau: Floodplain Herbaceous Vegetation
- Edwards Plateau: Floodplain Live Oak Forest
- Edwards Plateau: Live Oak Motte and Woodland
- Edwards Plateau: Live Oak Slope Forest
- Edwards Plateau: Oak-Ashe Juniper Slope Forest
- Edwards Plateau: Oak-Hardwood Motte and Woodland
- Edwards Plateau: Oak-Hardwood Slope Forest
- Edwards Plateau: Post Oak Motte and Woodland
- Edwards Plateau: Riparian Ashe Juniper Forest
- Edwards Plateau: Riparian Ashe Juniper Shrubland
- Edwards Plateau: Riparian Deciduous Shrubland
- Edwards Plateau: Riparian Hardwood-Ashe Juniper Forest
- Edwards Plateau: Riparian Hardwood Forest
- Edwards Plateau: Riparian Herbaceous Vegetation
- Edwards Plateau: Riparian Live Oak Forest
- Edwards Plateau: Savanna Grassland

Ms. Lisa Barko Meaux
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- Edwards Plateau, Shin Oak Shrubland
- Edwards Plateau: Shin Oak Slope Shrubland
- Native Invasive: Deciduous Woodland
- Native Invasive: Juniper Shrubland
- Native Invasive: Juniper Woodland
- Native Invasive: Mesquite Shrubland
- Row Crops
- Urban High Intensity
- Urban Low Intensity

Additional information about the EMST, including a link to download shapefiles of the vegetation types, and an interactive mapping tool are available at the TPWD website.

Habitat fragmentation is defined as the separation of a block of habitat for a species into segments, such that the genetic or demographic viability of the populations surviving in the remaining habitat segments is reduced. In many cases, site clearing, access roads, and transmission line ROW remove habitat and displace some species of wildlife, and may fragment continuous habitat into smaller, isolated tracts. Habitat fragmentation is of particular concern for species that require large expanses of habitat for activities such as breeding and foraging.

Consequences of isolating local populations of some species include decreased reproductive success, reduced genetic diversity, and increased susceptibility to chance events (e.g., disease and natural disasters), which may lead to extirpation or local extinctions. In addition to displacement, development of cleared transmission line corridors may result in the additional loss of habitat for some species due to edge effects. Edge effects occur when there is a break-up of continuous stands of similar vegetation. This results in an interface (edge) between two or more types of vegetation. The extent of edge effects will vary by species and may result in adverse impacts from such effects as a greater susceptibility to colonization by invasive species, increased risk of predation, and competing species that favor landscapes with a mosaic of vegetation.

Much of the proposed project area consists of large areas of minimally developed woodlands and shrublands representing suitable habitat for many species of wildlife.

Recommendation: TPWD recommends developing links that avoid minimally fragmented tracts of land within the study area. If any links for any proposed routes must occur in dense shrubland or woodland habitat, they should parallel

Ms. Lisa Barko Meaux
Page 14
August 1, 2019

existing transmission lines and/or share a portion of existing infrastructure ROW.

Unavoidable removal of vegetation should be mitigated by revegetating disturbed areas with site specific native plant species where feasible. The replacement of native plants will help control erosion, provide habitat for wildlife, and provide native species an opportunity to compete with undesirable, non-native, invasive plant species.

Lists of suitable plants and seed sources can be obtained by contacting the U.S. Department of Agriculture-Natural Resource Conservation Service (USDA-NRCS) Plant Materials Center in Kingsville, Texas through their website or 361-595-1313, or the Lady Bird Johnson Wildflower Center. Information regarding the importance of native vegetation in revegetation or restoration activities, suitable seed mixes for South Texas, and seed availability are available from South Texas Natives, a part of the Caesar Kleberg Wildlife Research Institute at Texas A&M University-Kingsville.

As previously stated, the proposed project area consists primarily of woodlands and shrublands.

Recommendation: TPWD recommends developing routes consisting of segments that do not require extensive woody vegetation removal. If routes do require clearing vegetation, TPWD recommends that when preparing any ROW or easements for construction of the transmission line, vegetation should be removed with a flail mower instead of a bulldozer to preserve cover crops of grass and low growing brush or understory shrubs. Cleared vegetation should be mulched and spread out over the ROW or given to the landowner. With landowner consent, any large trees or shrubs removed from the ROW should be used to construct brush piles outside of the cleared ROW. Created brush piles can provide cover and nesting habitat for wildlife and replace habitat lost due to clearing trees in the ROW.

As stated above, for herbaceous revegetation efforts in the ROW, TPWD recommends the exclusive use of a mixture of native grasses and forbs. While some of the introduced grasses that may be presently growing in or adjacent to the ROW and some pastures that may be traversed by the proposed transmission line can provide suitable forage for livestock and some species of wildlife with proper management, they are introduced species that typically develop into monotypic stands of vegetation that do not provide high quality grassland habitat able to support a diversity of wildlife species. TPWD recommends that native grasses having the same desirable characteristics as introduced grasses

Ms. Lisa Barko Meaux
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August 1, 2019

commonly use in revegetation plans be incorporated into project planning and implemented following construction.

Lists of suitable plants and seed sources were listed above.

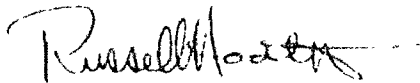
Monarch Conservation Plan

Significant declines in the population of migrating monarch butterflies (*Danaus plexippus*) have led to widespread concern about this species and the long-term persistence of the North American monarch migration. As part of an international conservation effort, TPWD has developed a Texas Monarch and Native Pollinator Conservation Plan. One of the broad categories of action in the plan is to augment larval feeding and adult nectaring opportunities. The plan is available on TPWD's website.

Recommendation: For disturbed sites within the monarch migration corridor and for landscaping opportunities in urban settings, TPWD recommends revegetation efforts include planting or seeding native milkweed (*Asclepias* spp.) and nectar plants as funding and seed availability allow. Where appropriate and sustainable, TPWD recommends landscaping plans incorporate monarch-friendly plants. Information about monarch biology, migration, and butterfly gardening can be found on the Monarch Watch website.

TPWD advises review and implementation of these recommendations in the preparation of the environmental document for the project. Please contact me at (361) 825-3240 or russell.hooten@tpwd.texas.gov if you have any questions or we may be of further assistance.

Sincerely,



Russell Hooten
Wildlife Habitat Assessment Program
Wildlife Division

/rh 42121

cc: Karen Hubbard, Public Utilities Commission of Texas

From: [Meaux, Lisa](#)
To: [Russell Hooten](#)
Subject: RE: TPWD Review (#42121) CPS Scenic Loop 138-kV Bexar Co.
Date: Friday, August 02, 2019 8:47:00 AM

Thanks Russell, we appreciate your time to provide comments.
Lisa

LISA BARKO MEAUX
PROJECT MANAGER
ENVIRONMENTAL DEPARTMENT MANAGER
16825 Northchase Drive, Suite 1200
Houston, Texas 77060

281-765-5507 direct
713-962-8476 cell
lisa.barko@powereng.com

POWER Engineers, Inc.
www.powereng.com

From: Russell Hooten <Russell.Hooten@tpwd.texas.gov>
Sent: Thursday, August 01, 2019 3:27 PM
To: Meaux, Lisa <lisa.barko@powereng.com>
Cc: Russell Hooten <Russell.Hooten@tpwd.texas.gov>
Subject: TPWD Review (#42121) CPS Scenic Loop 138-kV Bexar Co.

Hi Lisa,

TPWD's comments regarding the project referenced in the Subject line above are attached. Please contact me with any questions.

Russell

Russell Hooten
Wildlife Habitat Assessment Program
TPWD-Wildlife Division
6300 Ocean Drive, NRC 2501
Unit 5846
Corpus Christi, TX 78412
361-825-3240
russell.hooten@tpwd.texas.gov

From: [Russell Hooten](#)
To: [Meaux, Lisa](#)
Cc: [Russell Hooten](#)
Subject: TPWD Review (#42121) CPS Scenic Loop 138-kV Bexar Co.
Date: Thursday, August 01, 2019 3:27:00 PM
Attachments: [WL42121_CPS_ScenicLoop_138kV_Bexar_C_08-01-2019.pdf](#)

Hi Lisa,

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Russell

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Wildlife Habitat Assessment Program
TPWD-Wildlife Division
6300 Ocean Drive, NRC 2501
Unit 5846
Corpus Christi, TX 78412
361-825-3240
russell.hooten@tpwd.texas.gov

Rasmussen, Kirk

From: Rasmussen, Kirk
Sent: Wednesday, July 8, 2020 6:09 PM
To: laura.zebehazy@tpwd.texas.gov
Cc: Todd.George@tpwd.texas.gov
Subject: Electric Utility CCN Application

Ms. Zebehazy,

I represent CPS Energy. We are working with them to prepare an application for an electric transmission line CCN amendment in the coming weeks. Is it appropriate to address the notice correspondence to your attention? As you will see in the letter when it is filed, I would be happy to arrange a meeting or virtual meeting between TPWD and CPS Energy to discuss the project at your convenience after the filing.

Kirk Rasmussen | Partner
100 Congress Avenue Suite 1100 | Austin, TX | 78701
V: (512) 236-2310 | C: (512) 968-4566 | F: (512) 236-2002 | krasmussen@jw.com



Rasmussen, Kirk

From: Laura Zebehazy <Laura.Zebehazy@tpwd.texas.gov>
Sent: Thursday, July 9, 2020 9:07 AM
To: Rasmussen, Kirk
Cc: Todd George
Subject: RE: Electric Utility CCN Application
Attachments: Program Map_website_20200116.pdf

****RECEIVED FROM EXTERNAL SENDER – USE CAUTION****

Good morning, Mr. Rasmussen,

Yes, it is appropriate to address the notice correspondence to my attention. Once we receive the notice, the project will be assigned to one of my staff depending on the location of the project. I have attached my program's area of responsibility map to this email so you can see in advance which biologist will be reviewing and commenting on this project. You can work with that biologist and Todd George on setting up a meeting to discuss this project further. I am happy to join as well, if warranted.

Please let me know if you have any questions.

Sincerely,

Laura Zebehazy, CWB
Program Leader
TPWD – Wildlife Habitat Assessment Program
Phone: (512)389-4638

From: Rasmussen, Kirk
Sent: Wednesday, July 8, 2020 6:09 PM
To: Laura Zebehazy
Cc: Todd George
Subject: Electric Utility CCN Application

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Kirk Rasmussen | Partner
100 Congress Avenue Suite 1100 | Austin, TX | 78701

CPS Energy
PUC Docket 51023
Patrick Cleveland Set 1

Attachment Cleveland 1-9

V: (512) 236-2310 | C: (512) 968-4566 | F: (512) 236-2002 | krasmussen@jw.com



Wildlife Habitat Assessment Program - Staff Directory by Area of Responsibility

TPWD Transportation Staff (statewide responsibility):

Suzanne Walsh
 Transportation Conservation Coordinator
 (512) 389-4579
suzanne.walsh@tpwd.texas.gov

VACANT
 Transportation Assessment Liaison

Laura Zebehazy
 Program Leader
 (512) 389-4638
laura.zebehazy@tpwd.texas.gov

John Ney
 Administrative Assistant
 (512) 389-4571
john.ney@tpwd.texas.gov

CPS Energy
 PUC Docket 51023
 Patrick Cleveland Set 1

 **Rick Hanson**
 (806) 761-4936
richard.hanson@tpwd.texas.gov

 **Jessica Schmerler**
 (512) 389-8054
jessica.schmerler@tpwd.texas.gov

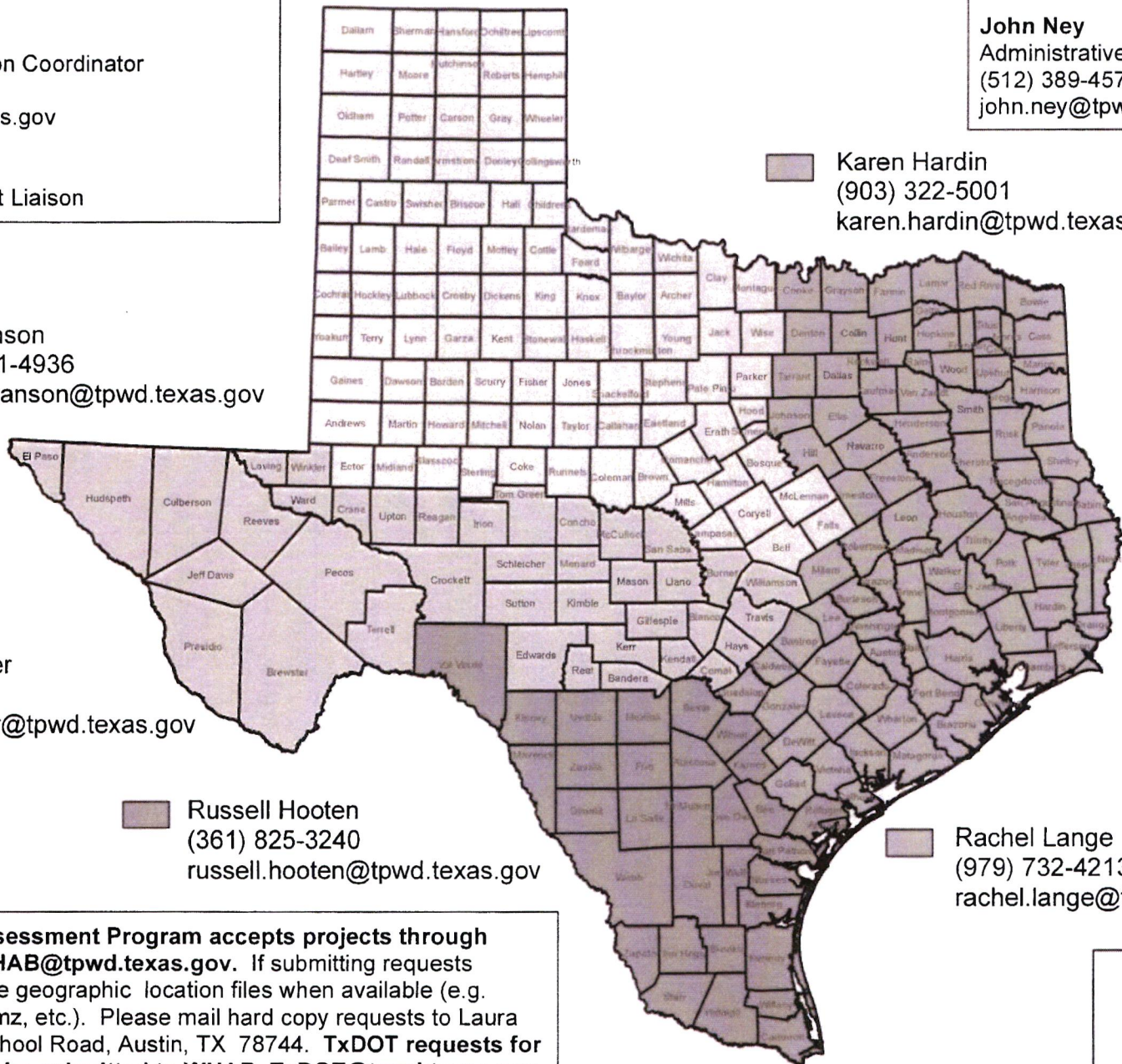
 **Russell Hooten**
 (361) 825-3240
russell.hooten@tpwd.texas.gov

 **Karen Hardin**
 (903) 322-5001
karen.hardin@tpwd.texas.gov

 **Rachel Lange**
 (979) 732-4213
rachel.lange@tpwd.texas.gov

Attachment Cleveland 1-9

TPWD Wildlife Habitat Assessment Program accepts projects through electronic submittal to WHAB@tpwd.texas.gov. If submitting requests electronically, please include geographic location files when available (e.g. unzipped GIS shape file, .kmz, etc.). Please mail hard copy requests to Laura Zebehazy at 4200 Smith School Road, Austin, TX 78744. **TxDOT requests for early coordination should be submitted to WHAB_TxDOT@tpwd.texas.gov.**



Rasmussen, Kirk

From: Rasmussen, Kirk
Sent: Wednesday, July 22, 2020 10:36 AM
To: Laura Zebehazy
Cc: Todd George
Subject: Re: Electric Utility CCN Application

Is there a place to hand deliver the application to TPWD or does it have to be mailed?

Kirk

On Jul 9, 2020, at 9:06 AM, Laura Zebehazy wrote:

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Sincerely,

Laura Zebehazy, CWB

Program Leader

TPWD – Wildlife Habitat Assessment Program

Phone: (512)389-4638

From: Rasmussen, Kirk

Sent: Wednesday, July 8, 2020 6:09 PM

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Cc: Todd George

Subject: Electric Utility CCN Application

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Rasmussen, Kirk

From: Laura Zebehazy <Laura.Zebehazy@tpwd.texas.gov>
Sent: Wednesday, July 22, 2020 3:04 PM
To: Rasmussen, Kirk
Cc: Todd George
Subject: RE: Electric Utility CCN Application

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Before the pandemic, you could deliver things to the front desk of TPWD HQ in Austin and then my administrative assistant would come down to pick up. However, that option is not possible right now because our building is essentially closed to the general public. If it is possible to send an email with a link to a file cloud service or ftp site that would be very convenient for logging into our project tracking database. You can email our dedicated email inbox at WHAB@tpwd.texas.gov. Or mailing a CD/flash drive would suffice as well as long as it includes what you normally would hand deliver.

I apologize for the inconvenience!
Laura

Laura Zebehazy, CWB
Program Leader
TPWD – Wildlife Habitat Assessment Program
Phone: (512)389-4638

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TPWD – Wildlife Habitat Assessment Program
Phone: (512)389-4638

From: Rasmussen, Kirk <krasmussen@jw.com>
Sent: Wednesday, July 8, 2020 6:09 PM
To: Laura Zebehazy <Laura.Zebehazy@tpwd.texas.gov>
Cc: Todd George <Todd.George@tpwd.texas.gov>
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Rasmussen, Kirk

From: Rasmussen, Kirk
Sent: Wednesday, July 22, 2020 5:16 PM
To: Laura Zebehazy
Cc: Todd George; russell.hooten@tpwd.texas.gov
Subject: RE: Electric Utility CCN Application [IMAN-JWDOCS.FID4061346]

Thanks Laura. I went ahead and had the complete application sent to you via FedEx. It should be there tomorrow. In the meantime, the complete application is on the PUC interchange and on the CPS Energy website:

<https://www.cpsenergy.com/en/about-us/new-infrastructure/scenic-loop-project.html>

Based on the map you sent previously, as the project is wholly within Bexar County, I believe that is within Mr. Hooten's area of responsibility. I also sent him a copy of the letter (and cc'd him on this email) so that he's aware of the filing. After you have had a chance to review, if you would like to arrange a meeting or a virtual meeting to discuss any aspects of the application and filing, I would be happy to make the arrangements. Also, we anticipate this docket may be fairly hotly contested. There is golden-cheek warbler habitat, karst features, a conservation easement with a military interest of the Army and Air Force, and a potential conservation easement area with a potential state or local interest. If there's anything you need, please do not hesitate to reach out.

Kirk Rasmussen
512-968-4566

From: Laura Zebehazy
Sent: Wednesday, July 22, 2020 3:04 PM
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Cc: Todd George
Subject: RE: Electric Utility CCN Application

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Please let me know if you have any questions.

Sincerely,

Laura Zebehazy, CWB
Program Leader
TPWD – Wildlife Habitat Assessment Program
Phone: (512)389-4638

From: Rasmussen, Kirk <krasmussen@jw.com>
Sent: Wednesday, July 8, 2020 6:09 PM
To: Laura Zebehazy <Laura.Zebehazy@tpwd.texas.gov>
Cc: Todd George <Todd.George@tpwd.texas.gov>
Subject: Electric Utility CCN Application

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Ms. Zebehazy,

I represent CPS Energy. We are working with them to prepare an application for an electric transmission line CCN amendment in the coming weeks. Is it appropriate to address the notice correspondence to your attention? As you will see in the letter when it is filed, I would be happy to arrange a meeting or

virtual meeting between TPWD and CPS Energy to discuss the project at your convenience after the filing.

Kirk Rasmussen | Partner
100 Congress Avenue Suite 1100 | Austin, TX | 78701
V: (512) 236-2310 | C: (512) 968-4566 | F: (512) 236-2002 | krasmussen@jw.com

Rasmussen, Kirk

From: Russell Hooten <Russell.Hooten@tpwd.texas.gov>
Sent: Tuesday, August 25, 2020 9:50 AM
To: Rasmussen, Kirk
Cc: Russell Hooten
Subject: RE: Electric Utility CCN Application [IMAN-JWDOCS.FID4061346]

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Hi Kirk,

I am in the process of reviewing the Scenic Loop 138-kV transmission line (Docket No. 51023) and have a request. Would it be possible to receive shapefiles of the primary links and/or routes to facilitate TPWD's review of the project? If not, that is OK, it just helps to be able to isolate individual routes in ArcGIS when evaluating them against specific environmental criteria. Thank you.

Sincerely,
Russell

Russell Hooten
Wildlife Habitat Assessment Program
TPWD-Wildlife Division
6300 Ocean Drive, NRC 2501
Unit 5846
Corpus Christi, TX 78412
361-825-3240
russell.hooten@tpwd.texas.gov

From: Rasmussen, Kirk
Sent: Wednesday, July 22, 2020 5:16 PM
To: Laura Zebehazy
Cc: Todd George ; Russell Hooten
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<https://www.cpsenergy.com/en/about-us/new-infrastructure/scenic-loop-project.html>

Based on the map you sent previously, as the project is wholly within Bexar County, I believe that is within Mr. Hooten's area of responsibility. I also sent him a copy of the letter (and cc'd him on this email) so that he's aware of the filing. After you have had a chance to review, if you would like to arrange a meeting or a virtual meeting to discuss any aspects of the application and filing, I would be happy to make the arrangements. Also, we anticipate this docket may be fairly hotly contested. There is golden-cheek warbler habitat, karst features, a conservation easement with a military interest

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512-968-4566

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Rasmussen, Kirk

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Sent: Tuesday, August 25, 2020 10:01 AM
To: Russell Hooten
Subject: RE: Electric Utility CCN Application [IMAN-JWDOCS.FID4061346]

Russell,

You should be receiving an email inviting you to a ShareFile room that has all of the shapefiles in it. If you are not able to get access or quickly find what you need, please let me know. Also, there is a file with the confidential archeology shapefiles in it. Please sign the protective order certification for the docket before accessing those files.

Thanks!

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512-968-4566

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CPS Energy
PUC Docket 51023
Patrick Cleveland Set 1

Attachment Cleveland 1-9

Kirk Rasmussen | Partner

100 Congress Avenue Suite 1100 | Austin, TX | 78701

V: (512) 236-2310 | C: (512) 968-4566 | F: (512) 236-2002 | krasmussen@jw.com

From: John Ney <John.Ney@tpwd.texas.gov>
Sent: Thursday, September 10, 2020 3:17 PM
To: Marin, Adam R
Cc: Russell Hooten
Subject: [InternetMail]PUC Docket 51023
Attachments: WL44546-PUC51023-CPS Energy Scenic Loop_138kV-BexarCo_routedcopy_20200909 - LETTERHEAD-signed-.pdf

Categories: Scenic Loop Project

EXTERNAL EMAIL: Do not click any links or open any attachments unless you trust the sender and know the content is safe.

Dear Adam Marin, CPS Energy:

Attached are TPWD's comments to PUC Docket 51023. The same document has been submitted to the PUC.

If you would like a hard copy of this document, please provide a mailing address for it to be sent.

Thank you,

John Ney
Administrative Assistant
Texas Parks & Wildlife Department
Wildlife Diversity Program - Habitat Assessment Program
4200 Smith School Road
Austin, TX 78744
Office: (512) 389-4571



September 10, 2020

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Lee M. Bass
Chairman Emeritus
Fort Worth

T. Dan Friedkin
Chairman Emeritus
Houston

Carter P. Smith
Executive Director

Ms. Rachelle Robles
Public Utility Commission
P.O. Box 13326
Austin, TX 78711-3326

RE: PUC Docket No. 51023: Application of the City of San Antonio through City Public Service Board to amend its Certificate of Convenience and Necessity for the proposed Scenic Loop 138-kilovolt Double-Circuit Transmission Line, Bexar County, Texas

Dear Ms. Robles:

Texas Parks and Wildlife Department (TPWD) has received and reviewed the Environmental Assessment and Alternative Route Analysis (EA) regarding the above-referenced proposed transmission line project. TPWD offers the following recommendations and comments concerning this project.

Please be aware that a written response to a TPWD recommendation or informational comment received by a state governmental agency may be required by state law. For further guidance, see the Texas Parks and Wildlife (TPW) Code, Section 12.0011. For tracking purposes, please refer to TPWD project number 44546 in any return correspondence regarding this project.

Project Description

The City of San Antonio, acting by and through City Public Service Board (CPS Energy), is proposing to construct a new double-circuit 138-kilovolt (kV) transmission line. The goal of the proposed Scenic Loop 138-kV electric transmission line is to connect the existing transmission grid to a proposed Scenic Loop Substation in the general area of the intersection of Scenic Loop Road and Toutant Beauregard Road. The footprint of the new substation would be between four and six acres and will be connected to the existing Ranchtown to Menger Creek 138-kV transmission line. Depending on the route selected, the transmission line would be approximately five to seven miles in length. CPS Energy proposes to use 138-kV double-circuit pole structures ranging in height from 70 to 130 feet tall. The project would be constructed within a 100-foot right-of-way (ROW).

CPS Energy retained POWER Engineers, Incorporated (POWER) to prepare an Environmental Assessment and Alternative Route Analysis (EA). The EA will support CPS Energy's application to amend its Certificate of Convenience and Necessity

4200 SMITH SCHOOL ROAD
AUSTIN, TEXAS 78744-3291
512.389.4800

www.tpwd.texas.gov

To manage and conserve the natural and cultural resources of Texas and to provide hunting, fishing and outdoor recreation opportunities for the use and enjoyment of present and future generations

000048

Ms. Rachelle Robles
Page 2
September 10, 2020

(CCN) for this project. The EA was prepared to provide information and address the requirements of Section 37.056(c)(4)(A)-(D) of the Texas Utilities Code, Public Utilities Commission (PUC) Procedural Rules Section 22.52(a)(4), PUC Substantive Rules Section 25.101, and the PUC CCN application form for the proposed transmission line.

Previous Coordination

TPWD's Wildlife Habitat Assessment Program provided information and recommendations regarding the preliminary study area for this project to POWER on August 1, 2019. This letter is included in Appendix A of the EA. The TPWD Texas Natural Diversity Database (TXNDD) provided rare resources data to POWER on April 4, 2019.

Comment: Please review the TPWD correspondence in Appendix A and consider the recommendations provided, as they remain applicable to the project as proposed.

Proposed Route

CPS Energy and POWER identified seven potential substation locations and developed 48 primary alternative segments that were used to develop 29 primary alternative routes that were filed with the CCN application. Each of the seven proposed alternative substation locations was incorporated into at least three alternative routes that were developed. Each primary alternative link was incorporated in at least one route. POWER evaluators did not recommend a route that best-balanced land use, ecological, and cultural factors. CPS Energy identified Route Z as the alternative route that best addresses the requirements of the Public Utility Regulatory Act (PURA) and the PUC's Substantive Rules.

The Application states the following primary reasons that led to the selection of Route Z:

- has the lowest cost of any of the 29 alternative routes, at \$38,330,469;
- is the shortest of any of the 29 alternative routes, at 4.58 miles;
- has a relatively high percentage of ROW parallel and adjacent to existing roadways and apparent property lines at 69%;
- has the second shortest length across upland woodland/brushland, at 3.59 acres;
- has a moderate area of ROW across golden-cheeked warbler modeled habitat designated as a 3-Moderate High and 4-High Quality, at 9.47 acres.

The EA failed to provide sufficient information based on surveys (aerial or field), remote sensing, modeling, or other available analysis techniques to determine which route would best minimize impacts to important, rare, and protected species. Therefore, TPWD's routing recommendation is based solely on the natural resource information

Ms. Rachelle Robles
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September 10, 2020

provided in the CCN amendment application and the EA, as well as publicly available information examined in a Geographic Information System (GIS).

Recommendation: Of the 29 alternative routes evaluated in the EA, Alternative Route AA appears to be the route that causes the least adverse impacts to natural resources. TPWD's primary recommendation to the PUC is to select a route that minimizes the fragmentation of intact lands because such a route should have the least adverse impacts to natural resources. TPWD believes the State's long-term interests are best served when new utility lines and pipelines are sited where possible in or adjacent to existing utility corridors, roads, or rail lines instead of fragmenting intact lands. Of the proposed routes, Route AA would appear to be the preferred route.

Alternative Route AA was selected as the recommended route primarily because it:

- is the fourth shortest route of the 29 alternative routes, at 4.77 miles (Route Z is the shortest at 4.58 miles);
- is the fourth shortest route across upland woodlands/bushlands; at 3.77 miles (Route Z is the shortest at 3.59);
- has a relatively high percentage of ROW parallel to other existing ROW at 39% (Route Y has the highest percentage at 58%, Route T has the lowest at 9%);
- is tied with Route J as having the fifth least amount of area of ROW across golden-cheeked warbler modeled habitat designated as 3-Moderate High and 4-High Quality, at 7.39 acres.
- is located almost entirely in Karst Zone 5, defined as cavernous and non-cavernous areas that do not contain endangered karst invertebrate species. Approximately 650 feet of the west end of the 4.77-mile long route occurs in Karst Zone 3, defined as areas that probably do not contain endangered karst species.

Federal Laws

Migratory Bird Treaty Act

The Migratory Bird Treaty Act (MBTA) prohibits direct and affirmative purposeful actions that reduce migratory birds, their eggs, or their nests, by killing or capturing, to human control, except when specifically authorized by the Department of the Interior. This protection applies to most native bird species, including ground nesting species.

Section 4.1.9 of the EA states, "If ROW clearing occurs during bird nesting seasons, potential impacts could occur within the ROW area related to migratory bird eggs and/or nestlings. Increases in noise and equipment activity levels during construction could also potentially disturb breeding or other activities of species nesting in areas immediately adjacent to the ROW." If ROW clearing is necessary during the nesting

Ms. Rachelle Robles
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season, CPS Energy stated they will ensure a qualified biologist conducts surveys for active nests prior to vegetation clearing.

Recommendation: TPWD recommends any PUC certificate preclude vegetation clearing activities during the general bird nesting season, March 15 through September 15, to avoid adverse impacts to birds. If clearing vegetation during the migratory bird nesting season is unavoidable, TPWD recommends CPS Energy survey the proposed route for active nests (nests with eggs or young), including ground nests. Nest surveys should be conducted no more than five days prior to the scheduled clearing to ensure recently constructed nests are identified. TPWD recommends that a minimum 150-foot buffer of vegetation remain around any nests that are observed prior to disturbance and occupied nests and buffer vegetation not be disturbed until the eggs have hatched and the young have fledged.

Also, please note, TPW Code Section 64.002, regarding protection of nongame birds, provides that no person may catch, kill, injure, pursue, or possess a bird that is not a game bird. TPW Code Section 64.003, regarding destroying nests or eggs, provides that no person may destroy or take the nests, eggs, or young and any wild game bird, wild bird, or wild fowl.

Endangered Species Act

Federally-listed animal species and their habitat are protected from take on any property by the Endangered Species Act (ESA). Take of a federally-listed species can be allowed if it is incidental to an otherwise lawful activity and must be permitted in accordance with Section 7 or 10 of the ESA. Federally-listed plants are not protected from take except on lands under federal/state jurisdiction or for which a federal/state nexus (i.e., permits or funding) exists. Any take of a federally-listed species or its habitat without the required take permit (or allowance) from the USFWS is a violation of the ESA.

All the proposed alternative routes cross potential suitable golden-cheeked warbler habitat as defined by the Diamond et al. (2010) Model C. The EA states that a field survey for potential habitat for federally listed species will be conducted after PUC approval of a route. CPS Energy will consult with the USFWS if suitable habitat for the golden-cheeked warbler is identified and may contact the City of San Antonio to enroll in the Southern Edwards Plateau Habitat Conservation Plan in order to comply with the ESA.

Recommendation: Prior to conducting surveys of the approved alternative route, TPWD recommends contacting the USFWS for appropriate survey protocols for surveying for golden-cheeked warblers. In addition to the Southern Edwards Plateau Habitat Conservation Plan, TPWD recommends also considering the Bandera Corridor Conservation Bank (BCCB) to fulfill any mitigation requirements. For more information, please contact the BCCB at 512-751-9100.

Ms. Rachelle Robles
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September 10, 2020

State Law

State Law: Parks and Wildlife Code, Section 68.015

TPW Code regulates state-listed threatened and endangered species. The capture, trapping, taking, or killing of state-listed threatened and endangered species is unlawful unless expressly authorized under a permit issued by USFWS or TPWD. *TPWD Guidelines for Protection of State-Listed Species* includes a list of penalties for take of species and can be found on the Wildlife Habitat Assessment Program website. State-listed species may only be handled by persons with authorization obtained through TPWD. For more information on this permit, please contact the Wildlife Permits Office at (512) 389-4647.

Based on a review of the annotated county list of rare species accessed electronically by POWER in June 2020, Sections 3.1.11 and 4.1.11 of the EA states the following state-listed species “may occur within the study area in areas of suitable habitat:”

- Cascade Caverns salamander (*Eurycea latitans*)
- Mexican treefrog (*Smilisca baudinii*)
- Texas salamander (*Eurycea neotenes*)
- Reddish egret (*Egretta rufescens*)
- Tropical parula (*Setophaga pitiayumi*)
- White-faced ibis (*Plegadis chihi*)
- Zone-tailed hawk (*Buteo albonotatus*)
- Toothless blindcat (*Trogloglanis pattersoni*)
- Widemouth blindcat (*Satan eurystomus*)
- American black bear (*Ursus americanus*)
- White-nosed coati (*Nasua narica*)
- Texas horned lizard (*Phrynosoma cornutum*)
- Texas tortoise (*Gopherus berlandieri*)

Recommendation: Beneficial management practices (BMP) and recommendations for species and taxonomic groups that may occur in the study area were provided in TPWD’s previous correspondence. Please review those recommendations as they remain applicable.

As suggested in the EA, once an alternative route is approved by the PUC, TPWD recommends that CPS Energy survey the route to determine the potential of the site to support state-listed species or their habitat. Surveying the route prior to construction would aid in protecting state-listed species from potential take. Please be aware that species *not* observed during site surveys may utilize the habitat within the project area at times beyond those during which surveys were conducted. That is, their presence in an area may depend on the season or time of day in which surveys occurred. For instances in which field surveys reveal the occurrence of state-listed species, TPWD recommends route adjustments to avoid impacting state-listed species and their habitat. If route adjustments cannot be made, TPWD

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September 10, 2020

recommends CPS Energy coordinate with TPWD to develop impact-minimization measures specific to the species.

Mexican treefrog

In the United States, the Mexican treefrog is a tropical frog species found only in south Texas. The Mexican tree frog typically occurs near mouths of rivers or in wooded areas near streams and resacas. They may also occur in suburban areas where lawns are watered regularly. They are arboreal (inhabiting trees) and nocturnal but will seek shelter in burrows or under grass clumps, dead vegetation, or rocks during the day. It breeds explosively following rainfall events throughout the year. Water bodies, including resacas and drainage canals, as well as roadside ditches, and ephemeral ponds located in or near the project areas may provide suitable habitat for this species

Recommendation: Contractors should be made aware of the potential to encounter state-listed amphibians in the project area and be instructed to avoid negatively impacting them, if encountered. TPWD recommends minimizing impacts to water features and their associated vegetation. Also, erosion control BMPs should be installed and staging areas and fuels or other hazardous chemicals should be stored away from water bodies to avoid potential spills or leaks into adjacent aquatic areas.

Texas salamander

The Texas salamander is a strictly aquatic species that occurs in subterranean streams, springs, and creek headwaters with rocky or cobble beds. As proposed, the project would span all surface waters and implement a storm water pollution prevention plan (SWPPP).

Recommendation: TPWD recommends avoiding disturbances to any habitats that may be occupied by the Texas salamander (e.g., spring-fed habitats). TPWD recommends use of BMPs for work near these areas to minimize impacts on salamanders and other sensitive aquatic species. BMPs would include measures such as: 1) placement of fencing surrounding spring features to exclude equipment and personnel, 2) employee and contractor training on the need to avoid impacts to springs, and 3) use of double erosion control features and doubling soil stabilization measures along any nearby work areas to avoid increasing the turbidity of springs.

Toothless blindcat and widemouth blindcat

Both species are restricted to five artesian wells penetrating the San Antonio Pool of the Edwards Aquifer and are found at depths of 305 to 582 meters. They range in size from 10 to 13 centimeters.

Recommendation: Activities that may contribute to the depletion of the aquifer (e.g., overpumping) pose the greatest threat to these species. TPWD does not anticipate that activities related to the construction of the proposed transmission line would result in significant impacts to these species.

Ms. Rachelle Robles
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September 10, 2020

White-nosed coati

The white-nosed coati inhabits woodlands, riparian corridors, and rocky canyons. They are sociable animals and require a sizeable area of habitat to maintain a viable population.

Recommendation: TPWD recommends selecting a route that would avoid the fragmentation of large, intact woodland tracts and recommends minimizing impacts to woodlands in general. TPWD appreciates that CPS Energy would perform tree and vegetation clearing in accordance with the City of San Antonio Tree Preservation Ordinance.

Texas tortoise

The Texas tortoise has a home range of approximately five to ten acres. Suitable habitat for the Texas tortoise may be present within or adjacent to the project areas. They are often found near or at the base of prickly pear cactus and occasionally seek shade by crawling under parked vehicles at construction sites.

Recommendation: TPWD recommends that contractors be made aware of the potential for the state-listed Texas tortoise to occur in the area and avoid contacting them if encountered. Additionally, TPWD recommends that before driving vehicles that have been parked at the project site, contractors should check underneath the vehicles to ensure no tortoises are present

If a tortoise is located at the project site, it should be relocated only if it is found in an area in which imminent danger is present. Individuals that must be relocated should be transported to the closest suitable habitat outside of the proposed disturbance area but preferably within its five to ten-acre home range. After tortoises are removed from the immediate project area, TPWD recommends constructing an exclusion fence. In many cases, sediment control fence placement for the purposes of controlling erosion and protecting water quality can be modified minimally to also provide the benefit of excluding wildlife access to construction areas. The exclusion fence should be buried at least six inches and be at least 24 inches high. The exclusion fence should be maintained for the life of the project and only be removed after the project activities are completed and the disturbed sites have been revegetated or otherwise stabilized. Construction personnel should be encouraged to examine the inside of the exclusion area daily to determine if any wildlife species have been trapped inside the area of impact and provide safe egress opportunities prior to initiation of construction activities.

Regarding trenches or excavations for support structure foundations or any buried infrastructure, TPWD recommends that any open trenches or deep excavation areas be covered overnight and/or inspected every morning to ensure no wildlife species have been trapped. For open trenches and excavated areas that cannot be backfilled at the end of the day or covered overnight, escape ramps should be installed at an angle of less than 45 degrees (1:1) in excavated areas that will allow trapped

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wildlife to climb out on their own. If any state-listed species are trapped in trenches or excavated areas, they should be removed by personnel permitted by TPWD to handle state-listed species.

Additional information regarding Texas tortoise BMPs are described in the *Texas Tortoise Best Management Practices* available on TPWD's Wildlife Habitat Assessment Program website.

If possible, TPWD recommends completing major ground disturbing activities before October when reptiles become inactive and could be utilizing burrows in areas subject to disturbance.

In addition to being naturally slow-moving animals susceptible to vehicle collisions, when startled (e.g., by traffic or heavy machinery), the Texas tortoise may withdraw into its shell rather than fleeing, thus increasing its risk for collision with vehicles and construction equipment.

Recommendation: TPWD recommends establishing and enforcing low speed limits (<15 MPH) in construction areas in order to minimize the potential of vehicle collisions with tortoises and other wildlife.

Texas Natural Diversity Database

The TXNDD is intended to assist users in avoiding harm to rare species or significant ecological features. Given the small proportion of public versus private land in Texas, the TXNDD does not include a representative inventory of rare resources in the state. Absence of information in the database does not imply that a species is absent from that area. Although it is based on the best data available to TPWD regarding rare species, the data from the TXNDD do not provide a definitive statement as to the presence, absence or condition of special species, natural communities, or other significant features within your project area. These data are not inclusive and cannot be used as presence/absence data. They represent species that could potentially be in your project area. This information cannot be substituted for field surveys.

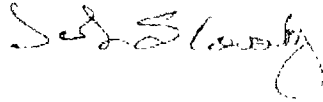
Recommendations: The TXNDD data used to prepare the EA was more than a year old when the EA was made available for comment. The TXNDD is updated continuously based on new, updated and undigitized records; therefore, TPWD recommends requesting the most recent TXNDD data on a regular basis. For questions regarding a record or to request the most recent data, please contact TexasNatural.DiversityDatabase@tpwd.texas.gov.

To aid in the scientific knowledge of a species' status and current range, TPWD encourages project proponents and their contractors to report all encounters of rare, state-listed, and federally-listed species to the TXNDD according to the data submittal instructions found on the TXNDD website.

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TPWD appreciates the opportunity to review and comment on this EA. Please contact Russell Hooten at (361) 825-3240 or Russell.Hooten@tpwd.texas.gov if you have any questions. Thank you for your favorable consideration.

Sincerely,



John Silovsky
Acting Wildlife Division Director

RH:jn.44546

cc: Adam Marin, CPS Energy, Regulatory Case Manager

References

Diamond, D.D., L.F. Elliot, and R. Lea. 2010. Golden-cheeked warbler habitat up-date. Final Report to Texas Parks and Wildlife, Austin, Texas.

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

APPLICATION OF THE CITY OF	§	BEFORE THE STATE OFFICE
SAN ANTONIO TO AMEND ITS	§	
CERTIFICATE OF CONVENIENCE	§	OF
AND NECESSITY FOR THE	§	
SCENIC LOOP 138-KV TRANSMISSION	§	ADMINISTRATIVE HEARINGS
LINE IN BEXAR COUNTY	§	

**CPS ENERGY’S RESPONSE TO PATRICK CLEVELAND’S
FIRST REQUEST FOR INFORMATION TO CPS ENERGY**

Patrick Cleveland Question No. 1-10:

Please admit or deny that the distance between Segment 42 and the outdoor areas accessible to children at Dr. Sara B. McAndrew Middle School is less than 323 feet.

Response No. 1-10:

The school referenced in this question is the Dr. Sara B. McAndrew Elementary School. Based on fencing and other indications of potential property use, the distance between proposed Segment 42 and the closest corner of an outdoor area on the elementary school property that POWER Engineers, Inc. believes may be accessible to children on a regular basis is approximately 335 feet to the area with playground structures and approximately 280 feet to the grass area with a baseball/kickball backstop in the southwest corner of the elementary school property.

Prepared By: Lisa B. Meaux
Sponsored By: Lisa B. Meaux

Title: Project Manager, POWER Engineers, Inc.
Title: Project Manager, POWER Engineers, Inc.

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**CPS ENERGY'S RESPONSE TO PATRICK CLEVELAND'S
FIRST REQUEST FOR INFORMATION TO CPS ENERGY**

Patrick Cleveland Question No. 1-11:

Please provide the distance, if known, between Segment 42 and any outdoor areas accessible to children at Dr. Sara B. McAndrew Middle School.

Response No. 1-11:

Please refer to CPS Energy's response to Patrick Cleveland Question No. 1-10.

Prepared By: Lisa B. Meaux
Sponsored By: Lisa B. Meaux

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