



Control Number: 51023



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**POSITION STATEMENT OF DON DURFLINGER**

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FILING CLERK

1. I, Don Durflinger, serve as trustee of numerous Rockwood trusts. These trusts include parcels of land and a home in northwest Bexar County including 4 lots at High Country Ranch Association (HCRA) and several other parcels surrounding HCRA including parcels IA199, IA 201, IA319, IA333, and IH 8 (see Scenic Loop Intervenor's Map Inset 1).

2. As trustee overseeing these assets and filing as an intervenor in PUC Docket 51023, I object to those routes which include segments 40, 46b, and 49a. (i.e., routes A, E, H, Y, B1, C1, D1, I1, M1, T1, X1, Z1, DD, G1, J1, AA1, and EE) for reasons stated below.

3. Tex. Admin. Code 25.101(b)(3)(B) (TAC) requires that new transmission lines address the criteria in PURA 37.056(c), and that upon consideration of those criteria, engineering constraints and cost, the line shall be routed to the extent reasonable to moderate the impact of the affected community and landowners, unless grid reliability and security dictate otherwise. The following factors shall be considered in the selection of the route that in the utility's position, best address the requirements of PURA and the Commission's rules from among the proposed alternate routes:

- Routes utilizing existing compatible right-of-way
- Routes parallel existing compatible right-of-way
- Routes parallel property lines or other natural or cultural features
- Routes conform with policy of prudent avoidance
- Other factors include
  - Community values
  - Recreational and park areas
  - Historic and aesthetic values
  - Environmental integrity

4. HCRA was established with the intended purpose of creating a recreational area formed as an association with covenants and restrictions. There are 15 partnership units. Each partner has a residential lot, plus an undivided interest in 300 acres of recreational lands. In an effort to keep this recreation area intact, the association created restrictions and covenants that ran with the

land for 20 years, and thereafter in 10 year increments, also making the requirement that the land could not be partitioned unless 80% of owners agreed. This recreation area is available to individual lot owners and their families and is used for hiking, hunting, bird and wildlife viewing, and educating our youth about nature conservancy in the unique micro-environment of the Texas Hill Country. This concept has been preserved and in place for over 40 years.

***In all the background documents provided by CPS and the PUC, including the Environmental Assessment and Alternative Route Analysis (EAARA), HCR was not listed as having an established recreational area. This clearly has been overlooked by CPS and should be recognized as such and documented in the EAARA.***

5. Nobody from CPS Energy or Power Engineers contacted me nor the Rockwood family to investigate whether HCRA was a recreational area.

6. Other environmental and historic factors unique to HCRA include:

- Two natural springs, one which flows through the heart of the property and forms the headwaters of Leon Creek and another which exist on the western portion of the property and flows north. It appears that Segment 49a would be constructed within 100 to 200 ft. of the spring exit which forms the headwaters of Leon Creek. This spring exit should be evaluated as a possible cultural resource as there is a historical concrete trough where the spring exits the ground.
- Foraging and possible nesting habitat of the endangered Golden Checkered warbler.
- Critical habitat of the Texas horned lizard currently listed as a threatened species in Texas.
- Numerous colonies of Red Harvester Ants which are the primary diet of the Texas horned lizard and are directly in the path of segments 46b and 49a. The Texas Parks and Wildlife Department has recommended avoiding construction of power lines over Red Harvester Ant colonies in its letter to CPS.

7. Based on the Environmental Assessment and Alternative Route Analysis and taking into consideration PURA 37.056, one would presume and favor a route that followed the greatest percentage of combined ROW's. There are four routes which follow a 75% or greater combined ROW's. These include routes A (83%), H (80%), Y (82%), and T1 (75%). However, these same routes encounter a significant number of habitable structures. For instance, route A encounters 69 habitable structures, H-61 structures, Y-39 structures, and T1-34 structures.

I would strongly suggest CPS/PUC staff take into consideration those routes which not only follow the greatest percentage of combined ROW's but encounter the fewest habitable structures. Distance and cost also play a significant role. Thus, thus below is a table which summarizes those routes which impact 12 or fewer habitable structures and includes other factors such as the percent combined ROW's, distance and estimated cost of each route.

<b>Route</b>	<b>Distance (Miles)</b>	<b>Habitable Structures</b>	<b>% combined ROW's</b>	<b>Estimated Cost (Millions)</b>
F1	5.66	12	70	49.7
N1	5.33	11	68	46.8
P	4.89	12	71	43.4
Q1	5.56	6	69	45.9
R1	4.76	7	64	43.5
U1	6.36	6	59	50.5

***One could argue that Route Q1 is the best possible route in that it encounters the fewest habitable structures (6) while following/utilizing approximately 70% of combined ROW's. Also, of the 31 proposed routes, the average distance is about 5.75 miles with an average cost of approximately \$47 million. Route Q1 is slightly shorter than the average route distance (5.56 miles) and cost less than the average cost of all routes (\$45.9M).***

8. Other community impacts that should be considered are those routes (i.e., AA1, G1 and J1) which are relatively close to Dr. Sara McAndrew Elementary School. Again, why would these routes even be considered when there are clearly other more suitable routes?

9. Finally, I question the actions of developers proposing to donate ROW easements to CPS Energy (segments 42a, 46, 46a and 49a). These actions are based on protecting their financial interests and enriching the developers, to the detriment of surrounding landowners. Developers have donated flood plain and other undevelopable property to CPS Energy to protect their investment. While PURA 37.056(c) clearly favors those routes which follow ROW's, I question the ethics of accepting these donations under the pretense of an ultimate financial gain for the developers.

THUS, I respectfully request that the Administrative Law Judge(s) avoid selecting those routes (i.e., B1, C1, D1, I1, M1, T1, X1, Z1, DD, G1, J1, AA1, and EE) which includes segments 40, 46b, an 49a and instead focus on those routes (i.e., F1, N1, P, Q1, R1, and U1) which follow or utilize a comparable percentage of combined ROW's, impact far fewer habitable structures, avoid impacts to HCR and Dr. Sara McAndrew Elementary School.

Respectfully submitted this 26th day of February 2021

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#### CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing has been filed with the Commission and served on all other parties via the PUC interchange on this 26th day of February 2021 pursuant to SOAH Order Number 3 issued in this docket.

/s/Don Durflinger

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Don Durflinger