



Control Number: 51023



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



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

**CLEARWATER RANCH POA AND MAX & PEGGY GAROUTTE’S RESPONSE TO  
CPS ENERGY’S OBJECTION TO INTERVENOR DIRECT TESTIMONY**

COMES NOW, Clearwater Ranch POA (“Clearwater”) and Max & Peggy Garoutte (“Garoutte”), Intervenors in this case proceeding, and files this their Response to CPS Energy’s (“CPS”) Objections to Intervenor Direct Testimony and in support hereof would show:

**I.**

Clearwater Ranch POA Intervenor, Max & Peggy Garoutte, filed their direct testimony on February 19, 2021. On March 8, 2021, CPS filed their Objections to Intervenor Direct Testimony. Pursuant to PUC Rule §22.78(a) responsive pleadings, if made, shall be filed by a party within five working dates after receipt of the pleading to which the response is made. Therefore, this Response to CPS Energy’s Objections to Intervenor Direct Testimony is timely filed.<sup>1</sup>

**II.**

CPS objects that statements about alleged health effects of electro-magnetic fields (“EMF”) require expert testimony and the witnesses making such testimony are not qualified to give an expert opinion. CPS also objects that Intervenor testimony concerning potential diminution in property values as not relevant.

<sup>1</sup> CPS Energy Objects to the Direct Testimony of Max & Peggy Garoutte on Behalf of Clearwater Ranch POA.

Garoutte does not claim to be an expert on EMF or related EMF interferences. The objected-to testimony consisting of general statements of concern and lay opinions regarding exposure to EMF and possible diminished property values (valuation). These general statements and opinions are not “speculation” and are legitimate statements of concern reflecting community values that should not be struck from the record. Rather, the ALJs should accord such testimony the appropriate weight as has been done in most cases.<sup>2</sup> Therefore, these

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<sup>2</sup> See, e.g., *Joint Application of Oncor Electric Delivery Company LLC and City of Lubbock, acting by and through Lubbock Power & Light, for a Certificate of Convenience and Necessity for the Proposed Abernathy to North to North Loop 345/115-kV Transmission Line in Hale and Lubbock Counties, Texas*; Docket No. 49151, Order No. 7 (October 18, 2019) (denying similar objections by Commission Staff); *Joint Application of Sharyland Utilities, L.P. and The City of Lubbock, Acting Through Lubbock Power & Light to Amend a Certificate of Convenience and Necessity for the Proposed Wadsworth to New Oliver to Farmland 345-kV Transmission Line in Lubbock and Lynn Counties and the Proposed Southeast to New Oliver to Oliver 115-kV Transmission Line in Lubbock County, Texas*, Docket No. 48909, Order No. 6 (May 28, 2019) (denying similar objections by Commission Staff); *Joint Application of Sharyland Utilities, L.P. and The City of Lubbock, Acting Through Lubbock Power & Light to Amend a Certificate of Convenience and Necessity for the Abernathy to Wadsworth 345-kv Transmission Line in Hale and Lubbock Counties, Texas*, Docket No. 48668, Order No. 4 (April 8, 2019) (denying similar objections by Commission Staff); *Joint Application of Sharyland Utilities, L.P. and The City of Lubbock, Acting by and Through Lubbock Power & Light for a Certificate of Convenience and Necessity for the Proposed Ogallala to Abernathy 345-kV Transmission Line in Castro, Hale, and Swisher Counties, Texas*, Docket No. 48625, Order No. 4 (March 20, 2019) (denying similar objections by Commission Staff); *Joint Application of Oncor Electric Delivery Company LLC, AEP Texas Inc., and LCRA Transmission Services Corporation to Amend their Certificates of Convenience and Necessity for a 345-kV Transmission Lines in Pecos, Reeves and Ward Counties, Texas Sand Lake to Solstice and Bakersfiled to Solstice* Consolidated Docket No. 48785; Order No. 5 (January 29, 2019) (denying similar objections by Commission Staff); *Application of Rayburn Country Electric Cooperative, Inc to Amended its Certificate of Convenience and Necessity for the Lower Bois D'Arc Water Treatment Plant 138—kV Transmission Line in Fannin and Hunt Counties, Texas*; Docket No. 47884, Order No. 5, (June 27, 2018) (denying similar objections by Rayburn Country Electric Cooperative, Inc.); *Application of Oncor Electric Delivery Company LLC to Amend a Certificate of convenience and Necessity for A 345-kV Transmission Line in Crane, Ector, Loving, Reeves, Ward and Winkler Counties, Texas*; Docket No. 48095 Order No. 6, (June 6, 2018) (denying similar objections by Oncor and Staff); *Application of Oncor Electric Delivery Company LLC to Amend its Certificate of Convenience and Necessity for the Proposed 345/138 KV Transmission Line in Loving, Reeves and Ward Counties, Texas (Riverton – Sand Lake)*; Docket No. 47368 (Bench Order March 1, 2018) (denying similar objections by Commission Staff); *Application of Entergy Texas, Inc. to Amend its Certificate of Convenience and Necessity for a 230-kV Transmission Line in Montgomery and Walker Counties*, Docket No. 47462, Order No. 6, (February 6, 2018) (denying similar objections by Commission Staff), *Application of Brazos Electric Power Cooperative Inc , to Amend its Certificate of Convenience and Necessity for the 138-kV Transmission Line in Collin Counties*. Docket No. 46429, Order No. 7, (May 26, 2017) (denying similar objections by Brazos and Commission Staff); *Application of AEP Texas North Company and Electric Transmission of Texas, LLC to Amend their Certificates of Convenience and Necessity for a 138-kV Transmission Line within McCulloch and Menard Counties (Heartland to Yellowjacket)*; Docket No. 46234, Order No. 5, (February 28, 2017) (denying similar objections by AEP TNC & ETT and Commission Staff); *Application of Southwestern Public Service Company to Amend a Certificate of Convenience*

statements are relevant under Rules 401 and 402 of the Texas Rules of Evidence and appropriate lay witness opinion testimony pursuant to Rule 701 of the Texas Rules of Evidence as they are “rationally based on the witness’s perception” and “helpful to clearly understand the witness’s testimony.” Furthermore, the statements are not hearsay under Rules 801 and 802 of the Texas Rules of evidence as they are not offered “to prove the truth of the matter asserted in the statement.”

### III.

WHEREFORE, PREMISES CONSIDERED, Clearwater and Garoutte respectfully requests that the ALJs deny all of the objections to Intervenor Direct Testimony by CPS.

Respectfully submitted,

BRAUN & GRESHAM, PLLC

P.O. Box 1148 (Mailing)  
Dripping Springs, Texas 78620  
14101 Hwy. 290 W., Bldg. 1100 (Physical)  
Austin, Texas 78737  
512-894-5426 (telephone)  
512-894-3405 (fax)

/s/Patrick L. Reznik

Patrick L. Reznik

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*and Necessity for a 345-kV Transmission Line within Hale, Hockley, Lubbock, Terry and Yoakum Counties (Tuco to Yoakum); Docket No. 46042, Order No. 4, (January 18, 2017) (denying similar objections by Commission Staff and SPS for these reasons); Application of LCRA Transmission Services Corporation to Amend a Certificate of Convenience and Necessity for the Zorn-Marion 345-kV Transmission Line in Guadalupe County; Docket No. 45601, Order No. 6, (May 31, 2016) (denying similar objections by Commission Staff and LCRA for these reasons); Application of Brazos Electric Power Cooperative, Inc to Amend a Certificate of Convenience and Necessity for a 138-kV Transmission Line in Denton County, Docket No. 45170, Order No. 5, (April 5, 2016) (denying similar objections by Commission Staff and Brazos Electric for these reasons); Application of AEP Texas Central to Amend a Certificate of Convenience and Necessity for a Proposed 138-kV Transmission Line in Bee County and Goliad County, Texas; Docket No. 44837, Order No. 7, (February 17, 2016) (denying similar objections by Commission Staff and AEP Texas Central for these reasons); Application of CenterPoint Energy Houston Electric, LLC*

State Bar No. 16806780  
[preznik@braungresham.com](mailto:preznik@braungresham.com)  
Carly Barton  
State Bar No. 24086063  
[cbarton@braungresham.com](mailto:cbarton@braungresham.com)

**ATTORNEYS FOR CLEARWATER RANCH  
POA**

**CERTIFICATE OF SERVICE**

I certify that a copy of this document will be served on all parties of record on March 12, 2021, via the Commission's Interchange in accordance with SOAH Order No. 3.

/s/Patrick L. Reznik  
Patrick L. Reznik