



Control Number: 51023



Item Number: 677

Addendum StartPage: 0



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

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

BEFORE THE
PUBLIC UTILITY COMMISSION
OF TEXAS

**TOUTANT RANCH, LTD., ASR PARKS, LLC, PINSON INTERESTS LTD. LLP,
AND CRIGHTON DEVELOPMENT CO.'S RESPONSE TO ANAQUA SPRINGS
HOMEOWNERS' ASSOCIATION'S SECOND REQUEST FOR INFORMATION**

Toutant Ranch, Ltd., Pinson Interests Ltd. LLP, ASR Parks, LLC, and Crighton Development Co. file the following responses to the Second Set of Requests for Information (“RFIs”) filed by the Anaqua Springs Homeowner’s Association (“Anaqua Springs HOA”). The request was filed at the Commission and received on March 12, 2021. Accordingly, pursuant to the procedural schedule entered in this case, this response is timely filed. Responses to specific questions are set forth as follows, in the order of the questions asked. Pursuant to 16 T.A.C. § 22.144(c)(2)(F), these responses may be treated as if they were filed under oath.

Respectfully submitted,

THOMPSON & KNIGHT LLP

/s/ Michael McMillin

Katherine L. Coleman
State Bar No. 24059596
Michael McMillin
State Bar No. 24088034
98 San Jacinto Blvd., Suite 1900
Austin, Texas 78701
(512) 469.6100
(512) 469.6180 (fax)

**ATTORNEYS FOR TOUTANT RANCH, LTD.,
ASR PARKS, LLC, PINSON INTERESTS LTD.
LLP AND CRIGHTON DEVELOPMENT CO.**

677

CERTIFICATE OF SERVICE

I, Michael McMillin, Attorney for Toutant Ranch, Ltd., ASR Parks, LLC, Pinson Interests Ltd. LLP, and Crighton Development Co., hereby certify that a copy of the foregoing document was served on all parties of record in this proceeding on this 22nd day of March, 2021 by hand-delivery, facsimile, electronic mail and/or First Class, U.S. Mail, Postage Prepaid.

/s/ Michael McMillin

Michael McMillin

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SAN ANTONIO, ACTING BY AND	§	
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LOOP 138-KV TRANSMISSION LINE	§	OF TEXAS

**TOUTANT RANCH, LTD., ASR PARKS, LLC, PINSON INTERESTS LTD. LLP,
AND CRIGHTON DEVELOPMENT CO.'S RESPONSE TO ANAQUA SPRINGS
HOMEOWNERS' ASSOCIATION'S SECOND REQUEST FOR INFORMATION**

Anaqua Springs 2-1: Please provide all communications between you and CPS Energy regarding the agreement attached as Exhibit 1 to the direct testimony of Tom Dreiss.

RESPONSE:

Please see Attachment Anaqua 2-1.

Preparer: Counsel

Sponsor: Counsel

From: [McMillin, Michael](#)
To: [Rasmussen, Kirk](#)
Cc: [Bennett, Craig](#)
Subject: CPS CCN (51023): Draft Term Sheet for Route Modification Agreement
Date: Tuesday, November 10, 2020 2:41:36 PM
Attachments: [CPS Scenic Loop CCN \(51023\) - DRAFT Term Sheet \(24218102\) \(3\).DOCX](#)
[201110a1 - CPS Exhibit.pdf](#)

Kirk and Craig,
See attached per our call.
Thanks,

Michael McMillin | Thompson & Knight LLP

Associate

ThompsonKnight

98 San Jacinto Blvd., Suite 1900, Austin, TX 78701

512.404.6708 (direct) | 956.244.1134 (cell) | michael.mcmillin@tklaw.com

vCard | www.tklaw.com/michael-mcmillin/

This message may be confidential and attorney-client privileged. If received in error, please do not read. Instead, reply to me that you have received it in error and delete the message.

DRAFT: 11/6/20

Proposed Term Sheet: CPS Scenic Loop CCN, Docket No. 51023

Parties:

- CPS Energy (“CPS”)
- Toutant Ranch, Ltd., Pinson Interests LTD LLP, and Crighton Development Co. (collectively, “Developers”)

Background:

- Developers are in the process of developing residential communities in the northwestern portion of the study area, including along proposed Segments 42, 46, 48, and 49. The presence of multiple potential transmission line paths across Developers’ property has severely impacted Developers’ business such that Developers believe they need relief before litigation will conclude in Docket No. 51023.
- Developers have asked CPS to amend its Application to eliminate one of the four potential transmission line paths that impact Developers’ properties. In exchange, Developers are willing to accept the transmission line on their properties, donate additional ROW as necessary to minimize the impact of their requested modifications, and compromise on the proposed condemnation value of any ROW that is not donated pursuant to this or a prior agreement. The proposed modifications will only impact properties that Developers own.

Terms:

- 1) **Prior Agreements:** Developers will honor all prior agreements with CPS, independently of the terms of this agreement.
- 2) **Amendment to Application:** CPS will amend its Application in Docket No. 51023 to incorporate the modifications depicted on Exhibit A.
 - a) **It is the parties’ intention that the changes shown on Exhibit A will only directly impact land owned by one of the Developers. All ROW for new segments or modifications will fall on land owned by one of the Developers, and the centerline of the new segments or modifications will not pass within 300 feet of any habitable structure.**
 - b) The modifications depicted on Exhibit A are as follows:
 - i) **Segment 49a:** CPS will create a new segment (“Segment 49a”) to connect Segment 46 to Segment 49. Segment 49a will originate at the northeastern corner of Developers’ Tract B-004, and all associated ROW for Segment 49a will be contained within Tract B-004. Segment 49a will head south from Segment 46 to Segment 49, and will include a single angle at the southern end to match the existing curve of Segment 49 as Segment 49 heads to the west.¹

Commented [MM1]: Kirk We will provide a draft of Exhibit A on Monday 11/9 For now, please reference the map that we drew on during the 11/5 meeting

¹ At its closest point, the centerline of Segment 49a will be approximately DISTANCE from the western boundary of Tract B-004

DRAFT: 11/6/20

- ii) **Partial Removal of Segment 49:** CPS will remove the portion of Segment 49 that is to the east the interconnection with new Segment 49a. The western portion of Segment 49 will remain as proposed.
 - iii) **Modification to Segment 46:** CPS will incorporate two angles into Segment 46 to shift it to the south onto Developers' Tracts B-005 and B-007 such that the centerline of modified Segment 46 will stay at least 300 feet from the boundary of Tract B-013 (the "Reyes Tract") and well over 300 feet from Habitable Structure 15 (the "Reyes Home").
 - iv) **Creation of Segment 42a:**
 - (1) CPS will create a new segment to connect the existing node of Segments 41, 46, and 48 directly to existing Segment 42 on Tract B-041. This new segment will travel as straight as possible while retaining all ROW on Developers' property and staying at least 300 feet from any habitable structure. The entire modified Segment 42 will be referred to as Segment 42a.
 - (2) CPS agrees that, consistent with the Commission's final order, it will adopt minor deviations to Segment 42a so that segment will follow the northeastern boundary of Tract B-041 and cross the extreme northeastern tip of Tract B-043 at the termination of Pecan Ranch Road, such that all ROW remains on Developers' property and the centerline stays at least 300 feet from any habitable structure.
 - v) **Elimination of Segment 48:** CPS will remove Segment 48, which would be unnecessary following the addition of Segment 42a and the partial removal of Segment 49.
- 3) **Agreement to Support Routing Options:** Developers² agree to support the Commission routing the line down either Segment 46 Modified (full length) or Segments 46 Modified (partial)-49a-49 (western portion), but do not commit to a position regarding the remainder of the route to the south or east of the eastern node of Segment 46. Developers reserve their right to argue that the Commission should reach Segment 46 Modified by following a path that includes Segment 41.
- 4) **No Net Cost Increase:** Developers agree to donate additional ROW as necessary to offset any net cost increase that results from Developers' requested modifications. The parties agree that the "net cost increase" will be calculated as follows:
- a) If the Commission uses Segment 42a-46 Modified (full length):
 - i) The cost of Segment 42a minus the cost of proposed Segments 42 and 48; plus
 - ii) The cost of Segment 46 Modified (full length) minus the cost of proposed Segment 46.
 - b) If the Commission uses Segments 42a-46 Modified (partial)-49a-49:
 - i) The cost of Segment 42a minus the cost of proposed Segment 42; plus

² As well as all other legal entities owned or controlled by Developers

DRAFT: 11/6/20

- ii) The cost of Segment 46 Modified (full length) minus the cost of proposed Segment 46;³ plus
- iii) The cost of Segment 49a and the portion of Segment 49 to the west of the interconnection with Segment 49, minus the cost of proposed Segment 49.
- c) If the Commission uses Segment 41-46 Modified (full length):
 - i) The cost of Segment 46 Modified (full length) minus the cost of proposed Segment 46.
- 5) **Maintain Existing Cost Differentials:** Developers agree to donate additional ROW as necessary to maintain the existing cost differential between routes that use Segment 46 and Segment 49.⁴ There are two possible scenarios:
 - a) **Scenario 1:** The Commission selects a route that uses a variation of Segment 42.
 - i) In the current Application, starting at the node of Segment 36 and Segment 42, using Segments 42-48-46 costs \$57,133 less than using Segments 42-49.⁵
 - ii) If the Commission selects a route that uses a variation of Segment 42, Developers commit to donating additional ROW as necessary to make the estimated cost of using Segments 42a-46 Modified (full length) \$57,133 less than the estimated cost of using Segments 42a-46 Modified (partial)-49a-49.
 - b) **Scenario 2:** The Commission selects a route that uses Segment 41.
 - i) If the Commission selects a route that uses Segment 41, Developers commit to donate additional ROW as necessary to make the estimated cost of using Segments 41-46 Modified (full length) \$57,133 less than the estimated cost of using Segments 41-46 Modified (partial length)-49a-49.
- 6) **ROW Acquisition:** If the Commission selects a route that uses any of the modified segments shown on Attachment A, Developers agree to provide all necessary ROW across Developers' property that has not been donated pursuant to this (or an earlier) agreement to CPS without resorting to a contested condemnation process. Developers will agree to provide all necessary, non-donated ROW across Developers' property to CPS at the estimated cost of ROW and Land Acquisition that CPS used to develop its Application,⁶ with one limited exception. A portion of Segment 46 Modified crosses Developers' Pecan Springs Ranch, Unit 3 development on Tract B-005, where Developers have already invested significant capital to create valuable home sites. Developers agree to provide all necessary ROW across Pecan Springs Ranch, Unit 3 at a cost of \$LUMP SUM TO BE DEVELOPED.

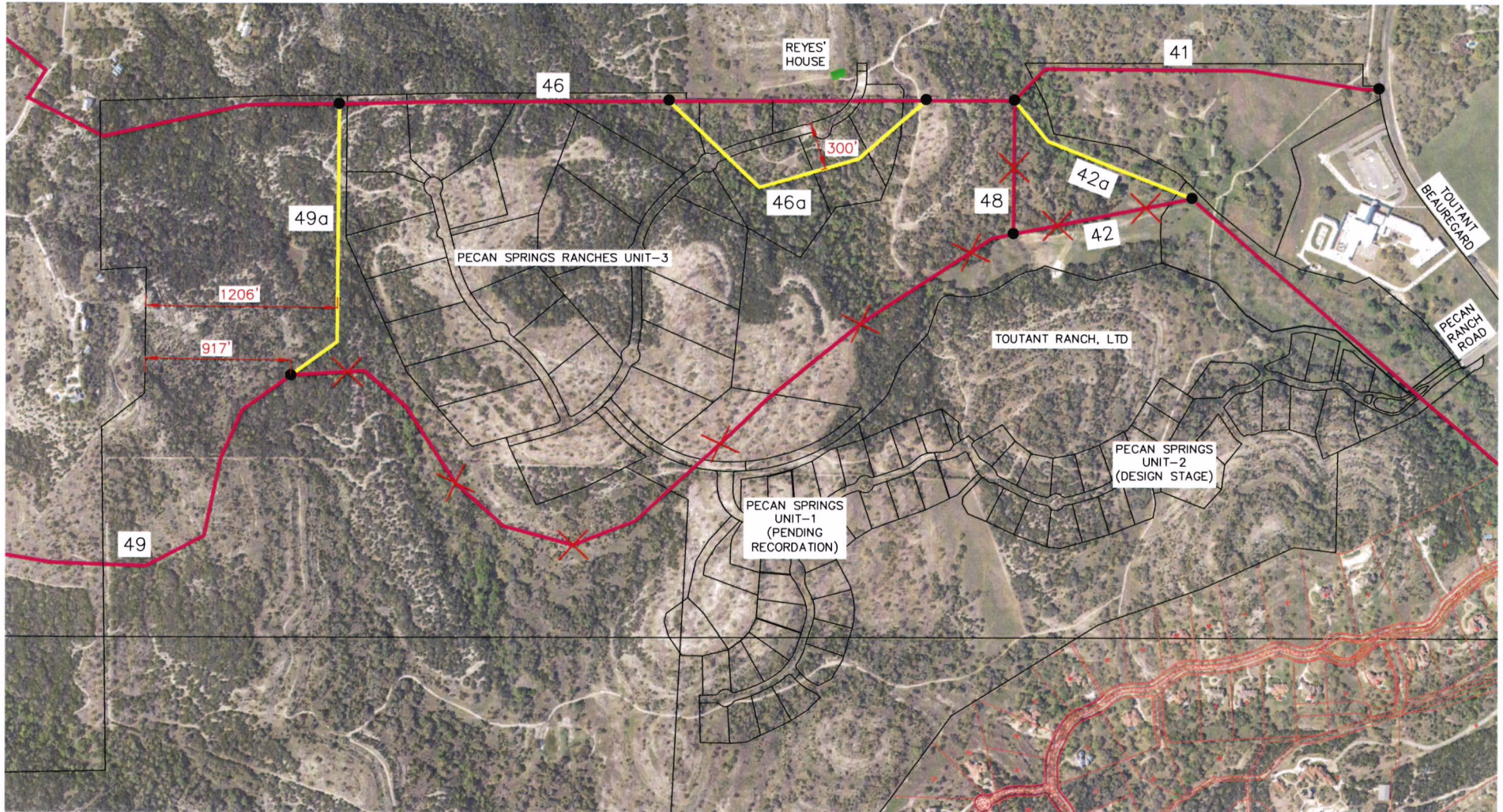
Commented [MM2]: Kirk Once we receive CPS's estimated cost of ROW and Land Acquisition, we will attempt to come up with a reasonable offer to insert here.

³ This captures the cost of avoiding the Reyes Tract on 46 Modified (partial)

⁴ The magnitude of any associated ROW donation will be determined after CPS develops cost estimates for the new and modified segments described in this agreement

⁵ This is the difference between CPS's cost estimates for proposed Route Z (Sub 7-54-20-36-42-48-46) and Proposed Route AA (Sub 7-54-20-36-42-49) See Application Attachment 3

⁶ The total cost of all non-donated ROW will be determined by multiplying CPS's per-mile cost of ROW and Land Acquisition by the number of miles of non-donated ROW. If CPS's estimated cost of ROW and Land Acquisition differs by segment, this calculation will be performed on a segment by segment basis



From: [McMillin, Michael](#)
To: [Rasmussen, Kirk](#)
Subject: RE: Agreement [IMAN-JWDOCS.FID4061346]
Date: Tuesday, November 24, 2020 11:46:00 AM
Attachments: [image001.png](#)

I have talked to Taylor and we are ok with these changes. He's fine with using the existing signature.

Michael McMillin | Thompson & Knight LLP

Associate

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From: Rasmussen, Kirk
Sent: Tuesday, November 24, 2020 10:54 AM
To: McMillin, Michael
Subject: RE: Agreement [IMAN-JWDOCS.FID4061346]
See attached.

Kirk Rasmussen
512-968-4566

From: McMillin, Michael <Michael.McMillin@tklaw.com>
Sent: Tuesday, November 24, 2020 10:30 AM
To: Rasmussen, Kirk <krasmussen@jw.com>
Subject: RE: Agreement [IMAN-JWDOCS.FID4061346]

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

Sure. I'm free now until noon.

Michael McMillin | Thompson & Knight LLP

Associate

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vCard | www.tklaw.com/michael-mcmillin/

From: Rasmussen, Kirk <krasmussen@jw.com>
Sent: Tuesday, November 24, 2020 10:29 AM
To: McMillin, Michael <Michael.McMillin@tklaw.com>
Subject: Agreement [IMAN-JWDOCS.FID4061346]

Got a minute this morning to visit about the agreement? Got a couple of questions from Paul that I want to run past you.

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: [McMillin, Michael](#)
To: [Rasmussen, Kirk](#)
Cc: [Bennett, Craig](#)
Subject: RE: CPS CCN (51023): Draft Term Sheet for Route Modification Agreement [IMAN-JWDOCS.FID4061346]
Date: Thursday, November 12, 2020 1:22:17 PM
Attachments: [201110a1 - CPS Exhibit.pdf](#)

Kirk,

For clarity, this is the attachment referred to in the term sheet. It is the same as the last version I forwarded you.

I'm free at your convenience this afternoon if you would like to discuss.

Thanks,

Michael McMillin | Thompson & Knight LLP

Associate

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From: McMillin, Michael

Sent: Thursday, November 12, 2020 8:23 AM

To: 'Rasmussen, Kirk'

Cc: Bennett, Craig

Subject: RE: CPS CCN (51023): Draft Term Sheet for Route Modification Agreement [IMAN-JWDOCS.FID4061346]

Kirk,

I have attached an updated term sheet that incorporates the Dreisses' changes to the ROW Acquisition section. Please give me a call later today to discuss.

Thanks,

Michael McMillin | Thompson & Knight LLP

Associate

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From: McMillin, Michael

Sent: Tuesday, November 10, 2020 5:04 PM

To: 'Rasmussen, Kirk' <krasmussen@jw.com>

Subject: RE: CPS CCN (51023): Draft Term Sheet for Route Modification Agreement [IMAN-JWDOCS.FID4061346]

I have relayed this information to the Dreisses. They're thinking it over and we are going to have a call tomorrow to work up edits to the last section of the draft agreement.

Let me know if you or Craig see any other issues in the agreement that you think we need to address.

Michael McMillin | Thompson & Knight LLP

Associate

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From: Rasmussen, Kirk <krasmussen@jw.com>
Sent: Tuesday, November 10, 2020 3:39 PM
To: McMillin, Michael <Michael.McMillin@tklaw.com>
Subject: RE: CPS CCN (51023): Draft Term Sheet for Route Modification Agreement [IMAN-JWDOCS.FID4061346]
Thanks. Including them is fine.
Kirk Rasmussen
512-968-4566

From: McMillin, Michael <Michael.McMillin@tklaw.com>
Sent: Tuesday, November 10, 2020 3:37 PM
To: Rasmussen, Kirk <krasmussen@jw.com>
Subject: RE: CPS CCN (51023): Draft Term Sheet for Route Modification Agreement [IMAN-JWDOCS.FID4061346]

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Ok that makes sense. I'll work with the Dreisses to come up with the necessary changes to § 6 of the draft agreement I sent you. Do you mind if the agreement includes these numbers?

Michael McMillin | Thompson & Knight LLP

Associate
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vCard | www.tklaw.com/michael-mcmillin/

From: Rasmussen, Kirk <krasmussen@jw.com>
Sent: Tuesday, November 10, 2020 3:32 PM
To: McMillin, Michael <Michael.McMillin@tklaw.com>
Subject: RE: CPS CCN (51023): Draft Term Sheet for Route Modification Agreement [IMAN-JWDOCS.FID4061346]
Parcel as listed on the tax rolls as a separate parcel. Same cost for Segment 42. A parcel cost applies if a portion of the parcel is crossed by the ROW. A parcel for these purposes would not include "lots" that are part of an undivided tract that have not yet been sold.

Kirk Rasmussen
512-968-4566

From: McMillin, Michael <Michael.McMillin@tklaw.com>
Sent: Tuesday, November 10, 2020 3:28 PM
To: Rasmussen, Kirk <krasmussen@jw.com>
Cc: Bennett, Craig <cbennett@jw.com>
Subject: RE: CPS CCN (51023): Draft Term Sheet for Route Modification Agreement [IMAN-JWDOCS.FID4061346]

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Thanks, Kirk. A few questions so I can explain to my clients:

- Is the cost for Segment 42 also \$0.50 per sq. ft.?
- How does CPS define a "parcel" for these purposes?

- How does CPS decide when a parcel needs to be acquired?

I'm free the rest of the day if a call is easier for you.

Michael McMillin | Thompson & Knight LLP

Associate

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512.404.6708 (direct) | 956.244.1134 (cell) |

michael.mcmillin@tklaw.com

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From: Rasmussen, Kirk <krasmussen@jw.com>

Sent: Tuesday, November 10, 2020 3:23 PM

To: McMillin, Michael <Michael.McMillin@tklaw.com>

Cc: Bennett, Craig <cbennett@jw.com>

Subject: RE: CPS CCN (51023): Draft Term Sheet for Route Modification Agreement [IMAN-JWDOCS.FID4061346]

Michael,

ROW cost for Segment 46 and Segment 49 were \$0.50 sq/foot. Parcel acquisition cost was \$24,500 per parcel.

Kirk Rasmussen

512-968-4566

From: McMillin, Michael <Michael.McMillin@tklaw.com>

Sent: Tuesday, November 10, 2020 2:42 PM

To: Rasmussen, Kirk <krasmussen@jw.com>

Cc: Bennett, Craig <cbennett@jw.com>

Subject: CPS CCN (51023): Draft Term Sheet for Route Modification Agreement

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Kirk and Craig,

See attached per our call.

Thanks,

Michael McMillin | Thompson & Knight LLP

Associate

ThompsonKnight

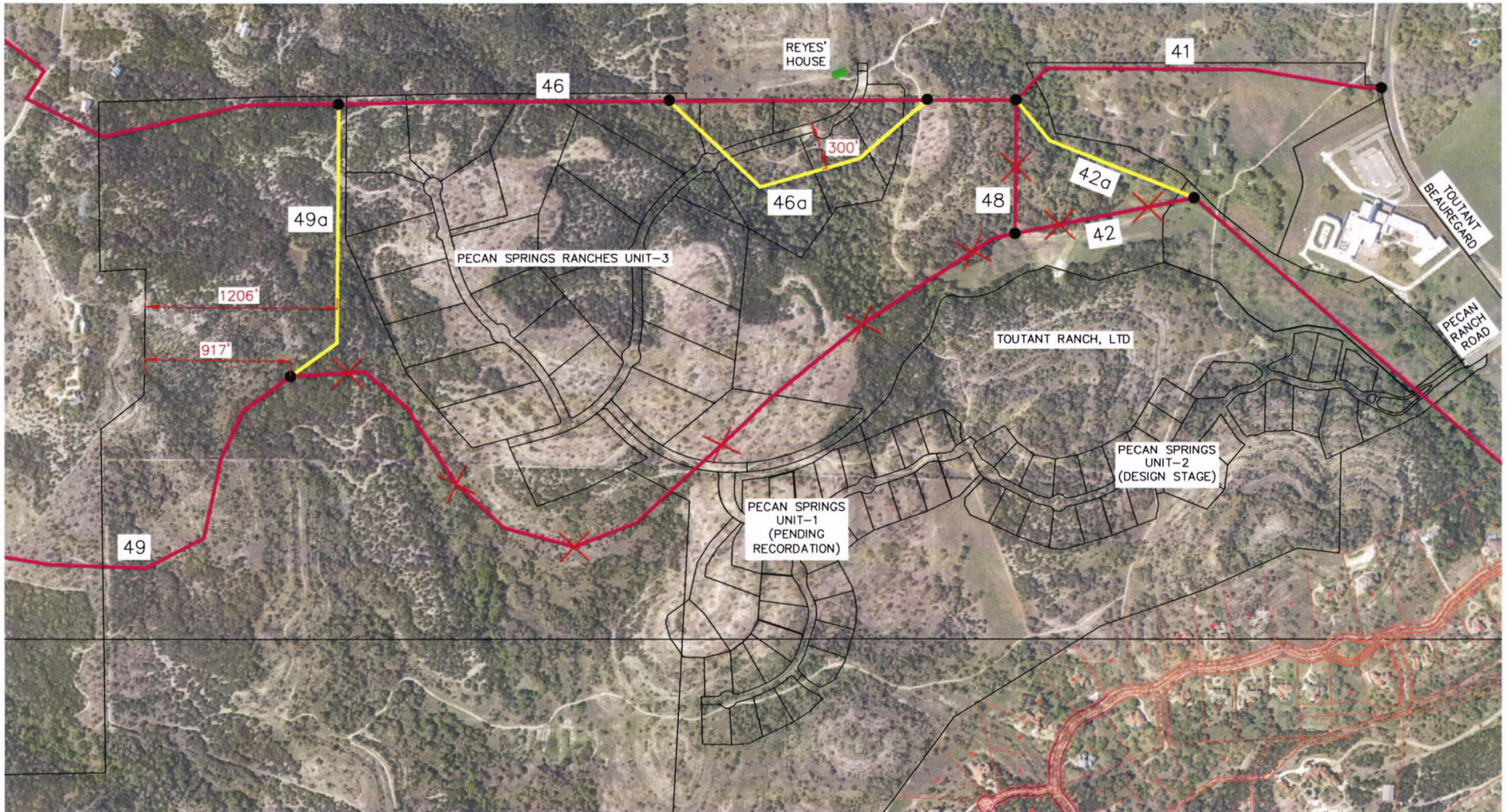
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[vCard](#) | www.tklaw.com/michael-mcmillin/

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From: [McMillin, Michael](#)
To: [Kirk Rasmussen](#)
Cc: tomdreiss@aol.com; [Taylor Dreiss](#); [Coleman, Katie](#)
Subject: CPS CCN (51023): Draft Term Sheet for Route Modification Agreement
Date: Friday, November 6, 2020 5:06:08 PM
Attachments: [CPS Scenic Loop CCN \(51023\) - DRAFT Term Sheet \(24218102\) \(3\).DOCX](#)

Kirk,

Thanks again for a productive meeting yesterday. I have attached a draft term sheet for your review and comment. As noted in-line, we will attempt to have a draft Exhibit A by Monday. Also, there is one term that we cannot finalize without first getting CPS's assumed ROW acquisition cost, but I think we can get the ball rolling and substitute that in later.

If you have any questions, please do not hesitate to give me a call.

Best,

Michael McMillin | Thompson & Knight LLP

Associate

ThompsonKnight

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[vCard](#) | www.tklaw.com/michael-mcmillin/

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DRAFT: 11/6/20

Proposed Term Sheet: CPS Scenic Loop CCN, Docket No. 51023

Parties:

- CPS Energy (“CPS”)
- Toutant Ranch, Ltd., Pinson Interests LTD LLP, and Crighton Development Co. (collectively, “Developers”)

Background:

- Developers are in the process of developing residential communities in the northwestern portion of the study area, including along proposed Segments 42, 46, 48, and 49. The presence of multiple potential transmission line paths across Developers’ property has severely impacted Developers’ business such that Developers believe they need relief before litigation will conclude in Docket No. 51023.
- Developers have asked CPS to amend its Application to eliminate one of the four potential transmission line paths that impact Developers’ properties. In exchange, Developers are willing to accept the transmission line on their properties, donate additional ROW as necessary to minimize the impact of their requested modifications, and compromise on the proposed condemnation value of any ROW that is not donated pursuant to this or a prior agreement. The proposed modifications will only impact properties that Developers own.

Terms:

- 1) **Prior Agreements:** Developers will honor all prior agreements with CPS, independently of the terms of this agreement.
- 2) **Amendment to Application:** CPS will amend its Application in Docket No. 51023 to incorporate the modifications depicted on Exhibit A.
 - a) **It is the parties’ intention that the changes shown on Exhibit A will only directly impact land owned by one of the Developers. All ROW for new segments or modifications will fall on land owned by one of the Developers, and the centerline of the new segments or modifications will not pass within 300 feet of any habitable structure.**
 - b) The modifications depicted on Exhibit A are as follows:
 - i) **Segment 49a:** CPS will create a new segment (“Segment 49a”) to connect Segment 46 to Segment 49. Segment 49a will originate at the northeastern corner of Developers’ Tract B-004, and all associated ROW for Segment 49a will be contained within Tract B-004. Segment 49a will head south from Segment 46 to Segment 49, and will include a single angle at the southern end to match the existing curve of Segment 49 as Segment 49 heads to the west.¹

Commented [MM1]: Kirk We will provide a draft of Exhibit A on Monday 11/9. For now, please reference the map that we drew on during the 11/5 meeting

¹ At its closest point, the centerline of Segment 49a will be approximately DISTANCE from the western boundary of Tract B-004

DRAFT: 11/6/20

- ii) **Partial Removal of Segment 49:** CPS will remove the portion of Segment 49 that is to the east the interconnection with new Segment 49a. The western portion of Segment 49 will remain as proposed.
 - iii) **Modification to Segment 46:** CPS will incorporate two angles into Segment 46 to shift it to the south onto Developers' Tracts B-005 and B-007 such that the centerline of modified Segment 46 will stay at least 300 feet from the boundary of Tract B-013 (the "Reyes Tract") and well over 300 feet from Habitable Structure 15 (the "Reyes Home").
 - iv) **Creation of Segment 42a:**
 - (1) CPS will create a new segment to connect the existing node of Segments 41, 46, and 48 directly to existing Segment 42 on Tract B-041. This new segment will travel as straight as possible while retaining all ROW on Developers' property and staying at least 300 feet from any habitable structure. The entire modified Segment 42 will be referred to as Segment 42a.
 - (2) CPS agrees that, consistent with the Commission's final order, it will adopt minor deviations to Segment 42a so that segment will follow the northeastern boundary of Tract B-041 and cross the extreme northeastern tip of Tract B-043 at the termination of Pecan Ranch Road, such that all ROW remains on Developers' property and the centerline stays at least 300 feet from any habitable structure.
 - v) **Elimination of Segment 48:** CPS will remove Segment 48, which would be unnecessary following the addition of Segment 42a and the partial removal of Segment 49.
- 3) **Agreement to Support Routing Options:** Developers² agree to support the Commission routing the line down either Segment 46 Modified (full length) or Segments 46 Modified (partial)-49a-49 (western portion), but do not commit to a position regarding the remainder of the route to the south or east of the eastern node of Segment 46. Developers reserve their right to argue that the Commission should reach Segment 46 Modified by following a path that includes Segment 41.
- 4) **No Net Cost Increase:** Developers agree to donate additional ROW as necessary to offset any net cost increase that results from Developers' requested modifications. The parties agree that the "net cost increase" will be calculated as follows:
- a) If the Commission uses Segment 42a-46 Modified (full length):
 - i) The cost of Segment 42a minus the cost of proposed Segments 42 and 48; plus
 - ii) The cost of Segment 46 Modified (full length) minus the cost of proposed Segment 46.
 - b) If the Commission uses Segments 42a-46 Modified (partial)-49a-49:
 - i) The cost of Segment 42a minus the cost of proposed Segment 42; plus

² As well as all other legal entities owned or controlled by Developers

DRAFT: 11/6/20

- ii) The cost of Segment 46 Modified (full length) minus the cost of proposed Segment 46;³ plus
- iii) The cost of Segment 49a and the portion of Segment 49 to the west of the interconnection with Segment 49, minus the cost of proposed Segment 49.
- c) If the Commission uses Segment 41-46 Modified (full length):
 - i) The cost of Segment 46 Modified (full length) minus the cost of proposed Segment 46.
- 5) **Maintain Existing Cost Differentials:** Developers agree to donate additional ROW as necessary to maintain the existing cost differential between routes that use Segment 46 and Segment 49.⁴ There are two possible scenarios:
 - a) **Scenario 1:** The Commission selects a route that uses a variation of Segment 42.
 - i) In the current Application, starting at the node of Segment 36 and Segment 42, using Segments 42-48-46 costs \$57,133 less than using Segments 42-49.⁵
 - ii) If the Commission selects a route that uses a variation of Segment 42, Developers commit to donating additional ROW as necessary to make the estimated cost of using Segments 42a-46 Modified (full length) \$57,133 less than the estimated cost of using Segments 42a-46 Modified (partial)-49a-49.
 - b) **Scenario 2:** The Commission selects a route that uses Segment 41.
 - i) If the Commission selects a route that uses Segment 41, Developers commit to donate additional ROW as necessary to make the estimated cost of using Segments 41-46 Modified (full length) \$57,133 less than the estimated cost of using Segments 41-46 Modified (partial length)-49a-49.
- 6) **ROW Acquisition:** If the Commission selects a route that uses any of the modified segments shown on Attachment A, Developers agree to provide all necessary ROW across Developers' property that has not been donated pursuant to this (or an earlier) agreement to CPS without resorting to a contested condemnation process. Developers will agree to provide all necessary, non-donated ROW across Developers' property to CPS at the estimated cost of ROW and Land Acquisition that CPS used to develop its Application,⁶ with one limited exception. A portion of Segment 46 Modified crosses Developers' Pecan Springs Ranch, Unit 3 development on Tract B-005, where Developers have already invested significant capital to create valuable home sites. Developers agree to provide all necessary ROW across Pecan Springs Ranch, Unit 3 at a cost of \$LUMP SUM TO BE DEVELOPED.

Commented [MM2]: Kirk: Once we receive CPS's estimated cost of ROW and Land Acquisition, we will attempt to come up with a reasonable offer to insert here

³ This captures the cost of avoiding the Reyes Tract on 46 Modified (partial)

⁴ The magnitude of any associated ROW donation will be determined after CPS develops cost estimates for the new and modified segments described in this agreement

⁵ This is the difference between CPS's cost estimates for proposed Route Z (Sub 7-54-20-36-42-48-46) and Proposed Route AA (Sub 7-54-20-36-42-49) See Application Attachment 3

⁶ The total cost of all non-donated ROW will be determined by multiplying CPS's per-mile cost of ROW and Land Acquisition by the number of miles of non-donated ROW. If CPS's estimated cost of ROW and Land Acquisition differs by segment, this calculation will be performed on a segment by segment basis

From: [McMillin, Michael](#)
To: [Rasmussen, Kirk](#); [Bennett, Craig](#)
Subject: CPS CCN (51023): Final/Signed Agreement
Date: Monday, November 23, 2020 12:35:00 PM
Attachments: [D. 51023 Signed Agreement.pdf](#)
[D. 51023 Updated Attachment.pdf](#)

Kirk and Craig,

I have attached a final version of our agreement with CPS. We accepted all your redlines. The only change from your version was to clarify that Section 9 on minor modifications would apply to "Segment 42/42a".

I have also included an updated attachment that adds a bit more information about the planned subdivisions. There were no changes to the substance of the modifications.

This version has been signed by Taylor Dreiss. If it looks ok to you, please have someone at CPS sign and return so I can attach this to our filing tomorrow.

Thanks,

Michael McMillin | Thompson & Knight LLP

Associate

ThompsonKnight

98 San Jacinto Blvd., Suite 1900, Austin, TX 78701

512.404.6708 (direct) | 956.244.1134 (cell) | michael.mcmillin@tklaw.com

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Agreement Regarding Agreed Route Modifications and Amendment to Application
CPS Scenic Loop CCN, Docket No. 51023

Parties:

- CPS Energy
- Toutant Ranch, Ltd., Pinson Interests LTD LLP, and Crighton Development Co. (collectively, “Developers”)

Background:

- Developers are in the process of developing residential communities in the northwestern portion of the study area, including along proposed Segments 42, 46, 48, and 49. The presence of multiple potential transmission line paths across Developers’ property has severely impacted Developers’ business such that Developers believe they need relief before litigation will conclude in Docket No. 51023.
- Developers have asked CPS Energy to amend its Application to eliminate one of the four potential transmission line paths that impact Developers’ properties. In exchange, Developers are willing to accept the transmission line on their properties, donate additional ROW as necessary to minimize the impact of their requested modifications, and compromise on the proposed condemnation value of any ROW that is not donated pursuant to this or a prior agreement. The proposed modifications will only impact properties that Developers own or control through various development agreements.

Terms:

- 1) **Prior Agreements:** Developers will honor all prior agreements with CPS Energy, independently of the terms of this agreement, specifically with respect to Developers agreement to donate approximately 2,059 feet of ROW on Segment 42 in the location previously agreed upon.
- 2) **Route Adequacy Proposal:** Developers will present a route adequacy proposal on November 24, 2020 requesting CPS Energy be ordered to amend its application in the manner shown on Exhibit A.
 - a) **It is the parties’ intention that the changes shown on Exhibit A will only directly impact land owned by one of the Developers. All ROW for new segments or modifications will fall on land owned by one of the Developers, and the centerline of the new segments or modifications will not pass within 300 feet of any habitable structure.**
 - b) The modifications depicted on Exhibit A are as follows:
 - i) **Segment 49a:** Segment 49a will connect Segment 46 to Segment 49. Segment 49a will originate at the northeastern corner of Developers’ Tract B-004, and all associated ROW for Segment 49a will be contained within Tract B-004. Segment 49a will head south from Segment 46 to Segment 49, and will include a single angle

at the southern end to match the existing curve of Segment 49 as Segment 49 heads to the west.¹

- ii) **Partial Removal of Segment 49:** Segment 49 to the east the interconnection with new Segment 49a will be removed. The western portion of Segment 49 will remain as proposed.
 - iii) **Modification to Segment 46:** Two angles will be incorporated into Segment 46 to shift it to the south onto Developers' Tracts B-005 and B-007 such that the centerline of modified Segment 46 will stay at least 300 feet from the boundary of Tract B-013 (the "Reyes Tract") and well over 300 feet from Habitable Structure 15 (the "Reyes Home").
 - iv) **Creation of Segment 42a:** A new Segment 42a will be created to connect the existing node of Segments 41, 46, and 48 directly to existing Segment 42 on Tract B-041 before Segment 42 turns from the northwest to the west. This new segment will travel as straight as possible while retaining all ROW on Developers' property and staying at least 300 feet from any habitable structure.
 - v) **Elimination of Segment 48:** Segment 48, which would be unnecessary following the addition of Segment 42a and the partial removal of Segment 49 will be removed.
- 3) **CPS Energy Agreement to Route Adequacy Proposal:** CPS Energy will file a pleading following the filing of Developers' route adequacy proposal acknowledging the proposal and expressing support and agreement with the changes proposed. CPS Energy agrees, following issuance of an order from the ALJs requiring the proposed adjustments, to amend its Application in Docket No. 51023 to incorporate the modifications depicted on Exhibit A.
- 4) **Staff Non-Opposition:** CPS Energy's agreement to file in support of the Developers' route adequacy proposal is contingent on Staff expressing support for the proposal, or at a minimum agreeing not to oppose the proposal.
- 5) **Agreement to Support Routing Options:** Developers² agree to support the Commission routing the line down either Segment 46 Modified (full length) or Segments 46 Modified (partial)-49a-49 (western portion), but do not commit to a position regarding the remainder of the route to the south or east of the eastern node of Segment 46. Developers reserve their right to argue that the Commission should reach Segment 46 Modified by following a path that includes Segment 41.
- 6) **No Net Cost Increase:** Developers agree to donate additional ROW as necessary to offset any net cost increase that results from Developers' requested modifications. The parties agree that the "net cost increase" will be calculated as follows:
- a) If the Commission uses Segment 42a-46 Modified (full length):
 - i) The cost of Segment 42a minus the cost of proposed Segments 42 and 48; plus

¹ At its closest point, the centerline of Segment 49a will be approximately 917 feet from the western boundary of Tract B-004.

² As well as all other legal entities owned or controlled by Developers.

- ii) The cost of Segment 46 Modified (full length) minus the cost of proposed Segment 46.
 - b) If the Commission uses Segments 42a-46 Modified (partial)-49a-49:
 - i) The cost of Segment 42a minus the cost of proposed Segment 42; plus
 - ii) The cost of Segment 46 Modified (full length) minus the cost of proposed Segment 46;³ plus
 - iii) The cost of Segment 49a and the portion of Segment 49 to the west of the interconnection with Segment 49, minus the cost of proposed Segment 49.
 - c) If the Commission uses Segment 41-46 Modified (full length):
 - i) The cost of Segment 46 Modified (full length) minus the cost of proposed Segment 46.
- 7) **Maintain Existing Cost Differentials:** Developers agree to donate additional ROW as necessary to maintain the existing cost differential between routes that use Segment 46 and Segment 49.⁴ There are two possible scenarios:
- a) **Scenario 1:** The Commission selects a route that uses a variation of Segment 42.
 - i) In the current Application, starting at the node of Segment 36 and Segment 42, using Segments 42-48-46 costs \$57,133 less than using Segments 42-49.⁵
 - ii) If the Commission selects a route that uses a variation of Segment 42, Developers commit to donating additional ROW as necessary to make the estimated cost of using Segments 42a-46 Modified (full length) \$57,133 less than the estimated cost of using Segments 42a-46 Modified (partial)-49a-49.
 - b) **Scenario 2:** The Commission selects a route that uses Segment 41.
 - i) If the Commission selects a route that uses Segment 41, Developers commit to donate additional ROW as necessary to make the estimated cost of using Segments 41-46 Modified (full length) \$57,133 less than the estimated cost of using Segments 41-46 Modified (partial length)-49a-49.
- 8) **ROW Acquisition:** If the Commission selects a route that uses any of the modified segments shown on Attachment A, Developers agree to provide all necessary ROW across Developers' property that has not been donated pursuant to this (or an earlier) agreement to CPS Energy without resorting to a contested condemnation process. Developers will agree to provide all necessary, non-donated ROW across Developers' property to CPS Energy at the lower value of (1) \$0.40 per square foot, which is a 20% discount off of CPS Energy's assumed cost of ROW along the segments that impact Developers' property; or (2) the value of the ROW along the segments that impact Developers' property pursuant to an independent appraisal for the property right by an one or more appraisers agreed to by

³ This captures the cost of avoiding the Reyes Tract on 46 Modified (partial).

⁴ The magnitude of any associated ROW donation will be determined after CPS develops cost estimates for the new and modified segments described in this agreement.

⁵ This is the difference between CPS's cost estimates for proposed Route Z (Sub 7-54-20-36-42-48-46) and Proposed Route AA (Sub 7-54-20-36-42-49). See Application Attachment 3.

the parties. Additionally, Developers will not seek any recovery for damages to the remainder value of any tracts that are impacted by the transmission line, including where Segment 46 Modified crosses Developers' Pecan Springs Ranch, Unit 3 development on Tract B-005.

- 9) CPS agrees that, consistent with the Commission's final order, if a route is approved by the Commission that includes Segment 42a, CPS Energy will work with Developers to make minor route deviations to Segment 42/42a as appropriate to minimize impacts to Developers' activities in the area.

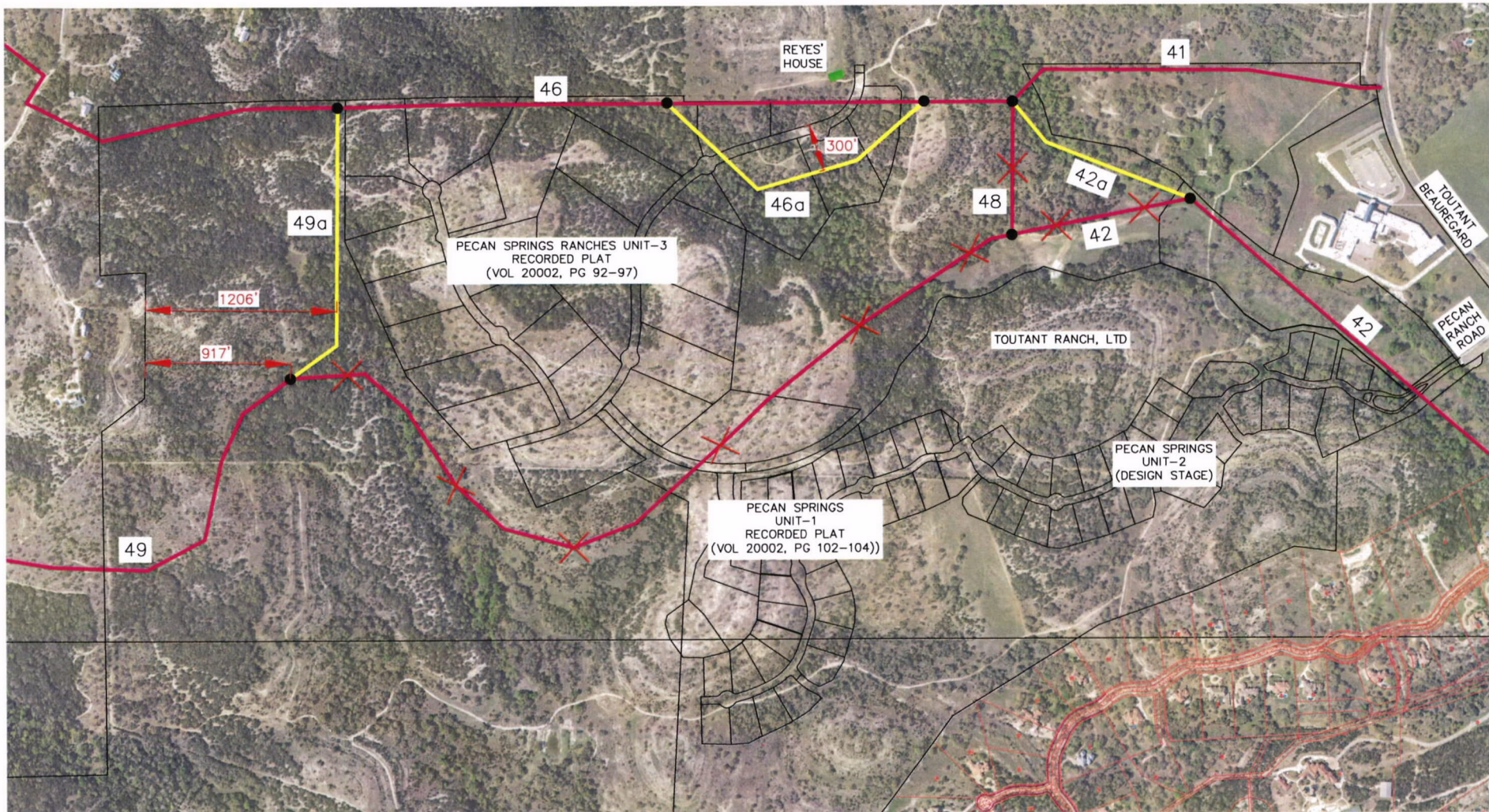
Signed this 23rd day of November, 2020.

 (Sign)

TAYLOR DREISS (Print)
For Developers

_____ (Sign)

_____ (Print)
For CPS Energy



From: [McMillin, Michael](#)
To: [Kirk Rasmussen](#)
Subject: CPS CCN Information
Date: Friday, November 6, 2020 6:58:09 AM

Kirk,

Thanks again for taking the time to meet with us yesterday, especially so close to your testimony deadline. There are two things that would really help me draft a term sheet: Can I get a copy of the PDF you had up on the screen? Also, is there any way to get CPS's estimated ROW acquisition costs (on a per-acre or per-mile basis, if possible) for Segments 42, 46, 48, and 49?

Thanks,

Michael McMillin | Thompson & Knight LLP

Associate

ThompsonKnight

98 San Jacinto Blvd., Suite 1900, Austin, TX 78701

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From: [McMillin, Michael](#)
To: [Rasmussen, Kirk](#)
Cc: [Coleman, Katie](#)
Subject: CPS Scenic Loop: Response to Modification Proposal and Request for Call
Date: Monday, October 12, 2020 4:27:17 PM
Attachments: [Dreiss Modification Proposal.pdf](#)

Kirk,

I just got off a call with Tom and Taylor Dreiss about the modification proposal you sent us last week. CPS's proposed change didn't match up with what we were expecting, and we think it would be helpful to do another round of revisions in advance of a meeting. That way we can hopefully resolve all the necessary issues, including some lingering changes that we believe were discussed in the meeting you/CPS had with the Dreisses back in July.

Please call me at your earliest convenience to discuss this proposal. As you know, under your proposed procedural schedule, our testimony would be due in two months. We need to determine if an agreement will be possible in relatively short order so that we can make litigation decisions around hiring experts, etc.

The attached document includes hand-drawn modification proposals labeled 1 through 4:

Modification 1: Please see the **dotted** line labeled "1" on the attached map (ignore the highlighting). The solid line nearby represents the Dreisses' property boundary. We believe that placing the ROW along the dotted line and entirely within the Dreiss property would keep it at least 300 feet away from any habitable structure. We don't understand why CPS's proposal (the green line) is so far inside the Dreisses' property boundary.

Modification 2: To avoid the Reyes home, the Dreisses believe they can accept a modification similar to the one marked "2" on the attached map. We view this as a significant concession because it would require the Dreisses to eliminate two home sites that are already under contract, at a total cost of approximately \$350k.

Modification 3: We believe this modification reflects the discussions you/CPS had with the Dreisses in July surrounding their donation of the flood plain ROW behind the school.

-

Modification 4: We believe this modification reflects the discussions you/CPS had with the Dreisses in July surrounding their donation of the flood plain ROW behind the school. The line would hug the southwestern boundary of the school property, with all ROW on the Dreisses' land. We believe that this configuration would keep the line more than 300 feet from any school building.

Let's talk soon.

Best,

Michael McMillin | Thompson & Knight LLP
Associate

ThompsonKnight

98 San Jacinto Blvd., Suite 1900, Austin, TX 78701

512.404.6708 (direct) | 956.244.1134 (cell) | michael.mcmillin@tklaw.com

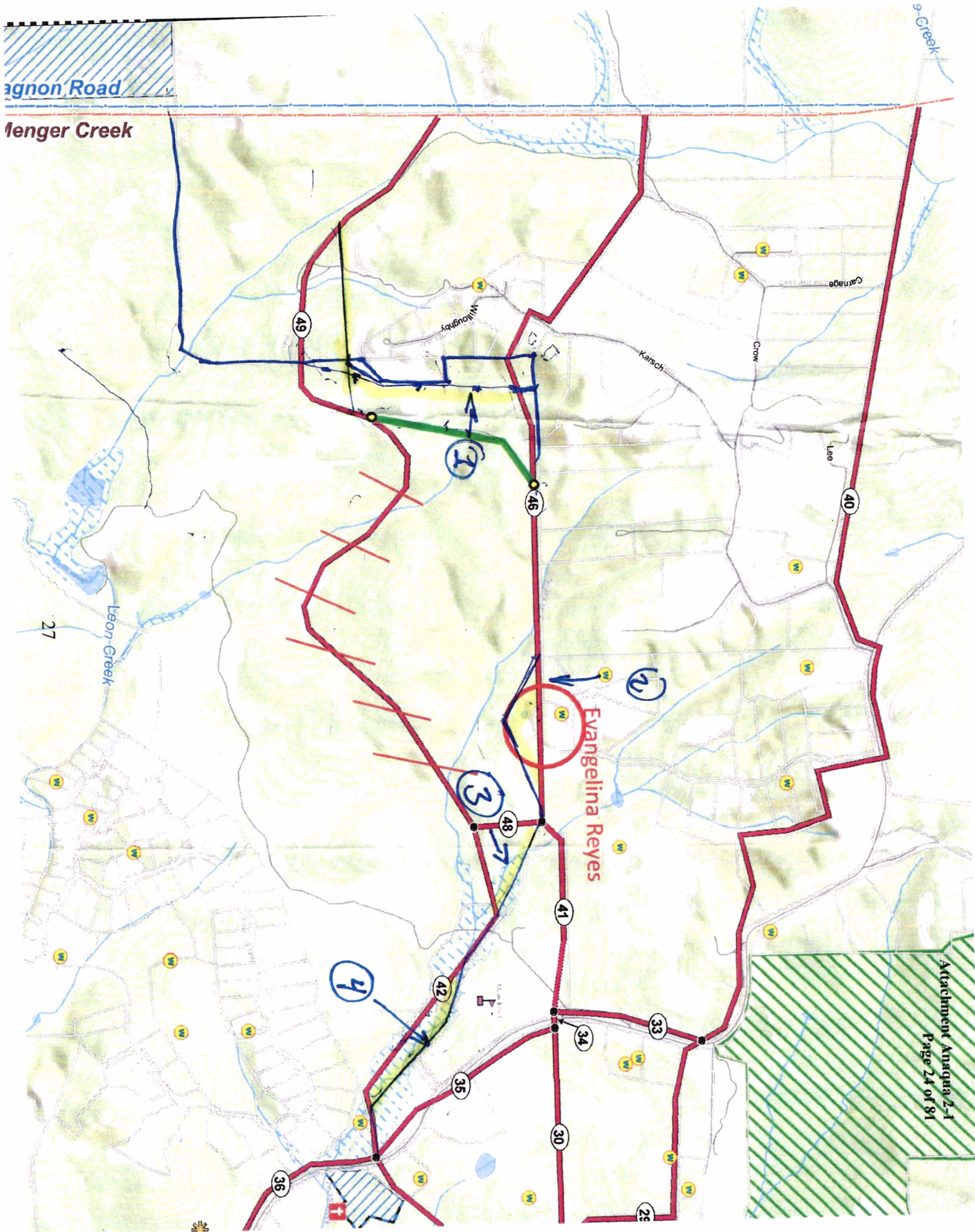
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agnon Road

lenger Creek

s Creek



27

From: [McMillin, Michael](#)
To: [Rasmussen, Kirk](#)
Subject: D. 51023 Statement on Route Adequacy and Request for Approval of Proposed Agreed Amendment to Application.DOCX
Date: Tuesday, November 24, 2020 12:08:03 PM
Attachments: [D. 51023 Statement on Route Adequacy and Request for Approval of Proposed Agreed Amendment to Application \(24283037\) \(3\).DOCX](#)

Kirk,

Here is the filing we intend to submit later this afternoon.

Thanks,

Michael McMillin | Thompson & Knight LLP

Associate

ThompsonKnight

98 San Jacinto Blvd., Suite 1900, Austin, TX 78701

512.404.6708 (direct) | 956.244.1134 (cell) | michael.mcmillin@tklaw.com

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

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

**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**

I. INTRODUCTION

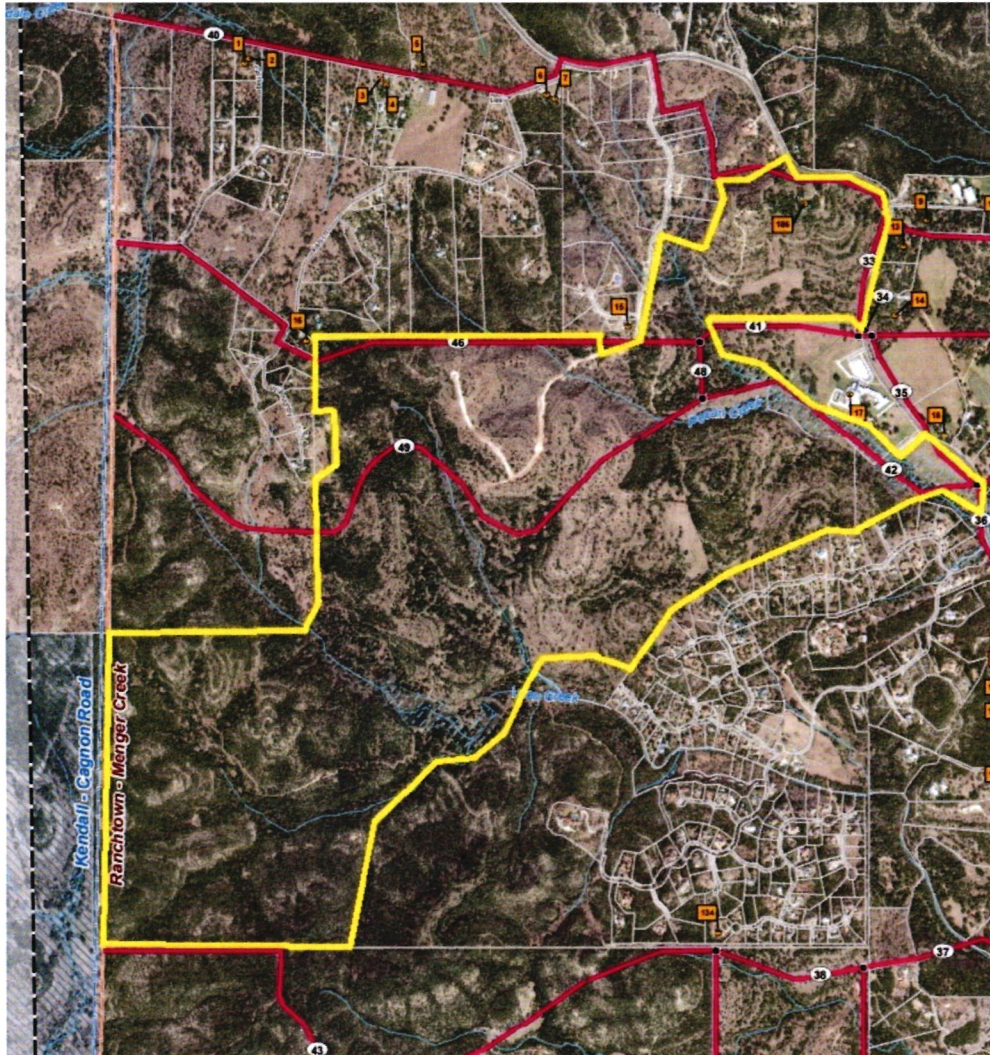
Toutant Ranch, Ltd., Pinson Interests Ltd. LLP, and Crighton Development Co.¹ (collectively "Developers") are in the business of developing large tracts of unimproved ranchland into residential communities in the northwestern end of the study area. Developers' properties are extensive,² and taken together, they form a contiguous whole that (along with completed developments Pecan Springs Ranch and Anaqua Springs) was once a single large ranch.³ Figure 1 shows Developers' directly impacted properties outlined in yellow:

¹ Pinson Interests Ltd. LLP and Crighton Development Co. have intervened pursuant to a pending Supplemental Motion to Intervene that was filed on November 9, 2020 (Interchange #377). No party objected to that motion.

² Developers own the following tracts: A-086, A-158, A-164, A-166, B-004, B-005, B-007, B-009, B-011, B-041, B-043, F-029, and G-001.

³ Developers' co-intervenor, ASR Parks, LLC, owns and maintains several tracts of greenbelt space in and around the Anaqua Springs subdivision.

Figure 1: Outline of Developers' Directly Impacted Properties⁴



Developers believe that CPS Energy's proposed routing options across the center of Developers' properties along Segments 42, 48, 46, and 49 are inadequate and unnecessarily interfere with Developers' business. Over the past few months, Developers have worked with CPS Energy to come up with new, *agreed* routing options that *only impact Developers' property*, as described in an agreement between Developers and CPS Energy that is attached to this filing as Exhibit 1. These agreed routing options will mitigate the impact of this project on Developers' business and allow them to accept a significant portion of the proposed transmission line on their

⁴ Map Excerpt from CPS Energy's Application Attachment 1 (Environmental Assessment) at Figure 4-1.

land. The purpose of this filing is to solicit other parties' comments on these agreed routing options and request that the administrative law judges (ALJs) order CPS Energy to amend its Application to include them.

CPS Energy should be required to amend its Application to incorporate these agreed routing options because the uncertainty created by the current proposed transmission line paths across Developers' properties is severely impacting Developers' business.⁵ Before CPS Energy announced this transmission project, Developers had already invested significant capital to design, plan, and lay infrastructure for three new developments—Pecan Springs Ranches Unit 3, which is sandwiched between proposed segments 46 and 49 and already visible on the map above, and Pecan Springs Units 1 and 2, which are located between Segment 49 and the existing Anaqua Springs community to the southeast.⁶ Uncertainty related to where this transmission project will be located is preventing Developers from selling completed home sites, and holding many millions of dollars of un-sellable inventory is stressing Developers' finances and impacting their ability to continue building out their planned subdivisions.⁷ Unless the Commission orders CPS Energy to amend the routing options across Developers' properties, this transmission line project will continue to impede Developers' business until this case concludes, which will be next summer at the earliest.

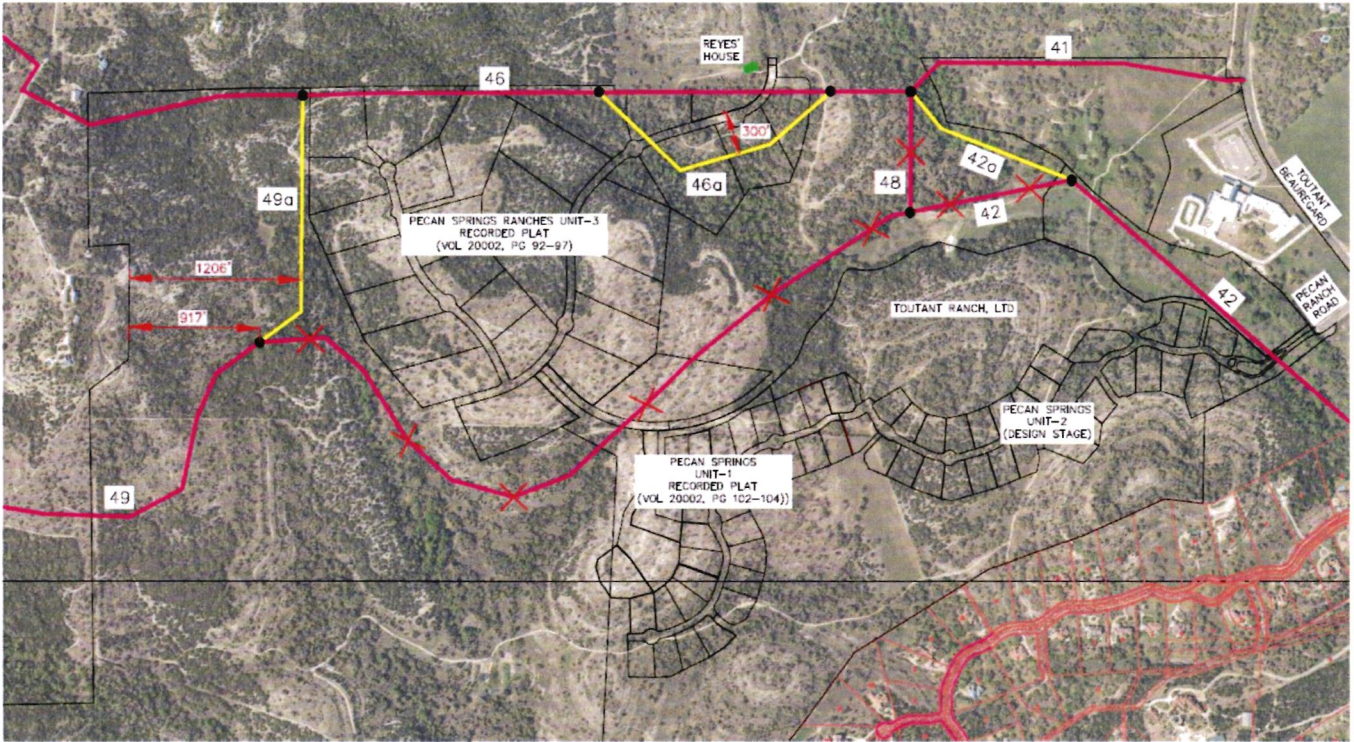
Developers' proposed amendments to CPS Energy's routing options are shown below in Figure 2. Counsel for Developers is authorized to represent that CPS Energy supports these proposed changes and Commission Staff is unopposed.

⁵ See Exhibit 2 (Affidavit of Taylor Dreiss).

⁶ Figure 2 below shows the locations of these developments.

⁷ See Exhibit 2 (Affidavit of Taylor Dreiss).

Figure 2: Agreed Changes to CPS Energy's Proposed Routing Options⁸



As shown in Figure 2, Developers have agreed to add Segments 42a, 46a, and 49a to create new, adequately differentiated routing options across their properties. The rationale for each of Developers' proposed additions is discussed in detail below, but in general, these new routing options are designed to minimize unnecessary encroachment on Developers' tracts, avoid directly impacting an existing home, and keep the proposed segments far from established communities. Additionally, the agreed routing options would render proposed Segment 48 and portions of proposed Segments 42 and 49 unnecessary, so those segments should be removed as shown above. Removing those unnecessary paths across Developers' property will eliminate some of the uncertainty surrounding this transmission line project and provide Developers with a viable path forward for their subdivision projects while this case is being litigated. Importantly, *these changes will not impact the total number of routes available for the Commission to select,*⁹ and CPS

⁸ See Exhibit 1 (Agreement Between Developers and CPS Energy) at 5 (Map).

⁹ Instead, any route that would have followed Segment 46 would use Segment 46a, and any route that would have followed Segments 42-49 would use Segments 42a-46a-49a.

Energy's amended Application will continue to present reasonably differentiated paths across Developers' property.

Incorporating these proposed amendments into CPS Energy's Application is in the public interest and will not negatively impact other parties to this case. Critically, ***Developers are the only landowners who would be directly impacted by these new routing options***, and the proposed changes are far enough from any other landowner that CPS Energy will not be required to issue additional notice.¹⁰ Further, ***Developers will donate sufficient right-of-way (ROW)***¹¹ ***to offset any incremental costs associated with the new routing options***,¹² and will ensure that the existing cost differential between routes that use Segment 46 and those that use Segment 49 remains the same, so as to not prejudice any other party's arguments in this proceeding.¹³ Finally, if the ALJs order CPS Energy to amend its Application as described in Exhibit 1, ***Developers would be willing to accept a large portion of this transmission line on their properties***,¹⁴ ***and would provide any necessary right-of-way (ROW) across their properties to CPS Energy at a significant discount***.¹⁵

Developers are submitting this filing to give other parties an opportunity to comment on these proposed changes within the context of the existing procedural schedule, and to allow the ALJs to review and approve these agreed changes to CPS Energy's Application well in advance of testimony deadlines. To that end, Developers request that other parties be required to submit any comments on this filing when responses to route adequacy comments are due on Thursday,

¹⁰ All ROW would be on Developers' property and none of the proposed new segments pass within 300 feet of a habitable structure (or even the boundary line of a tract that contains a habitable structure). Accordingly, CPS Energy would not be required to issue additional notice under PUC Proc. R. § 22.52(a)(3).

¹¹ In addition to the ROW that Developers have already agreed to donate along Segment 42, as discussed in CPS Energy's Application.

¹² Developers have agreed to donate additional ROW as necessary to accomplish this goal. *See* Exhibit 1 (Agreement Between Developers and CPS Energy) at 2-3.

¹³ *Id.* at 3.

¹⁴ Under the terms of Developers' agreement with CPS Energy, if the Application is amended as shown above in Figure 2, Developers will support the placement of a transmission line along either available path from the node of Segments 41, 42a, and 46a to the west. In other words, Developers would support the transmission line crossing their properties along either Segment 46a or Segments 46a-49a-49. *Id.* at 2.

¹⁵ Developers have agreed that if the Commission ultimately selects a route that involves these new routing options, Developers will provide all necessary ROW across their properties that it does not donate pursuant to this or a prior agreement at 80% of CPS Energy's assumed ROW cost or the appraised value of that ROW, whichever is lower. *Id.* at 3-4.

December 3rd.¹⁶ Additionally, if necessary, Developers would be willing to present a witness for live direct and cross examination during a route adequacy hearing on December 10th. After that date, Developers request that the ALJs issue an order requiring CPS Energy to amend its Application, consistent with the agreement attached to this pleading as Exhibit 1.

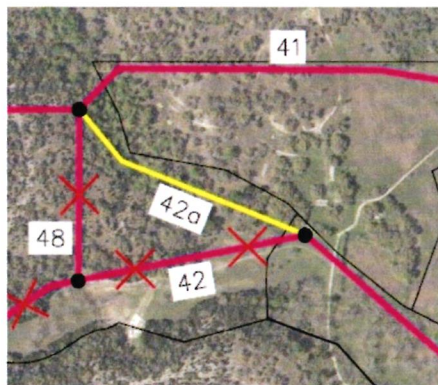
II. ARGUMENT AND AUTHORITIES

A. The ALJs should order CPS Energy to amend its Application to reflect its agreement with Developers.

i. *Developers' agreed routing options are reasonable and should be incorporated into CPS Energy's Application.*

Developers' agreement with CPS Energy contemplates the addition of three new route segments to create adequate paths across Developers' property: Segments 42a, 46a, and 49a. As shown below, these new segments are located *entirely on Developers' property* and would not pass within 300 feet of any habitable structure.¹⁷ As described below, these agreed segments are reasonable and in the public interest, so the ALJs should order CPS Energy to amend its Application to incorporate them.

Figure 3: Proposed Segment 42a

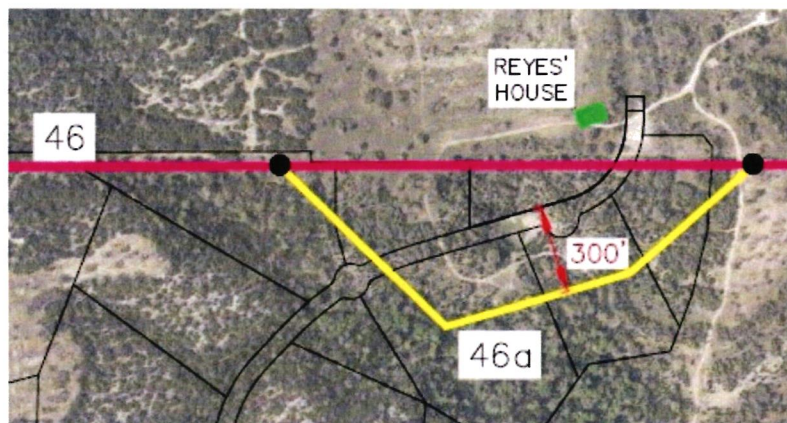


¹⁶ Alternatively, parties should be required to submit responsive comments on Friday, December 4th to match the Commission's standard five working-day deadline for responsive pleadings. *See* PUC Proc. R. § 22.78(a) ("Unless otherwise specified by statute, by this chapter, or by order of the presiding officer, a responsive pleading, if made, shall be filed by a party within five working days after receipt of the pleading to which the response is made.").

¹⁷ Accordingly, CPS Energy would not be required to issue additional notice for these proposed changes under PUC Proc. R. § 22.52(a)(3).

Segment 42a would connect the existing path of Segment 42 directly to the node of proposed Segments 42, 46, and 48. This change is reasonable because it provides a more direct path than using the end of proposed Segment 42 and Segment 48, decreases the length of any route that uses Segment 42, and eliminates two heavy turning structures at the ends of proposed Segment 48. It also avoids unnecessarily isolating a corner of Developers' Tract A-086. As with all of Developers' proposed changes, all of the ROW for Segment 42a would be on Developers' property, and the line would not pass within 300 feet of any habitable structure.

Figure 4: Proposed Segment 46a



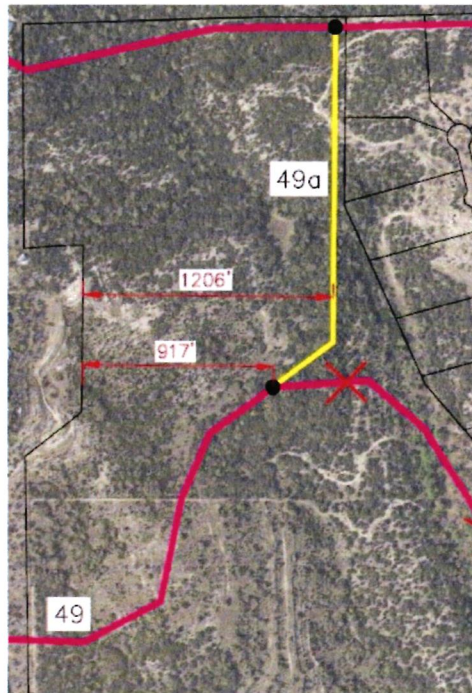
Segment 46a is designed to avoid the home of Ismael and Evangelina Reyes.¹⁸ The Reyeses' home is located at the south end of Developers' completed Pecan Springs Ranches Unit 2, and Developers recently sold the Reyeses their home site. As proposed, Segment 46 would cut across the Reyeses' back yard and pass 174 feet from their home.¹⁹ Developers have agreed to Segment 46a to minimize the impact of this line on their prior customers. Segment 46a is located well inside Developers' property and, as shown above, would bisect multiple established home sites in Developers' newer Pecan Springs Ranches Unit 3 rather than following the northern boundary of that development, as CPS Energy originally proposed. This concession from Developers will ensure that Segment 46a will be at least 300 feet from the Reyeses' property line, and well over 300 feet from their home. As such, if CPS Energy is ordered to amend its

¹⁸ The Reyes home is marked as Habitable Structure #15 on CPS Energy's maps.

¹⁹ See Environmental Assessment at Page C-39.

Application as requested in this filing, the Reyes family's property would no longer be directly affected by the proposed transmission line.

Figure 5: Proposed Segment 49a



Segment 49a provides a pathway to connect Segment 46a to the western portion of Segment 49, while staying as far as possible from the established High Country Ranch community to the west of Developers' property. This proposed segment is located entirely on Developers' Tract B-004, and would back up to the western edge of Developers' Pecan Springs Ranches project on Tract B-005. At its closest point, Segment 49a would be approximately 917 feet from the eastern edge of the High Country Ranch subdivision, and is generally over 1,200 feet inside Developers' western property boundary.

- ii. In light of Developers' willingness to agree to a transmission line path across their property, it is reasonable for CPS Energy to remove unnecessary segments on Developers' property from its Application.*

The Commission has traditionally encouraged utilities to work with landowners where possible to develop agreed transmission line paths through their properties. Such agreements minimize controversy in CCN proceedings and allow landowners to effectively manage the impact of transmission infrastructure on their land. Developers have agreed to support a reasonable path

across their property that renders proposed Segment 48 and portions of proposed Segments 42 and 49 unnecessary.²⁰ As such, the Commission should order CPS Energy to amend its Application to remove those unnecessary segments. As mentioned above, the uncertainty surrounding whether the line will travel to the north or south of Developers' Pecan Springs Ranches community is preventing Developers from selling established home sites while this proceeding is pending, which is stressing their finances and interfering with their ability to effectively manage their ongoing subdivision projects.²¹ Removing the now-unnecessary eastern portion of Segment 49 will provide Developers with the certainty that they need to effectively continue their business while this case is pending. Importantly, eliminating the unnecessary portions of Segments 42, 48, and 49 will not change the total number of routes available for the Commission to consider. Instead, routes that would have followed Segments 42-48 would use agreed Segment 42a, and routes that would have followed Segments 42-49 would use agreed Segments 42a-46a-49a. All potential paths entering and leaving Developers' property would remain the same.

iii. Developers have agreed to bear any incremental costs associated with their agreed routing options.

Developers are not asking for a handout from the Commission. To the contrary, they have agreed to donate additional ROW across their properties²² as necessary to offset any incremental cost associated with their requested modifications.²³ Accordingly, electric ratepayers will not bear any additional costs as a result of Developers' agreement with CPS Energy.

iv. Developers have agreed to maintain the existing cost differential between routes that use Segment 46 and those that use Segment 49.

In an effort to avoid prejudicing other parties' litigation positions, Developers have agreed to donate additional ROW as necessary to ensure that the proposed amendments to CPS Energy's Application will not change the cost differential between routes that end on Segment 46 and routes

²⁰ As noted above, Developers have agreed to support the Commission routing a transmission line along any path that travels west from the node of Segments 41, 42a, and 46a. That said, Developers have reserved their right to support routes that reach that node via either Segment 41 or Segment 42a. See Exhibit 1 (Agreement Between Developers and CPS Energy) at 2.

²¹ See Exhibit 2 (Affidavit of Taylor Dreiss).

²² In addition to the ROW that Developers previously agreed to donate along proposed Segment 42, as discussed in CPS Energy's Application. See *id.* at 1.

²³ *Id.* at 2-3.

that end on Segment 49.²⁴ In CPS Energy's Application, it estimates that using Segments 42-48-46 will cost \$57,133 less than using Segments 42-49.²⁵ If CPS Energy amends its Application to incorporate Developers' agreed routing options, Developers have committed to donate ROW such that routes which follow agreed Segment 46a and terminate along Segment 46 to the west will cost \$57,133 less than routes that follow agreed Segment 49a and terminate along Segment 49 to the west. That will ensure that Developers' agreement with CPS Energy will not impact the relative litigation positions of parties whose properties are located to the west of Developers'.

- v. ***Developers' agreement with CPS Energy is in the public interest because it would decrease CPS Energy's cost of acquiring transmission ROW across Developers' property.***

Developers have agreed that if the Commission selects a route that involves any of Segments 42a, 46a, or 49a, Developers will forego the condemnation process and provide all necessary, non-donated²⁶ ROW across their properties at a 20% discount compared to CPS Energy's assumed cost of ROW.²⁷ While CPS Energy has not yet calculated the estimated value of this concession, it will undoubtedly save ratepayers a substantial sum if the Commission ultimately selects a route that crosses Developers' property. Depending on which path the Commission selects, there could be roughly *two miles* of non-donated ROW on Developers' property. Additionally, Developers have agreed to waive any claim to remainder damages to the established home sites in its Pecan Springs Ranches Unit 3. It is in the public interest for CPS Energy to capture these potential savings for ratepayers by amending its Application pursuant to its agreement with Developers.

²⁴ *Id.* at 3.

²⁵ This is the difference between CPS Energy's cost estimates for proposed Route Z (Sub 7-54-20-36-42-48-46) and Proposed Route AA (Sub 7-54-20-36-42-49). *See* Application, Attachment 3.

²⁶ Developers previously agreed to donate 2,059 feet of ROW along Segment 42, and have agreed to donate additional ROW as necessary to offset any incremental costs associated with their agreed routing options and maintain existing cost differentials between routes that use Segment 46 and Segment 49. *See* Exhibit 1 (Agreement Between Developers and CPS Energy) at 1.

²⁷ Or the appraised value of that ROW, whichever is lower. *Id.* at 3-4.

B. The ALJs should review and approve these agreed amendments to CPS Energy's Application through the existing route adequacy process.

The ALJs should review Developers' agreed routing options and order CPS Energy to adopt them in the context of the route adequacy process contemplated in the procedural schedule. While this is not a traditional route adequacy challenge, Developers believe that because this pleading requests amendments to CPS Energy's application that would incorporate new routing options, it fits within the scope of route adequacy. The Commission's Preliminary Order Issue #1 instructs the ALJs to consider whether CPS Energy's Application contains an adequate number of "reasonably differentiated" routes. It is Developers' position that the current proposed route options across Developers' property are not differentiated in a reasonable way in light of Developers' agreement to accept the line in a particular location. As part of the route adequacy analysis, the ALJs are instructed to consider "the locations of the proposed transmission line" and "the facts and circumstances specific to the geographic area under consideration."²⁸ Here, the facts and circumstances specific to Developers' properties—in particular, the ongoing impacts that the proposed routing options are having on Developers' business—demonstrate that the existing routing options across Developers' property are not reasonable and should be amended. As noted above, Developers' proposed agreed amendments to CPS Energy's Application will not change the number of routes available for the Commission to consider.

Even if the ALJs believe that this pleading does not present a route adequacy issue, they should construe it as a request to add a new issue to this proceeding and then consider that issue in conjunction with route adequacy. Under the Commission's Preliminary Order, "*[t]he parties and the ALJ are free to raise and address any issues relevant to this docket that they deem necessary.*"²⁹ For Developers, obtaining amendments to CPS Energy's Application is not just necessary, but essential for the continued health of their businesses. It would be appropriate for the ALJs to consider Developers' proposed amendment to CPS Energy's Application using the same deadlines that the parties agreed to for route adequacy challenges. However, if the ALJs

²⁸ Docket No. 51023, Order of Referral and Preliminary Order at 3 (Sept. 29, 2020).

²⁹ *Id.* at 5.

were to rely on the standard five working-day deadline for responsive pleadings,³⁰ then responses to this filing would be due one day later on December 4th. In either case, it would be reasonable for the ALJs to consider comments on Developers' agreed routing options in conjunction with any other route adequacy concerns, and if asked to do so, Developers would be willing to present a live witness at the route adequacy hearing scheduled for December 10th.

III. CONCLUSION

Developers are willing to agree to accept this transmission line along a particular path across their property that *will not impact any other landowner*. Accordingly, Developers should not be required to wait until the end of this proceeding to get any level of certainty about where a transmission line might impact their land. Instead, the ALJs should order CPS Energy to amend its Application in accordance with its agreement with Developers. Those amendments will incorporate new, *agreed* routing options across Developers' property and eliminate unnecessary routing options that are interfering with Developers' ability to effectively conduct their business while this case is pending. As noted above, these agreed changes are contained *entirely* within Developers' properties and would not directly impact any other landowner. Further, Developers will donate additional ROW to offset any incremental costs associated with the new routing options and to keep the cost differential between existing routes the same. Finally, if CPS Energy amends its application to incorporate Developers' agreed routing options, Developers have agreed to accept a large portion of this line on their property and will provide all necessary, non-donated ROW across their property to CPS Energy at a substantial discount. This agreement is in the public interest, and CPS Energy should be ordered to amend its Application to effectuate it.

³⁰ See PUC Proc. R. § 22.78(a) ("Unless otherwise specified by statute, by this chapter, or by order of the presiding officer, a responsive pleading, if made, shall be filed by a party within five working days after receipt of the pleading to which the response is made.").

Respectfully submitted,

THOMPSON & KNIGHT LLP

/s/ Michael McMillin

Katherine L. Coleman

State Bar No. 24059596

Michael McMillin

State Bar No. 24088034

98 San Jacinto Blvd., Suite 1900

Austin, Texas 78701

(512) 469.6100

(512) 469.6180 (fax)

**ATTORNEYS FOR TOUTANT RANCH, LTD.,
ASR PARKS, LLC, PINSON INTERESTS LTD.
LLP AND CRIGHTON DEVELOPMENT CO.**

CERTIFICATE OF SERVICE

I, Michael McMillin, Attorney for Toutant Ranch, Ltd., ASR Parks, LLC, Pinson Interests Ltd. LLP, and Crighton Development Co., hereby certify that a copy of the foregoing document was served on all parties of record in this proceeding on this 24th day of November, 2020 by hand-delivery, facsimile, electronic mail and/or First Class, U.S. Mail, Postage Prepaid.

/s/ Michael McMillin

Michael McMillin

From: [McMillin, Michael](#)
To: [Tawater, Rustin](#); [Armstrong, Heath](#)
Cc: [Rasmussen, Kirk](#); [Bennett, Craig](#); kdgiles@cpsenergy.com
Subject: D. 51023: Route Alternatives Discussion, Current Term Sheet
Date: Wednesday, November 18, 2020 4:36:50 PM
Attachments: [201110a1 - CPS Exhibit.pdf](#)
[CPS Scenic Loop CCN \(51023\) - UPDATED DRAFT Term Sheet Active\(24218102\) Active\(5\).DOCX](#)

Rustin and Heath,

To assist in our discussion at 5, here is the most recent term sheet that my clients exchanged with CPS, as well as the associated attachment. My understanding is that CPS will have minor changes to this document, but we have an agreement in principle on this basis.

Talk to you soon.

Thanks,

Michael McMillin | Thompson & Knight LLP

Associate

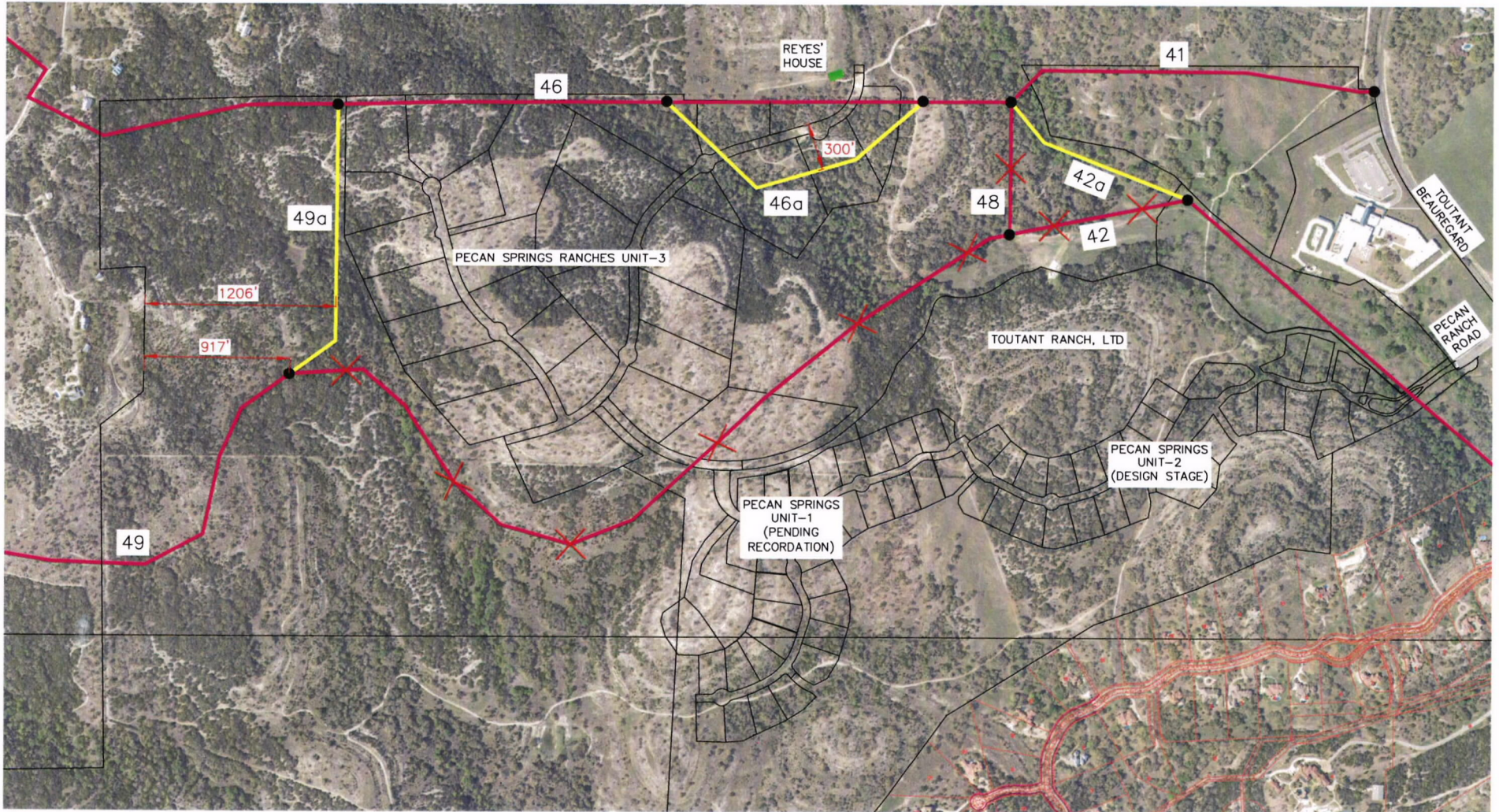
ThompsonKnight

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512.404.6708 (direct) | 956.244.1134 (cell) | michael.mcmillin@tklaw.com

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This message may be confidential and attorney-client privileged. If received in error, please do not read. Instead, reply to me that you have received it in error and delete the message.



DRAFT: 11/12/20

Proposed Term Sheet: CPS Scenic Loop CCN, Docket No. 51023

Parties:

- CPS Energy (“CPS”)
- Toutant Ranch, Ltd., Pinson Interests LTD LLP, and Crighton Development Co. (collectively, “Developers”)

Background:

- Developers are in the process of developing residential communities in the northwestern portion of the study area, including along proposed Segments 42, 46, 48, and 49. The presence of multiple potential transmission line paths across Developers’ property has severely impacted Developers’ business such that Developers believe they need relief before litigation will conclude in Docket No. 51023.
- Developers have asked CPS to amend its Application to eliminate one of the four potential transmission line paths that impact Developers’ properties. In exchange, Developers are willing to accept the transmission line on their properties, donate additional ROW as necessary to minimize the impact of their requested modifications, and compromise on the proposed condemnation value of any ROW that is not donated pursuant to this or a prior agreement. The proposed modifications will only impact properties that Developers own.

Terms:

- 1) **Prior Agreements:** Developers will honor all prior agreements with CPS, independently of the terms of this agreement.
- 2) **Amendment to Application:** CPS will amend its Application in Docket No. 51023 to incorporate the modifications depicted on Exhibit A.
 - a) **It is the parties’ intention that the changes shown on Exhibit A will only directly impact land owned by one of the Developers. All ROW for new segments or modifications will fall on land owned by one of the Developers, and the centerline of the new segments or modifications will not pass within 300 feet of any habitable structure.**
 - b) The modifications depicted on Exhibit A are as follows:
 - i) **Segment 49a:** CPS will create a new segment (“Segment 49a”) to connect Segment 46 to Segment 49. Segment 49a will originate at the northeastern corner of Developers’ Tract B-004, and all associated ROW for Segment 49a will be contained within Tract B-004. Segment 49a will head south from Segment 46 to Segment 49, and will include a single angle at the southern end to match the existing curve of Segment 49 as Segment 49 heads to the west.¹

¹ At its closest point, the centerline of Segment 49a will be approximately 917 feet from the western boundary of Tract B-004.

DRAFT: 11/12/20

- ii) **Partial Removal of Segment 49:** CPS will remove the portion of Segment 49 that is to the east the interconnection with new Segment 49a. The western portion of Segment 49 will remain as proposed.
 - iii) **Modification to Segment 46:** CPS will incorporate two angles into Segment 46 to shift it to the south onto Developers' Tracts B-005 and B-007 such that the centerline of modified Segment 46 will stay at least 300 feet from the boundary of Tract B-013 (the "Reyes Tract") and well over 300 feet from Habitable Structure 15 (the "Reyes Home").
 - iv) **Creation of Segment 42a:**
 - (1) CPS will create a new segment to connect the existing node of Segments 41, 46, and 48 directly to existing Segment 42 on Tract B-041. This new segment will travel as straight as possible while retaining all ROW on Developers' property and staying at least 300 feet from any habitable structure. The entire modified Segment 42 will be referred to as Segment 42a.
 - (2) CPS agrees that, consistent with the Commission's final order, it will adopt minor deviations to Segment 42a so that segment will follow the northeastern boundary of Tract B-041 and cross the extreme northeastern tip of Tract B-043 at the termination of Pecan Ranch Road, such that all ROW remains on Developers' property and the centerline stays at least 300 feet from any habitable structure.
 - v) **Elimination of Segment 48:** CPS will remove Segment 48, which would be unnecessary following the addition of Segment 42a and the partial removal of Segment 49.
- 3) **Agreement to Support Routing Options:** Developers² agree to support the Commission routing the line down either Segment 46 Modified (full length) or Segments 46 Modified (partial)-49a-49 (western portion), but do not commit to a position regarding the remainder of the route to the south or east of the eastern node of Segment 46. Developers reserve their right to argue that the Commission should reach Segment 46 Modified by following a path that includes Segment 41.
- 4) **No Net Cost Increase:** Developers agree to donate additional ROW as necessary to offset any net cost increase that results from Developers' requested modifications. The parties agree that the "net cost increase" will be calculated as follows:
- a) If the Commission uses Segment 42a-46 Modified (full length):
 - i) The cost of Segment 42a minus the cost of proposed Segments 42 and 48; plus
 - ii) The cost of Segment 46 Modified (full length) minus the cost of proposed Segment 46.
 - b) If the Commission uses Segments 42a-46 Modified (partial)-49a-49:
 - i) The cost of Segment 42a minus the cost of proposed Segment 42; plus

² As well as all other legal entities owned or controlled by Developers.

DRAFT: 11/12/20

- ii) The cost of Segment 46 Modified (full length) minus the cost of proposed Segment 46;³ plus
 - iii) The cost of Segment 49a and the portion of Segment 49 to the west of the interconnection with Segment 49, minus the cost of proposed Segment 49.
- c) If the Commission uses Segment 41-46 Modified (full length):
- i) The cost of Segment 46 Modified (full length) minus the cost of proposed Segment 46.
- 5) **Maintain Existing Cost Differentials:** Developers agree to donate additional ROW as necessary to maintain the existing cost differential between routes that use Segment 46 and Segment 49.⁴ There are two possible scenarios:
- a) **Scenario 1:** The Commission selects a route that uses a variation of Segment 42.
 - i) In the current Application, starting at the node of Segment 36 and Segment 42, using Segments 42-48-46 costs \$57,133 less than using Segments 42-49.⁵
 - ii) If the Commission selects a route that uses a variation of Segment 42, Developers commit to donating additional ROW as necessary to make the estimated cost of using Segments 42a-46 Modified (full length) \$57,133 less than the estimated cost of using Segments 42a-46 Modified (partial)-49a-49.
 - b) **Scenario 2:** The Commission selects a route that uses Segment 41.
 - i) If the Commission selects a route that uses Segment 41, Developers commit to donate additional ROW as necessary to make the estimated cost of using Segments 41-46 Modified (full length) \$57,133 less than the estimated cost of using Segments 41-46 Modified (partial length)-49a-49.
- 6) **ROW Acquisition:** If the Commission selects a route that uses any of the modified segments shown on Attachment A, Developers agree to provide all necessary ROW across Developers' property that has not been donated pursuant to this (or an earlier) agreement to CPS without resorting to a contested condemnation process. Developers will agree to provide all necessary, non-donated ROW across Developers' property to CPS at \$0.40 per square foot, which is a 20% discount off of CPS's assumed cost of ROW along the segments that impact Developers' property. Additionally, Developers will not seek any recovery for damages to the remainder value of any tracts that are impacted by the transmission line, including where Segment 46 Modified crosses Developers' Pecan Springs Ranch, Unit 3 development on Tract B-005, where Developers have already invested significant capital to create valuable home sites, eight of which will be directly impacted by Segment 46 Modified.

³ This captures the cost of avoiding the Reyes Tract on 46 Modified (partial).

⁴ The magnitude of any associated ROW donation will be determined after CPS develops cost estimates for the new and modified segments described in this agreement.

⁵ This is the difference between CPS's cost estimates for proposed Route Z (Sub 7-54-20-36-42-48-46) and Proposed Route AA (Sub 7-54-20-36-42-49). See Application Attachment 3.

From: [Rasmussen, Kirk](#)
To: [McMillin, Michael](#)
Cc: [Giles, Kipling D.](#); [Bennett, Craig](#)
Subject: FW: [Scan] D. 51023 Signed Agreement PSB [IMAN-JWDOCS.FID4061346]
Date: Tuesday, November 24, 2020 11:49:27 AM
Attachments: [D. 51023 Signed Agreement PSB.pdf](#)

See attached. Thanks.

Kirk Rasmussen

512-968-4566

From: Barham, Paul S

Sent: Tuesday, November 24, 2020 11:46 AM

To: Rasmussen, Kirk ; Giles, Kipling D. ; Perez, LeeRoy

Subject: [Scan] D. 51023 Signed Agreement PSB

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

Signed agreement. Do you need to original?

Paul Barham

--

Sent with Genius Scan for iOS.

<https://dl.tglapp.com/genius-scan>

Sent from my iPhone

Agreement Regarding Agreed Route Modifications and Amendment to Application
CPS Scenic Loop CCN, Docket No. 51023

Parties:

- CPS Energy
- Toutant Ranch, Ltd., Pinson Interests LTD LLP, and Crighton Development Co. (collectively, "Developers")

Background:

- Developers are in the process of developing residential communities in the northwestern portion of the study area, including along proposed Segments 42, 46, 48, and 49. The presence of multiple potential transmission line paths across Developers' property has severely impacted Developers' business such that Developers believe they need relief before litigation will conclude in Docket No. 51023.
- Developers have asked CPS Energy to amend its Application to eliminate one of the four potential transmission line paths that impact Developers' properties. In exchange, Developers are willing to accept the transmission line on their properties, donate additional ROW as necessary to minimize the impact of their requested modifications, and compromise on the proposed condemnation value of any ROW that is not donated pursuant to this or a prior agreement. The proposed modifications will only impact properties that Developers own or control through various development agreements.

Terms:

- 1) **Prior Agreements:** Developers will honor all prior agreements with CPS Energy, independently of the terms of this agreement, specifically with respect to Developers agreement to donate approximately 2,059 feet of ROW on Segment 42 in the location previously agreed upon.
- 2) **Route Adequacy Proposal:** Developers will present a route adequacy proposal on November 24, 2020 requesting CPS Energy be ordered to amend its application in the manner shown on Exhibit A.
 - a) **It is the parties' intention that the changes shown on Exhibit A will only directly impact land owned by one of the Developers. All ROW for new segments or modifications will fall on land owned by one of the Developers, and the centerline of the new segments or modifications will not pass within 300 feet of any habitable structure.**
 - b) The modifications depicted on Exhibit A are as follows:
 - i) **Segment 49a:** Segment 49a will connect Segment 46 to Segment 49. Segment 49a will originate at the northeastern corner of Developers' Tract B-004, and all associated ROW for Segment 49a will be contained within Tract B-004. Segment 49a will head south from Segment 46 to Segment 49, and will include a single angle

- at the southern end to match the existing curve of Segment 49 as Segment 49 heads to the west.¹
- ii) **Partial Removal of Segment 49:** Segment 49 to the east the interconnection with new Segment 49a will be removed. The western portion of Segment 49 will remain as proposed.
 - iii) **Creation of Alternative Segment 46a:** Two angles will be incorporated into Segment 46 to create alternative Segment 46a on Developers' Tracts B-005 and B-007 such that the centerline of Segment 46a will stay at least 300 feet from the boundary of Tract B-013 (the "Reyes Tract") and well over 300 feet from Habitable Structure 15 (the "Reyes Home").
 - iv) **Creation of Segment 42a:** A new Segment 42a will be created to connect the existing node of Segments 41, 46, and 48 directly to existing Segment 42 on Tract B-041 before Segment 42 turns from the northwest to the west. This new segment will travel as straight as possible while retaining all ROW on Developers' property and staying at least 300 feet from any habitable structure.
 - v) **Elimination of Segment 48:** Segment 48, which would be unnecessary following the addition of Segment 42a and the partial removal of Segment 49 will be removed.
- 3) **CPS Energy Agreement to Route Adequacy Proposal:** CPS Energy will file a pleading following the filing of Developers' route adequacy proposal acknowledging the proposal and expressing support and agreement with the changes proposed. CPS Energy agrees, following issuance of an order from the ALJs requiring the proposed adjustments, to amend its Application in Docket No. 51023 to incorporate the modifications depicted on Exhibit A.
 - 4) **Staff Non-Opposition:** CPS Energy's agreement to file in support of the Developers' route adequacy proposal is contingent on Staff expressing support for the proposal, or at a minimum agreeing not to oppose the proposal.
 - 5) **Agreement to Support Routing Options:** Developers² agree to support the Commission routing the line down either Segment 46 Modified (full length) or Segments 46 Modified (partial)-49a-49 (western portion), but do not commit to a position regarding the remainder of the route to the south or east of the eastern node of Segment 46. Developers reserve their right to argue that the Commission should reach Segment 46 Modified by following a path that includes Segment 41.
 - 6) **No Net Cost Increase:** Developers agree to donate additional ROW as necessary to offset any net cost increase that results from Developers' requested modifications. The parties agree that the "net cost increase" will be calculated as follows:
 - a) If the Commission uses Segment 42a-46 Modified (full length):
 - i) The cost of Segment 42a minus the cost of proposed Segments 42 and 48; plus

¹ At its closest point, the centerline of Segment 49a will be approximately 917 feet from the western boundary of Tract B-004.

² As well as all other legal entities owned or controlled by Developers.

- ii) The cost of Segment 46 Modified (full length) minus the cost of proposed Segment 46.
 - b) If the Commission uses Segments 42a-46 Modified (partial)-49a-49:
 - i) The cost of Segment 42a minus the cost of proposed Segment 42; plus
 - ii) The cost of Segment 46 Modified (full length) minus the cost of proposed Segment 46;³ plus
 - iii) The cost of Segment 49a and the portion of Segment 49 to the west of the interconnection with Segment 49, minus the cost of proposed Segment 49.
 - c) If the Commission uses Segment 41-46 Modified (full length):
 - i) The cost of Segment 46 Modified (full length) minus the cost of proposed Segment 46.
- 7) **Maintain Existing Cost Differentials:** Developers agree to donate additional ROW as necessary to maintain the existing cost differential between routes that use Segment 46 and Segment 49.⁴ There are two possible scenarios:
- a) **Scenario 1:** The Commission selects a route that uses a variation of Segment 42.
 - i) In the current Application, starting at the node of Segment 36 and Segment 42, using Segments 42-48-46 costs \$57,133 less than using Segments 42-49.⁵
 - ii) If the Commission selects a route that uses a variation of Segment 42, Developers commit to donating additional ROW as necessary to make the estimated cost of using Segments 42a-46 Modified (full length) \$57,133 less than the estimated cost of using Segments 42a-46 Modified (partial)-49a-49.
 - b) **Scenario 2:** The Commission selects a route that uses Segment 41.
 - i) If the Commission selects a route that uses Segment 41, Developers commit to donate additional ROW as necessary to make the estimated cost of using Segments 41-46 Modified (full length) \$57,133 less than the estimated cost of using Segments 41-46 Modified (partial length)-49a-49.
- 8) **ROW Acquisition:** If the Commission selects a route that uses any of the modified segments shown on Attachment A, Developers agree to provide all necessary ROW across Developers' property (including any necessary access easements) that has not been donated pursuant to this (or an earlier) agreement to CPS Energy without resorting to a contested condemnation process. Developers will agree to provide all necessary, non-donated ROW across Developers' property to CPS Energy at the lower value of (1) \$0.40 per square foot, which is a 20% discount off of CPS Energy's assumed cost of ROW along the segments that impact Developers' property; or (2) the value of the ROW along the segments that impact Developers' property pursuant to an independent appraisal for the property right by an one or more appraisers agreed to by

³ This captures the cost of avoiding the Reyes Tract on 46 Modified (partial).


⁴ The magnitude of any associated ROW donation will be determined after CPS develops cost estimates for the new and modified segments described in this agreement.

⁵ This is the difference between CPS's cost estimates for proposed Route Z (Sub 7-54-20-36-42-48-46) and Proposed Route AA (Sub 7-54-20-36-42-49). See Application Attachment 3.

the parties. Additionally, Developers will not seek any recovery for damages to the remainder value of any tracts that are impacted by the transmission line, including where Segment 46 Modified crosses Developers' Pecan Springs Ranch, Unit 3 development on Tract B-005.

- 9) CPS agrees that, consistent with the Commission's final order, if a route is approved by the Commission that includes Segment 42a, CPS Energy will work with Developers to make minor route deviations to Segment 42/42a as appropriate to minimize impacts to Developers' activities in the area.

Signed this 23rd day of November, 2020.

 (Sign)

TAYLOR DREISS (Print)
For Developers

 (Sign)

PAUL BARHAM (Print)
For CPS Energy

From: [McMillin, Michael](#)
To: [Rasmussen, Kirk](#)
Subject: Meeting With CPS RE: Docket No. 51023
Date: Monday, October 26, 2020 4:09:15 PM

Kirk,

As we just discussed on the phone, the Dreisses and I would like to meet with you and someone from CPS who would have authority to agree to a modification proposal that would result in CPS removing a portion of Segment 49.

If at all possible, we would like the meeting to be **in person** so we can bring maps and more effectively communicate about our respective concerns.

Please let me know when we can set up this meeting. As I mentioned before, we would like to have the meeting in the next week or so if that can be arranged.

Thanks,

Michael McMillin | Thompson & Knight LLP

Associate

ThompsonKnight

98 San Jacinto Blvd., Suite 1900, Austin, TX 78701

512.404.6708 (direct) | 956.244.1134 (cell) | michael.mcmillin@tklaw.com

vCard | www.tklaw.com/michael-mcmillin/

This message may be confidential and attorney-client privileged. If received in error, please do not read. Instead, reply to me that you have received it in error and delete the message.

From: [Rasmussen, Kirk](#)
To: [McMillin, Michael](#)
Cc: [Bennett, Craig](#); kdgiles@cpsenergy.com
Subject: Proposed Terms [IMAN-JWDOCS.FID4061346]
Date: Thursday, November 19, 2020 5:34:39 PM
Attachments: [image001.png](#)
[CPS Scenic Loop_CCN \(51023\) _UPDATED_DRAFT_Term_Sheet_Active\(24218102\)_Active\(5\).DOCX](#)

See attached.

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



DRAFT: 11/12/19/20

Proposed Term Sheet: CPS Scenic Loop CCN, Docket No. 51023

Parties:

- CPS Energy (“CPS”)
- Toutant Ranch, Ltd., Pinson Interests LTD LLP, and Crighton Development Co. (collectively, “Developers”)

Background:

- Developers are in the process of developing residential communities in the northwestern portion of the study area, including along proposed Segments 42, 46, 48, and 49. The presence of multiple potential transmission line paths across Developers’ property has severely impacted Developers’ business such that Developers believe they need relief before litigation will conclude in Docket No. 51023.
- Developers have asked CPS Energy to amend its Application to eliminate one of the four potential transmission line paths that impact Developers’ properties. In exchange, Developers are willing to accept the transmission line on their properties, donate additional ROW as necessary to minimize the impact of their requested modifications, and compromise on the proposed condemnation value of any ROW that is not donated pursuant to this or a prior agreement. The proposed modifications will only impact properties that Developers own or control through various development agreements.

Terms:

- 1) **Prior Agreements:** Developers will honor all prior agreements with CPS Energy, independently of the terms of this agreement, specifically with respect to Developers agreement to donate approximately 2,059 feet of ROW on Segment 42 in the location previously agreed upon.
- 2) **Amendment to ApplicationRoute Adequacy Proposal:** Developers will present a route adequacy proposal on November 24, 2020 requesting CPS Energy be ordered to amend its application in the manner shown on Exhibit A. CPS will amend its Application in Docket No. 51023 to incorporate the modifications depicted on Exhibit A.
 - a) **It is the parties’ intention that the changes shown on Exhibit A will only directly impact land owned by one of the Developers. All ROW for new segments or modifications will fall on land owned by one of the Developers, and the centerline of the new segments or modifications will not pass within 300 feet of any habitable structure.**
 - b) The modifications depicted on Exhibit A are as follows:
 - i) **Segment 49a:** ~~CPS will create a new segment (“Segment 49a”)~~ will to connect Segment 46 to Segment 49. Segment 49a will originate at the northeastern corner of Developers’ Tract B-004, and all associated ROW for Segment 49a will be contained within Tract B-004. Segment 49a will head south from Segment 46 to

Commented [RK1]: Michael, these segment descriptions are fine with respect to the agreement of the parties and as shown on the Exhibit. Just a heads up that in talking with Power, they may end up with a slightly different naming convention and segment description than what is listed here. It would just be naming and description, but not substantive location changes (obviously).

DRAFT: 11/12/19/20

Segment 49, and will include a single angle at the southern end to match the existing curve of Segment 49 as Segment 49 heads to the west.¹

- ii) **Partial Removal of Segment 49:** ~~CPS will remove the portion of Segment 49 that is~~ to the east the interconnection with new Segment 49a will be removed. The western portion of Segment 49 will remain as proposed.
- iii) **Modification to Segment 46:** ~~CPS will incorporate t~~wo angles will be incorporated into Segment 46 to shift it to the south onto Developers' Tracts B-005 and B-007 such that the centerline of modified Segment 46 will stay at least 300 feet from the boundary of Tract B-013 (the "Reyes Tract") and well over 300 feet from Habitable Structure 15 (the "Reyes Home").
- iv) **Creation of Segment 42a:** ~~CPS will create a~~ new Segment 42a will be created to connect the existing node of Segments 41, 46, and 48 directly to existing Segment 42 on Tract B-041 before Segment 42 turns from the northwest to the west. This new segment will travel as straight as possible while retaining all ROW on Developers' property and staying at least 300 feet from any habitable structure. ~~The entire modified Segment 42 will be referred to as Segment 42a.~~
 - (1) ~~CPS agrees that, consistent with the Commission's final order, it will adopt minor deviations to Segment 42a so that segment will follow the northeastern boundary of Tract B-041 and cross the extreme northeastern tip of Tract B-043 at the termination of Pecan Ranch Road, such that all ROW remains on Developers' property and the centerline stays at least 300 feet from any habitable structure.~~
- v) **Elimination of Segment 48:** ~~CPS will remove~~ Segment 48, which would be unnecessary following the addition of Segment 42a and the partial removal of Segment 49 will be removed.

3) CPS Energy Agreement to Route Adequacy Proposal: CPS Energy will file a pleading following the filing of Developers' route adequacy proposal acknowledging the proposal and expressing support and agreement with the changes proposed. CPS Energy agrees, following issuance of an order from the ALJs requiring the proposed adjustments, to amend its Application in Docket No. 51023 to incorporate the modifications depicted on Exhibit A.

4) Staff Non-Opposition: CPS Energy's agreement to file in support of the Developers' route adequacy proposal is contingent on Staff expressing support for the proposal, or at a minimum agreeing not to oppose the proposal.

3)5) Agreement to Support Routing Options: Developers² agree to support the Commission routing the line down either Segment 46 Modified (full length) or Segments 46 Modified (partial)-49a-49 (western portion), but do not commit to a position regarding the remainder of the route to the south or east of the eastern node of Segment 46.

¹ At its closest point, the centerline of Segment 49a will be approximately 917 feet from the western boundary of Tract B-004.

² As well as all other legal entities owned or controlled by Developers.

DRAFT: 11/12/19/20

Developers reserve their right to argue that the Commission should reach Segment 46 Modified by following a path that includes Segment 41.

4)6) **No Net Cost Increase:** Developers agree to donate additional ROW as necessary to offset any net cost increase that results from Developers' requested modifications. The parties agree that the "net cost increase" will be calculated as follows:

- a) If the Commission uses Segment 42a-46 Modified (full length):
 - i) The cost of Segment 42a minus the cost of proposed Segments 42 and 48; plus
 - ii) The cost of Segment 46 Modified (full length) minus the cost of proposed Segment 46.
- b) If the Commission uses Segments 42a-46 Modified (partial)-49a-49:
 - i) The cost of Segment 42a minus the cost of proposed Segment 42; plus
 - ii) The cost of Segment 46 Modified (full length) minus the cost of proposed Segment 46;³ plus
 - iii) The cost of Segment 49a and the portion of Segment 49 to the west of the interconnection with Segment 49, minus the cost of proposed Segment 49.
- c) If the Commission uses Segment 41-46 Modified (full length):
 - i) The cost of Segment 46 Modified (full length) minus the cost of proposed Segment 46.

5)7) **Maintain Existing Cost Differentials:** Developers agree to donate additional ROW as necessary to maintain the existing cost differential between routes that use Segment 46 and Segment 49.⁴ There are two possible scenarios:

- a) **Scenario 1:** The Commission selects a route that uses a variation of Segment 42
 - i) In the current Application, starting at the node of Segment 36 and Segment 42, using Segments 42-48-46 costs \$57,133 less than using Segments 42-49.⁵
 - ii) If the Commission selects a route that uses a variation of Segment 42, Developers commit to donating additional ROW as necessary to make the estimated cost of using Segments 42a-46 Modified (full length) \$57,133 less than the estimated cost of using Segments 42a-46 Modified (partial)-49a-49.
- b) **Scenario 2:** The Commission selects a route that uses Segment 41.
 - i) If the Commission selects a route that uses Segment 41, Developers commit to donate additional ROW as necessary to make the estimated cost of using Segments 41-46 Modified (full length) \$57,133 less than the estimated cost of using Segments 41-46 Modified (partial length)-49a-49.

³ This captures the cost of avoiding the Reyes Tract on 46 Modified (partial)

⁴ The magnitude of any associated ROW donation will be determined after CPS develops cost estimates for the new and modified segments described in this agreement

⁵ This is the difference between CPS's cost estimates for proposed Route Z (Sub 7-54-20-36-42-48-46) and Proposed Route AA (Sub 7-54-20-36-42-49) See Application Attachment 3

DRAFT: 11/4219/20

8) **ROW Acquisition:** If the Commission selects a route that uses any of the modified segments shown on Attachment A, Developers agree to provide all necessary ROW across Developers' property that has not been donated pursuant to this (or an earlier) agreement to CPS Energy without resorting to a contested condemnation process. Developers will agree to provide all necessary, non-donated ROW across Developers' property to CPS Energy at the lower value of (1) \$0.40 per square foot, which is a 20% discount off of CPS Energy's assumed cost of ROW along the segments that impact Developers' property; or (2) the value of the ROW along the segments that impact Developers' property pursuant to an independent appraisal for the property right by an one or more appraisers agreed to be the parties. Additionally, Developers will not seek any recovery for damages to the remainder value of any tracts that are impacted by the transmission line, including where Segment 46 Modified crosses Developers' Pecan Springs Ranch, Unit 3 development on Tract B-005, where Developers have already invested significant capital to create valuable home sites, eight of which will be directly impacted by Segment 46 Modified.

6)9) CPS agrees that, consistent with the Commission's final order, if a route is approved by the Commission that includes Segment 42a, CPS Energy will work with Developers to make minor route deviations to Segment 42a as appropriate to minimize impacts to Developers activities in the area.

From: [Rasmussen, Kirk](#)
To: [McMillin, Michael](#)
Subject: RE: Agreement [IMAN-JWDOCS.FID4061346]
Date: Tuesday, November 24, 2020 10:54:02 AM
Attachments: [image001.png](#)
[D. 51023 Signed Agreement - Clean.pdf](#)
[D. 51023 Signed Agreement - Highlight.pdf](#)

See attached.

Kirk Rasmussen

512-968-4566

From: McMillin, Michael

Sent: Tuesday, November 24, 2020 10:30 AM

To: Rasmussen, Kirk

Subject: RE: Agreement [IMAN-JWDOCS.FID4061346]

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

Sure. I'm free now until noon.

Michael McMillin | Thompson & Knight LLP

Associate

98 San Jacinto Blvd., Suite 1900, Austin, TX 78701

512.404.6708 (direct) | 956.244.1134 (cell) | michael.mcmillin@tklaw.com

vCard | www.tklaw.com/michael-mcmillin/

From: Rasmussen, Kirk <krasmussen@jw.com>

Sent: Tuesday, November 24, 2020 10:29 AM

To: McMillin, Michael <Michael.McMillin@tklaw.com>

Subject: Agreement [IMAN-JWDOCS.FID4061346]

Got a minute this morning to visit about the agreement? Got a couple of questions from Paul that I want to run past you.

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



Agreement Regarding Agreed Route Modifications and Amendment to Application
CPS Scenic Loop CCN, Docket No. 51023

Parties:

- CPS Energy
- Toutant Ranch, Ltd., Pinson Interests LTD LLP, and Crighton Development Co. (collectively, “Developers”)

Background:

- Developers are in the process of developing residential communities in the northwestern portion of the study area, including along proposed Segments 42, 46, 48, and 49. The presence of multiple potential transmission line paths across Developers’ property has severely impacted Developers’ business such that Developers believe they need relief before litigation will conclude in Docket No. 51023.
- Developers have asked CPS Energy to amend its Application to eliminate one of the four potential transmission line paths that impact Developers’ properties. In exchange, Developers are willing to accept the transmission line on their properties, donate additional ROW as necessary to minimize the impact of their requested modifications, and compromise on the proposed condemnation value of any ROW that is not donated pursuant to this or a prior agreement. The proposed modifications will only impact properties that Developers own or control through various development agreements.

Terms:

- 1) **Prior Agreements:** Developers will honor all prior agreements with CPS Energy, independently of the terms of this agreement, specifically with respect to Developers agreement to donate approximately 2,059 feet of ROW on Segment 42 in the location previously agreed upon.
- 2) **Route Adequacy Proposal:** Developers will present a route adequacy proposal on November 24, 2020 requesting CPS Energy be ordered to amend its application in the manner shown on Exhibit A.
 - a) **It is the parties’ intention that the changes shown on Exhibit A will only directly impact land owned by one of the Developers. All ROW for new segments or modifications will fall on land owned by one of the Developers, and the centerline of the new segments or modifications will not pass within 300 feet of any habitable structure.**
 - b) The modifications depicted on Exhibit A are as follows:
 - i) **Segment 49a:** Segment 49a will connect Segment 46 to Segment 49. Segment 49a will originate at the northeastern corner of Developers’ Tract B-004, and all associated ROW for Segment 49a will be contained within Tract B-004. Segment 49a will head south from Segment 46 to Segment 49, and will include a single angle

at the southern end to match the existing curve of Segment 49 as Segment 49 heads to the west.¹

- ii) **Partial Removal of Segment 49:** Segment 49 to the east the interconnection with new Segment 49a will be removed. The western portion of Segment 49 will remain as proposed.
 - iii) **Creation of Alternative Segment 46a:** Two angles will be incorporated into Segment 46 to create alternative Segment 46a on Developers' Tracts B-005 and B-007 such that the centerline of Segment 46a will stay at least 300 feet from the boundary of Tract B-013 (the "Reyes Tract") and well over 300 feet from Habitable Structure 15 (the "Reyes Home").
 - iv) **Creation of Segment 42a:** A new Segment 42a will be created to connect the existing node of Segments 41, 46, and 48 directly to existing Segment 42 on Tract B-041 before Segment 42 turns from the northwest to the west. This new segment will travel as straight as possible while retaining all ROW on Developers' property and staying at least 300 feet from any habitable structure.
 - v) **Elimination of Segment 48:** Segment 48, which would be unnecessary following the addition of Segment 42a and the partial removal of Segment 49 will be removed.
- 3) **CPS Energy Agreement to Route Adequacy Proposal:** CPS Energy will file a pleading following the filing of Developers' route adequacy proposal acknowledging the proposal and expressing support and agreement with the changes proposed. CPS Energy agrees, following issuance of an order from the ALJs requiring the proposed adjustments, to amend its Application in Docket No. 51023 to incorporate the modifications depicted on Exhibit A.
- 4) **Staff Non-Opposition:** CPS Energy's agreement to file in support of the Developers' route adequacy proposal is contingent on Staff expressing support for the proposal, or at a minimum agreeing not to oppose the proposal.
- 5) **Agreement to Support Routing Options:** Developers² agree to support the Commission routing the line down either Segment 46 Modified (full length) or Segments 46 Modified (partial)-49a-49 (western portion), but do not commit to a position regarding the remainder of the route to the south or east of the eastern node of Segment 46. Developers reserve their right to argue that the Commission should reach Segment 46 Modified by following a path that includes Segment 41.
- 6) **No Net Cost Increase:** Developers agree to donate additional ROW as necessary to offset any net cost increase that results from Developers' requested modifications. The parties agree that the "net cost increase" will be calculated as follows:
- a) If the Commission uses Segment 42a-46 Modified (full length):
 - i) The cost of Segment 42a minus the cost of proposed Segments 42 and 48; plus

¹ At its closest point, the centerline of Segment 49a will be approximately 917 feet from the western boundary of Tract B-004.

² As well as all other legal entities owned or controlled by Developers

- ii) The cost of Segment 46 Modified (full length) minus the cost of proposed Segment 46.
 - b) If the Commission uses Segments 42a-46 Modified (partial)-49a-49:
 - i) The cost of Segment 42a minus the cost of proposed Segment 42; plus
 - ii) The cost of Segment 46 Modified (full length) minus the cost of proposed Segment 46;³ plus
 - iii) The cost of Segment 49a and the portion of Segment 49 to the west of the interconnection with Segment 49, minus the cost of proposed Segment 49.
 - c) If the Commission uses Segment 41-46 Modified (full length):
 - i) The cost of Segment 46 Modified (full length) minus the cost of proposed Segment 46.
- 7) **Maintain Existing Cost Differentials:** Developers agree to donate additional ROW as necessary to maintain the existing cost differential between routes that use Segment 46 and Segment 49.⁴ There are two possible scenarios:
- a) **Scenario 1:** The Commission selects a route that uses a variation of Segment 42.
 - i) In the current Application, starting at the node of Segment 36 and Segment 42, using Segments 42-48-46 costs \$57,133 less than using Segments 42-49.⁵
 - ii) If the Commission selects a route that uses a variation of Segment 42, Developers commit to donating additional ROW as necessary to make the estimated cost of using Segments 42a-46 Modified (full length) \$57,133 less than the estimated cost of using Segments 42a-46 Modified (partial)-49a-49.
 - b) **Scenario 2:** The Commission selects a route that uses Segment 41.
 - i) If the Commission selects a route that uses Segment 41, Developers commit to donate additional ROW as necessary to make the estimated cost of using Segments 41-46 Modified (full length) \$57,133 less than the estimated cost of using Segments 41-46 Modified (partial length)-49a-49.
- 8) **ROW Acquisition:** If the Commission selects a route that uses any of the modified segments shown on Attachment A, Developers agree to provide all necessary ROW across Developers' property (including any necessary access easements) that has not been donated pursuant to this (or an earlier) agreement to CPS Energy without resorting to a contested condemnation process. Developers will agree to provide all necessary, non-donated ROW across Developers' property to CPS Energy at the lower value of (1) \$0.40 per square foot, which is a 20% discount off of CPS Energy's assumed cost of ROW along the segments that impact Developers' property; or (2) the value of the ROW along the segments that impact Developers' property pursuant to an independent appraisal for the property right by an one or more appraisers agreed to by

³ This captures the cost of avoiding the Reyes Tract on 46 Modified (partial).

⁴ The magnitude of any associated ROW donation will be determined after CPS develops cost estimates for the new and modified segments described in this agreement.

⁵ This is the difference between CPS's cost estimates for proposed Route Z (Sub 7-54-20-36-42-48-46) and Proposed Route AA (Sub 7-54-20-36-42-49). See Application Attachment 3.

the parties. Additionally, Developers will not seek any recovery for damages to the remainder value of any tracts that are impacted by the transmission line, including where Segment 46 Modified crosses Developers' Pecan Springs Ranch, Unit 3 development on Tract B-005.

- 9) CPS agrees that, consistent with the Commission's final order, if a route is approved by the Commission that includes Segment 42a, CPS Energy will work with Developers to make minor route deviations to Segment 42/42a as appropriate to minimize impacts to Developers' activities in the area.

Signed this 23rd day of November, 2020.

 (Sign)

Taylor Dreiss (Print)
For Developers

_____ (Sign)

_____ (Print)
For CPS Energy

Agreement Regarding Agreed Route Modifications and Amendment to Application
CPS Scenic Loop CCN, Docket No. 51023

Parties:

- CPS Energy
- Toutant Ranch, Ltd., Pinson Interests LTD LLP, and Crighton Development Co. (collectively, “Developers”)

Background:

- Developers are in the process of developing residential communities in the northwestern portion of the study area, including along proposed Segments 42, 46, 48, and 49. The presence of multiple potential transmission line paths across Developers’ property has severely impacted Developers’ business such that Developers believe they need relief before litigation will conclude in Docket No. 51023.
- Developers have asked CPS Energy to amend its Application to eliminate one of the four potential transmission line paths that impact Developers’ properties. In exchange, Developers are willing to accept the transmission line on their properties, donate additional ROW as necessary to minimize the impact of their requested modifications, and compromise on the proposed condemnation value of any ROW that is not donated pursuant to this or a prior agreement. The proposed modifications will only impact properties that Developers own or control through various development agreements.

Terms:

- 1) **Prior Agreements:** Developers will honor all prior agreements with CPS Energy, independently of the terms of this agreement, specifically with respect to Developers agreement to donate approximately 2,059 feet of ROW on Segment 42 in the location previously agreed upon.
- 2) **Route Adequacy Proposal:** Developers will present a route adequacy proposal on November 24, 2020 requesting CPS Energy be ordered to amend its application in the manner shown on Exhibit A.
 - a) **It is the parties’ intention that the changes shown on Exhibit A will only directly impact land owned by one of the Developers. All ROW for new segments or modifications will fall on land owned by one of the Developers, and the centerline of the new segments or modifications will not pass within 300 feet of any habitable structure.**
 - b) The modifications depicted on Exhibit A are as follows:
 - i) **Segment 49a:** Segment 49a will connect Segment 46 to Segment 49. Segment 49a will originate at the northeastern corner of Developers’ Tract B-004, and all associated ROW for Segment 49a will be contained within Tract B-004. Segment 49a will head south from Segment 46 to Segment 49, and will include a single angle

at the southern end to match the existing curve of Segment 49 as Segment 49 heads to the west.¹

- ii) **Partial Removal of Segment 49:** Segment 49 to the east the interconnection with new Segment 49a will be removed. The western portion of Segment 49 will remain as proposed.
 - iii) **Creation of Alternative Segment 46a:** Two angles will be incorporated into Segment 46 to create alternative Segment 46a on Developers' Tracts B-005 and B-007 such that the centerline of Segment 46a will stay at least 300 feet from the boundary of Tract B-013 (the "Reyes Tract") and well over 300 feet from Habitable Structure 15 (the "Reyes Home").
 - iv) **Creation of Segment 42a:** A new Segment 42a will be created to connect the existing node of Segments 41, 46, and 48 directly to existing Segment 42 on Tract B-041 before Segment 42 turns from the northwest to the west. This new segment will travel as straight as possible while retaining all ROW on Developers' property and staying at least 300 feet from any habitable structure.
 - v) **Elimination of Segment 48:** Segment 48, which would be unnecessary following the addition of Segment 42a and the partial removal of Segment 49 will be removed.
- 3) **CPS Energy Agreement to Route Adequacy Proposal:** CPS Energy will file a pleading following the filing of Developers' route adequacy proposal acknowledging the proposal and expressing support and agreement with the changes proposed. CPS Energy agrees, following issuance of an order from the ALJs requiring the proposed adjustments, to amend its Application in Docket No. 51023 to incorporate the modifications depicted on Exhibit A.
 - 4) **Staff Non-Opposition:** CPS Energy's agreement to file in support of the Developers' route adequacy proposal is contingent on Staff expressing support for the proposal, or at a minimum agreeing not to oppose the proposal.
 - 5) **Agreement to Support Routing Options:** Developers² agree to support the Commission routing the line down either Segment 46 Modified (full length) or Segments 46 Modified (partial)-49a-49 (western portion), but do not commit to a position regarding the remainder of the route to the south or east of the eastern node of Segment 46. Developers reserve their right to argue that the Commission should reach Segment 46 Modified by following a path that includes Segment 41.
 - 6) **No Net Cost Increase:** Developers agree to donate additional ROW as necessary to offset any net cost increase that results from Developers' requested modifications. The parties agree that the "net cost increase" will be calculated as follows:
 - a) If the Commission uses Segment 42a-46 Modified (full length):
 - i) The cost of Segment 42a minus the cost of proposed Segments 42 and 48; plus

¹ At its closest point, the centerline of Segment 49a will be approximately 917 feet from the western boundary of Tract B-004.

² As well as all other legal entities owned or controlled by Developers.

- ii) The cost of Segment 46 Modified (full length) minus the cost of proposed Segment 46.
 - b) If the Commission uses Segments 42a-46 Modified (partial)-49a-49:
 - i) The cost of Segment 42a minus the cost of proposed Segment 42; plus
 - ii) The cost of Segment 46 Modified (full length) minus the cost of proposed Segment 46;³ plus
 - iii) The cost of Segment 49a and the portion of Segment 49 to the west of the interconnection with Segment 49, minus the cost of proposed Segment 49.
 - c) If the Commission uses Segment 41-46 Modified (full length):
 - i) The cost of Segment 46 Modified (full length) minus the cost of proposed Segment 46.
- 7) **Maintain Existing Cost Differentials:** Developers agree to donate additional ROW as necessary to maintain the existing cost differential between routes that use Segment 46 and Segment 49.⁴ There are two possible scenarios:
- a) **Scenario 1:** The Commission selects a route that uses a variation of Segment 42.
 - i) In the current Application, starting at the node of Segment 36 and Segment 42, using Segments 42-48-46 costs \$57,133 less than using Segments 42-49.⁵
 - ii) If the Commission selects a route that uses a variation of Segment 42, Developers commit to donating additional ROW as necessary to make the estimated cost of using Segments 42a-46 Modified (full length) \$57,133 less than the estimated cost of using Segments 42a-46 Modified (partial)-49a-49.
 - b) **Scenario 2:** The Commission selects a route that uses Segment 41.
 - i) If the Commission selects a route that uses Segment 41, Developers commit to donate additional ROW as necessary to make the estimated cost of using Segments 41-46 Modified (full length) \$57,133 less than the estimated cost of using Segments 41-46 Modified (partial length)-49a-49.
- 8) **ROW Acquisition:** If the Commission selects a route that uses any of the modified segments shown on Attachment A, Developers agree to provide all necessary ROW across Developers' property (**including any necessary access easements**) that has not been donated pursuant to this (or an earlier) agreement to CPS Energy without resorting to a contested condemnation process. Developers will agree to provide all necessary, non-donated ROW across Developers' property to CPS Energy at the lower value of (1) \$0.40 per square foot, which is a 20% discount off of CPS Energy's assumed cost of ROW along the segments that impact Developers' property; or (2) the value of the ROW along the segments that impact Developers' property pursuant to an independent appraisal for the property right by an one or more appraisers agreed to by

³ This captures the cost of avoiding the Reyes Tract on 46 Modified (partial).

⁴ The magnitude of any associated ROW donation will be determined after CPS develops cost estimates for the new and modified segments described in this agreement.

⁵ This is the difference between CPS's cost estimates for proposed Route Z (Sub 7-54-20-36-42-48-46) and Proposed Route AA (Sub 7-54-20-36-42-49). See Application Attachment 3.

the parties. Additionally, Developers will not seek any recovery for damages to the remainder value of any tracts that are impacted by the transmission line, including where Segment 46 Modified crosses Developers' Pecan Springs Ranch, Unit 3 development on Tract B-005.

- 9) CPS agrees that, consistent with the Commission's final order, if a route is approved by the Commission that includes Segment 42a, CPS Energy will work with Developers to make minor route deviations to Segment 42/42a as appropriate to minimize impacts to Developers' activities in the area.

Signed this 23rd day of November, 2020.

 (Sign)

Taylor Dreiss (Print)
For Developers

_____ (Sign)

_____ (Print)
For CPS Energy

From: [McMillin, Michael](#)
To: [Rasmussen, Kirk](#)
Cc: [Bennett, Craig](#)
Subject: RE: CPS CCN (51023): Draft Term Sheet for Route Modification Agreement [IMAN-JWDOCS.FID4061346]
Date: Thursday, November 12, 2020 8:22:53 AM
Attachments: [CPS Scenic Loop CCN \(51023\) UPDATED DRAFT Term Sheet Active\(24218102\) Active\(5\).DOCX](#)

Kirk,

I have attached an updated term sheet that incorporates the Dreisses' changes to the ROW Acquisition section. Please give me a call later today to discuss.

Thanks,

Michael McMillin | Thompson & Knight LLP

Associate

98 San Jacinto Blvd., Suite 1900, Austin, TX 78701

512.404.6708 (direct) | 956.244.1134 (cell) | michael.mcmillin@tklaw.com

vCard | www.tklaw.com/michael-mcmillin/

From: McMillin, Michael

Sent: Tuesday, November 10, 2020 5:04 PM

To: 'Rasmussen, Kirk'

Subject: RE: CPS CCN (51023): Draft Term Sheet for Route Modification Agreement [IMAN-JWDOCS.FID4061346]

I have relayed this information to the Dreisses. They're thinking it over and we are going to have a call tomorrow to work up edits to the last section of the draft agreement.

Let me know if you or Craig see any other issues in the agreement that you think we need to address.

Michael McMillin | Thompson & Knight LLP

Associate

98 San Jacinto Blvd., Suite 1900, Austin, TX 78701

512.404.6708 (direct) | 956.244.1134 (cell) | michael.mcmillin@tklaw.com

vCard | www.tklaw.com/michael-mcmillin/

From: Rasmussen, Kirk <kasmussen@jw.com>

Sent: Tuesday, November 10, 2020 3:39 PM

To: McMillin, Michael <Michael.McMillin@tklaw.com>

Subject: RE: CPS CCN (51023): Draft Term Sheet for Route Modification Agreement [IMAN-JWDOCS.FID4061346]

Thanks. Including them is fine.

Kirk Rasmussen

512-968-4566

From: McMillin, Michael <Michael.McMillin@tklaw.com>

Sent: Tuesday, November 10, 2020 3:37 PM

To: Rasmussen, Kirk <kasmussen@jw.com>

Subject: RE: CPS CCN (51023): Draft Term Sheet for Route Modification Agreement [IMAN-JWDOCS.FID4061346]

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

Ok that makes sense. I'll work with the Dreisses to come up with the necessary changes to § 6 of the draft agreement I sent you. Do you mind if the agreement

includes these numbers?

Michael McMillin | Thompson & Knight LLP

Associate

98 San Jacinto Blvd., Suite 1900, Austin, TX 78701

512.404.6708 (direct) | 956.244.1134 (cell) | michael.mcmillin@tklaw.com

[vCard](#) | www.tklaw.com/michael-mcmillin/

From: Rasmussen, Kirk <krasmussen@jw.com>

Sent: Tuesday, November 10, 2020 3:32 PM

To: McMillin, Michael <Michael.McMillin@tklaw.com>

Subject: RE: CPS CCN (51023): Draft Term Sheet for Route Modification Agreement [IMAN-JWDOCS.FID4061346]

Parcel as listed on the tax rolls as a separate parcel. Same cost for Segment 42. A parcel cost applies if a portion of the parcel is crossed by the ROW. A parcel for these purposes would not include "lots" that are part of an undivided tract that have not yet been sold.

Kirk Rasmussen

512-968-4566

From: McMillin, Michael <Michael.McMillin@tklaw.com>

Sent: Tuesday, November 10, 2020 3:28 PM

To: Rasmussen, Kirk <krasmussen@jw.com>

Cc: Bennett, Craig <cbennett@jw.com>

Subject: RE: CPS CCN (51023): Draft Term Sheet for Route Modification Agreement [IMAN-JWDOCS.FID4061346]

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

Thanks, Kirk. A few questions so I can explain to my clients:

- Is the cost for Segment 42 also \$0.50 per sq. ft.?
- How does CPS define a "parcel" for these purposes?
- How does CPS decide when a parcel needs to be acquired?

I'm free the rest of the day if a call is easier for you.

Michael McMillin | Thompson & Knight LLP

Associate

98 San Jacinto Blvd., Suite 1900, Austin, TX 78701

512.404.6708 (direct) | 956.244.1134 (cell) | michael.mcmillin@tklaw.com

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From: Rasmussen, Kirk <krasmussen@jw.com>

Sent: Tuesday, November 10, 2020 3:23 PM

To: McMillin, Michael <Michael.McMillin@tklaw.com>

Cc: Bennett, Craig <cbennett@jw.com>

Subject: RE: CPS CCN (51023): Draft Term Sheet for Route Modification Agreement [IMAN-JWDOCS.FID4061346]

Michael,

ROW cost for Segment 46 and Segment 49 were \$0.50 sq/foot.

Parcel acquisition cost was \$24,500 per parcel.

Kirk Rasmussen

512-968-4566

From: McMillin, Michael <Michael.McMillin@tklaw.com>

Sent: Tuesday, November 10, 2020 2:42 PM

To: Rasmussen, Kirk <krasmussen@jw.com>

Cc: Bennett, Craig <cbennett@jw.com>

Subject: CPS CCN (51023): Draft Term Sheet for Route Modification Agreement

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

Kirk and Craig,

See attached per our call.

Thanks,

Michael McMillin | Thompson & Knight LLP

Associate

ThompsonKnight

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DRAFT: 11/12/20

Proposed Term Sheet: CPS Scenic Loop CCN, Docket No. 51023

Parties:

- CPS Energy (“CPS”)
- Toutant Ranch, Ltd., Pinson Interests LTD LLP, and Crighton Development Co. (collectively, “Developers”)

Background:

- Developers are in the process of developing residential communities in the northwestern portion of the study area, including along proposed Segments 42, 46, 48, and 49. The presence of multiple potential transmission line paths across Developers’ property has severely impacted Developers’ business such that Developers believe they need relief before litigation will conclude in Docket No. 51023.
- Developers have asked CPS to amend its Application to eliminate one of the four potential transmission line paths that impact Developers’ properties. In exchange, Developers are willing to accept the transmission line on their properties, donate additional ROW as necessary to minimize the impact of their requested modifications, and compromise on the proposed condemnation value of any ROW that is not donated pursuant to this or a prior agreement. The proposed modifications will only impact properties that Developers own.

Terms:

- 1) **Prior Agreements:** Developers will honor all prior agreements with CPS, independently of the terms of this agreement.
- 2) **Amendment to Application:** CPS will amend its Application in Docket No. 51023 to incorporate the modifications depicted on Exhibit A.
 - a) **It is the parties’ intention that the changes shown on Exhibit A will only directly impact land owned by one of the Developers. All ROW for new segments or modifications will fall on land owned by one of the Developers, and the centerline of the new segments or modifications will not pass within 300 feet of any habitable structure.**
 - b) The modifications depicted on Exhibit A are as follows:
 - i) **Segment 49a:** CPS will create a new segment (“Segment 49a”) to connect Segment 46 to Segment 49. Segment 49a will originate at the northeastern corner of Developers’ Tract B-004, and all associated ROW for Segment 49a will be contained within Tract B-004. Segment 49a will head south from Segment 46 to Segment 49, and will include a single angle at the southern end to match the existing curve of Segment 49 as Segment 49 heads to the west.¹

¹ At its closest point, the centerline of Segment 49a will be approximately 917 feet from the western boundary of Tract B-004.

DRAFT: 11/12/20

- ii) **Partial Removal of Segment 49:** CPS will remove the portion of Segment 49 that is to the east the interconnection with new Segment 49a. The western portion of Segment 49 will remain as proposed.
 - iii) **Modification to Segment 46:** CPS will incorporate two angles into Segment 46 to shift it to the south onto Developers' Tracts B-005 and B-007 such that the centerline of modified Segment 46 will stay at least 300 feet from the boundary of Tract B-013 (the "Reyes Tract") and well over 300 feet from Habitable Structure 15 (the "Reyes Home").
 - iv) **Creation of Segment 42a:**
 - (1) CPS will create a new segment to connect the existing node of Segments 41, 46, and 48 directly to existing Segment 42 on Tract B-041. This new segment will travel as straight as possible while retaining all ROW on Developers' property and staying at least 300 feet from any habitable structure. The entire modified Segment 42 will be referred to as Segment 42a.
 - (2) CPS agrees that, consistent with the Commission's final order, it will adopt minor deviations to Segment 42a so that segment will follow the northeastern boundary of Tract B-041 and cross the extreme northeastern tip of Tract B-043 at the termination of Pecan Ranch Road, such that all ROW remains on Developers' property and the centerline stays at least 300 feet from any habitable structure.
 - v) **Elimination of Segment 48:** CPS will remove Segment 48, which would be unnecessary following the addition of Segment 42a and the partial removal of Segment 49.
- 3) **Agreement to Support Routing Options:** Developers² agree to support the Commission routing the line down either Segment 46 Modified (full length) or Segments 46 Modified (partial)-49a-49 (western portion), but do not commit to a position regarding the remainder of the route to the south or east of the eastern node of Segment 46. Developers reserve their right to argue that the Commission should reach Segment 46 Modified by following a path that includes Segment 41.
- 4) **No Net Cost Increase:** Developers agree to donate additional ROW as necessary to offset any net cost increase that results from Developers' requested modifications. The parties agree that the "net cost increase" will be calculated as follows:
- a) If the Commission uses Segment 42a-46 Modified (full length):
 - i) The cost of Segment 42a minus the cost of proposed Segments 42 and 48; plus
 - ii) The cost of Segment 46 Modified (full length) minus the cost of proposed Segment 46.
 - b) If the Commission uses Segments 42a-46 Modified (partial)-49a-49:
 - i) The cost of Segment 42a minus the cost of proposed Segment 42; plus

² As well as all other legal entities owned or controlled by Developers.

DRAFT: 11/12/20

- ii) The cost of Segment 46 Modified (full length) minus the cost of proposed Segment 46;³ plus
- iii) The cost of Segment 49a and the portion of Segment 49 to the west of the interconnection with Segment 49, minus the cost of proposed Segment 49.
- c) If the Commission uses Segment 41-46 Modified (full length):
 - i) The cost of Segment 46 Modified (full length) minus the cost of proposed Segment 46.
- 5) **Maintain Existing Cost Differentials:** Developers agree to donate additional ROW as necessary to maintain the existing cost differential between routes that use Segment 46 and Segment 49.⁴ There are two possible scenarios:
 - a) **Scenario 1:** The Commission selects a route that uses a variation of Segment 42.
 - i) In the current Application, starting at the node of Segment 36 and Segment 42, using Segments 42-48-46 costs \$57,133 less than using Segments 42-49.⁵
 - ii) If the Commission selects a route that uses a variation of Segment 42, Developers commit to donating additional ROW as necessary to make the estimated cost of using Segments 42a-46 Modified (full length) \$57,133 less than the estimated cost of using Segments 42a-46 Modified (partial)-49a-49.
 - b) **Scenario 2:** The Commission selects a route that uses Segment 41.
 - i) If the Commission selects a route that uses Segment 41, Developers commit to donate additional ROW as necessary to make the estimated cost of using Segments 41-46 Modified (full length) \$57,133 less than the estimated cost of using Segments 41-46 Modified (partial length)-49a-49.
- 6) **ROW Acquisition:** If the Commission selects a route that uses any of the modified segments shown on Attachment A, Developers agree to provide all necessary ROW across Developers' property that has not been donated pursuant to this (or an earlier) agreement to CPS without resorting to a contested condemnation process. Developers will agree to provide all necessary, non-donated ROW across Developers' property to CPS at \$0.40 per square foot, which is a 20% discount off of CPS's assumed cost of ROW along the segments that impact Developers' property. Additionally, Developers will not seek any recovery for damages to the remainder value of any tracts that are impacted by the transmission line, including where Segment 46 Modified crosses Developers' Pecan Springs Ranch, Unit 3 development on Tract B-005, where Developers have already invested significant capital to create valuable home sites, eight of which will be directly impacted by Segment 46 Modified.

³ This captures the cost of avoiding the Reyes Tract on 46 Modified (partial).

⁴ The magnitude of any associated ROW donation will be determined after CPS develops cost estimates for the new and modified segments described in this agreement.

⁵ This is the difference between CPS's cost estimates for proposed Route Z (Sub 7-54-20-36-42-48-46) and Proposed Route AA (Sub 7-54-20-36-42-49). See Application Attachment 3.

From: [Rasmussen, Kirk](#)
To: [McMillin, Michael](#); [Bennett, Craig](#); [Giles, Kipling D](#)
Subject: RE: CPS CCN (51023): Final/Signed Agreement [IMAN-JWDOCS.FID4061346]
Date: Monday, November 23, 2020 2:13:15 PM

Michael,

Are you sure you want to attach the terms with the filing? In the alternative, talking generally and making parties ask for the document in discovery plus the 15 days to respond before they can start taking aim at? Happy to discuss at your leisure.

Kirk Rasmussen

512-968-4566

From: McMillin, Michael

Sent: Monday, November 23, 2020 12:35 PM

To: Rasmussen, Kirk ; Bennett, Craig

Subject: CPS CCN (51023): Final/Signed Agreement

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

Kirk and Craig,

I have attached a final version of our agreement with CPS. We accepted all your redlines. The only change from your version was to clarify that Section 9 on minor modifications would apply to "Segment 42/42a".

I have also included an updated attachment that adds a bit more information about the planned subdivisions. There were no changes to the substance of the modifications.

This version has been signed by Taylor Dreiss. If it looks ok to you, please have someone at CPS sign and return so I can attach this to our filing tomorrow.

Thanks,

Michael McMillin | Thompson & Knight LLP

Associate

ThompsonKnight

98 San Jacinto Blvd., Suite 1900, Austin, TX 78701

512.404.6708 (direct) | 956.244.1134 (cell) | michael.mcmillin@tklaw.com

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From: [Rasmussen, Kirk](#)
To: [McMillin, Michael](#)
Subject: RE: CPS Scenic Loop: Proposed Agreed Modification [IMAN-JWDOCS.FID4061346]
Date: Tuesday, October 6, 2020 4:00:40 PM

I'll send you something today or tomorrow as soon as I get it.

Kirk Rasmussen
512-968-4566

From: McMillin, Michael
Sent: Tuesday, October 6, 2020 2:55 PM
To: Rasmussen, Kirk
Subject: RE: CPS Scenic Loop: Proposed Agreed Modification [IMAN-JWDOCS.FID4061346]

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

Is there a proposal that I can pass along to the Dreisses so we can look it over in preparation for a call? I'll see what their availability is like on those days.

Michael McMillin | Thompson & Knight LLP
Associate

98 San Jacinto Blvd., Suite 1900, Austin, TX 78701
512.404.6708 (direct) | 956.244.1134 (cell) | michael.mcmillin@tklaw.com
vCard | www.tklaw.com/michael-mcmillin/

From: Rasmussen, Kirk <krasmussen@jw.com>
Sent: Tuesday, October 6, 2020 2:53 PM
To: McMillin, Michael <Michael.McMillin@tklaw.com>
Subject: RE: CPS Scenic Loop: Proposed Agreed Modification [IMAN-JWDOCS.FID4061346]

We can set up a zoom call Thursday or Friday to discuss or we can meet in person either day.

Kirk Rasmussen
512-968-4566

From: McMillin, Michael <Michael.McMillin@tklaw.com>
Sent: Friday, October 2, 2020 3:29 PM
To: Rasmussen, Kirk <krasmussen@jw.com>
Subject: CPS Scenic Loop: Proposed Agreed Modification

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

Kirk,

I called just now but my service dropped before I got your voicemail. I was calling to see if there were any updates on the proposed agreed modification I've been discussing with you on behalf of the Dreisses.

Thanks,

Michael McMillin | Thompson & Knight LLP
Associate

ThompsonKnight

98 San Jacinto Blvd., Suite 1900, Austin, TX 78701
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From: [Rasmussen, Kirk](#)
To: [McMillin, Michael](#)
Subject: RE: CPS Scenic Loop: Response to Modification Proposal and Request for Call [IMAN-JWDOCS.FID4061346]
Date: Wednesday, October 14, 2020 9:00:52 AM

Meeting with CPS Energy to discuss this today. Will be available to talk tomorrow.

Kirk Rasmussen
512-968-4566

From: McMillin, Michael
Sent: Monday, October 12, 2020 4:27 PM
To: Rasmussen, Kirk
Cc: Coleman, Katie
Subject: CPS Scenic Loop: Response to Modification Proposal and Request for Call

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

Kirk,

I just got off a call with Tom and Taylor Dreiss about the modification proposal you sent us last week. CPS's proposed change didn't match up with what we were expecting, and we think it would be helpful to do another round of revisions in advance of a meeting. That way we can hopefully resolve all the necessary issues, including some lingering changes that we believe were discussed in the meeting you/CPS had with the Dreisses back in July.

Please call me at your earliest convenience to discuss this proposal. As you know, under your proposed procedural schedule, our testimony would be due in two months. We need to determine if an agreement will be possible in relatively short order so that we can make litigation decisions around hiring experts, etc.

The attached document includes hand-drawn modification proposals labeled 1 through 4:

Modification 1: Please see the **dotted** line labeled "1" on the attached map (ignore the highlighting). The solid line nearby represents the Dreisses' property boundary. We believe that placing the ROW along the dotted line and entirely within the Dreiss property would keep it at least 300 feet away from any habitable structure. We don't understand why CPS's proposal (the green line) is so far inside the Dreisses' property boundary.

Modification 2: To avoid the Reyes home, the Dreisses believe they can accept a modification similar to the one marked "2" on the attached map. We view this as a significant concession because it would require the Dreisses to eliminate two home sites that are already under contract, at a total cost of approximately \$350k.

Modification 3: We believe this modification reflects the discussions you/CPS had with the Dreisses in July surrounding their donation of the flood plain ROW behind the school.

-

Modification 4: We believe this modification reflects the discussions you/CPS had with the Dreisses in July surrounding their donation of the flood plain ROW behind the school. The line would hug the southwestern boundary of the school property, with all ROW on the Dreisses' land. We believe that this configuration would keep the line more than 300 feet from any school building.

Let's talk soon.

Best,

Michael McMillin | Thompson & Knight LLP

Associate

ThompsonKnight

98 San Jacinto Blvd., Suite 1900, Austin, TX 78701

512.404.6708 (direct) | 956.244.1134 (cell) | michael.mcmillin@tklaw.com

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From: [McMillin, Michael](#)
To: ["Rasmussen, Kirk"](#)
Cc: [Bennett, Craig](#)
Subject: RE: Docket No. 51023 - Proposed Schedule Tweaks [IMAN-JWDOCS.FID4061346]
Date: Wednesday, February 24, 2021 5:26:36 PM
Attachments: [image001.png](#)

Kirk,

My clients intend to uphold their agreement with CPS. We support the Commission routing on Segment 46/46a, and that is very clear in our testimony.

My understanding of what I told Wendy Harvel was that Anaqua/Jauer's proposed modification doesn't impact my clients' properties, so she could list us as unopposed to the **modification**. My discussions with Wendy separated out the issue of my clients' position on Anaqua/Jauer's **motion**, and I told her that because we didn't want to cause CPS any heartburn, we would not take a position on whether the Commission should certify Anaqua/Jauer's requested issues. I didn't see the motion before it was filed, but on page 3 it specifies that our entities are ("unopposed") to the **modification**, which appears to be consistent with that discussion. That said, I was under the impression that the motion would also have a list of parties that supported/were unopposed to the **motion**, which would have made this distinction clearer.

I don't read our agreement as committing my clients one way or the other with respect to other parties' proposed modifications. Nor do I interpret a commitment to support routing down 46/46a as requiring us to either oppose or remain silent on all other routing options or proposed modifications. To be clear, **my clients will only ever express support for routes that contain 46/46a, and they will not express support for any route that does not contain those segments**. That said, I don't think our agreement prohibits my clients from saying that they do not oppose the Commission putting the line somewhere else.

I'm happy to discuss this with you more. The Dreisses value their relationship with CPS and intend to uphold their agreement in all respects.

Thanks,

Michael McMillin | Thompson & Knight LLP
Associate

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From: Rasmussen, Kirk <krasmussen@jw.com>
Sent: Wednesday, February 24, 2021 3:37 PM
To: McMillin, Michael <Michael.McMillin@tklaw.com>
Cc: Bennett, Craig <cbennett@jw.com>

Subject: RE: Docket No. 51023 - Proposed Schedule Tweaks [IMAN-JWDOCS.FID4061346]

Unopposed to the motion is not consistent with supporting the Commission routing on Segment 46. You all really want to risk our agreement over this motion?

Kirk Rasmussen

512-968-4566

From: McMillin, Michael <Michael.McMillin@tklaw.com>

Sent: Wednesday, February 24, 2021 1:07 PM

To: Rasmussen, Kirk <krasmussen@jw.com>

Cc: Bennett, Craig <cbennett@jw.com>; Dunekack, Lee Ann <ldunekack@jw.com>

Subject: RE: Docket No. 51023 - Proposed Schedule Tweaks [IMAN-JWDOCS.FID4061346]

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Kirk,

My clients are on board with this proposal.

Thanks,

Michael McMillin | Thompson & Knight LLP

Associate

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From: Rasmussen, Kirk <krasmussen@jw.com>

Sent: Wednesday, February 24, 2021 1:01 PM

To: kdgiles@cpsenergy.com; Adam Marin (ARMarin@CPSEnergy.com)
<ARMarin@CPSEnergy.com>

Cc: Bennett, Craig <cbennett@jw.com>; Dunekack, Lee Ann <ldunekack@jw.com>

Subject: Docket No. 51023 - Proposed Schedule Tweaks [IMAN-JWDOCS.FID4061346]

All Parties to Docket 51023:

Thank you all for your patience over the last week and a half. Based on my previous emails and in accordance with the recent order by the Administrative Law Judges at the State Office of Administrative Hearings, CPS Energy proposes the following minor adjustments to the current procedural schedule. Please let me know by Friday if you cannot agree with these proposed changes.

1. The time for objecting to intervenor testimony was cut from 9 days to 7

days after the testimony filing deadline (this makes sense because most intervenor testimony will have been filed prior to the deadline)

2. The time for discovery on intervenor testimony was cut from 12 days after the testimony filing deadline, to 10 days after (again, justified for the same reason above)
3. Staff's testimony was cut from 26 days after intervenor testimony, to 24 days (again, justified for the same reason above)
4. CPS Energy's rebuttal testimony was cut from 17 days after Staff/Cross Intervenor testimony, to 16 days after (originally 43 days after intervenor testimony, now 41 days after)
5. The time for objections to rebuttal and for serving discovery on rebuttal were both cut from 8 days after, to 7 days after the filing of rebuttal
6. The time for responding to discovery on rebuttal was cut from 17 days to 14 days. This was the biggest change, but it seems that 14 days is still sufficient, and it is a sacrifice worth making to preserve the current hearing schedule.

JKirk Rasmussen | Partner

100 Congress Avenue Suite 1100 | Austin, TX | 78701

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Jackson Walker L.L.P



From: [McMillin, Michael](#)
To: [Rasmussen, Kirk](#)
Subject: RE: Staff Discussion [IMAN-JWDOCS.FID4061346]
Date: Wednesday, November 18, 2020 10:49:25 AM

FYI, I gave Rustin a rough overview when I spoke to him yesterday, so he won't be coming in completely cold.

Michael McMillin | Thompson & Knight LLP

Associate

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From: McMillin, Michael

Sent: Wednesday, November 18, 2020 10:49 AM

To: 'Rasmussen, Kirk'

Subject: RE: Staff Discussion [IMAN-JWDOCS.FID4061346]

Got it, thanks. Do you think we should send Staff a copy of the term sheet in advance, or just walk them through the agreement on the call? I know y'all were going to have some minor changes to the terms at some point this week, but as I understand those they are unlikely to impact Staff's decision.

Michael McMillin | Thompson & Knight LLP

Associate

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From: Rasmussen, Kirk <krasmussen@jw.com>

Sent: Wednesday, November 18, 2020 10:46 AM

To: McMillin, Michael <Michael.McMillin@tklaw.com>

Subject: RE: Staff Discussion [IMAN-JWDOCS.FID4061346]

Yes. We are scheduled for 5 pm today. I just sent a Zoom invite.

Kirk Rasmussen

512-968-4566

From: McMillin, Michael <Michael.McMillin@tklaw.com>

Sent: Wednesday, November 18, 2020 10:01 AM

To: Rasmussen, Kirk <krasmussen@jw.com>

Subject: RE: Staff Discussion [IMAN-JWDOCS.FID4061346]

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Is this for a call with Staff? I haven't heard back from them since I spoke with Rustin.

Michael McMillin | Thompson & Knight LLP

Associate

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512.404.6708 (direct) | 956.244.1134 (cell) | michael.mcmillin@tklaw.com

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From: McMillin, Michael

Sent: Tuesday, November 17, 2020 5:34 PM

To: 'Rasmussen, Kirk' <krasmussen@jw.com>
Subject: RE: Staff Discussion [IMAN-JWDOCS.FID4061346]
Yes.

Michael McMillin | Thompson & Knight LLP

Associate

98 San Jacinto Blvd., Suite 1900, Austin, TX 78701

512.404.6708 (direct) | 956.244.1134 (cell) | michael.mcmillin@tklaw.com

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From: Rasmussen, Kirk <krasmussen@jw.com>
Sent: Tuesday, November 17, 2020 5:27 PM
To: McMillin, Michael <Michael.McMillin@tklaw.com>
Subject: Re: Staff Discussion [IMAN-JWDOCS.FID4061346]
Can you do 5 pm tomorrow?

Kirk

On Nov 17, 2020, at 4:51 PM, McMillin, Michael
<Michael.McMillin@tklaw.com> wrote:

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CAUTION****

I spoke to Rustin this afternoon. He was going to coordinate with Heath and get back to us today.

Michael McMillin | Thompson & Knight LLP

Associate

98 San Jacinto Blvd., Suite 1900, Austin, TX 78701

512.404.6708 (direct) | 956.244.1134 (cell) |

michael.mcmillin@tklaw.com

[vCard](#) | www.tklaw.com/michael-mcmillin/

From: Rasmussen, Kirk <krasmussen@jw.com>
Sent: Tuesday, November 17, 2020 10:35 AM
To: McMillin, Michael
<Michael.McMillin@tklaw.com>
Subject: RE: Staff Discussion [IMAN-JWDOCS.FID4061346]

I sent an email this morning. Discovery swallowed me up. Feel free to check with Rustin on your call. I can be available today and tomorrow pretty much anytime.

Kirk Rasmussen

512-968-4566

From: McMillin, Michael
<Michael.McMillin@tklaw.com>
Sent: Tuesday, November 17, 2020 10:24 AM

To: Rasmussen, Kirk <krasmussen@jw.com>

Subject: Staff Discussion

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

Kirk,

Have you heard anything from Staff about a meeting this week? If not, I'm on an unrelated call with Rustin and can ask him.

Thanks,

Michael McMillin | Thompson & Knight LLP

Associate

ThompsonKnight

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From: [Rasmussen, Kirk](#)
To: [McMillin, Michael](#)
Subject: Second Image [IMAN-JWDOCS.FID4061346]
Date: Thursday, October 8, 2020 2:40:52 PM
Attachments: [image001.png](#)

Michael,

In discussing the Dreiss property and the 49-46 connector, we will also need to discuss access to the transmission line corridor, something like as shown in green on this image file.

Kirk Rasmussen | Partner

100 Congress Avenue Suite 1100 | Austin, TX | 78701

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