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

**STEVE CICHOWSKI'S OBJECTIONS AND MOTIONS TO STRIKE THE CROSS-
REBUTTAL TESTIMONY OF CYNTHIA GRIMES, DAVID CLARK, AND JERRY
RUMPF ON BEHALF OF THE SAVE HUNTRESS LANE ASSOCIATION**

Steve Cichowski files the following objections to the above identified intervenor cross-rebuttal testimony. To summarize, much of the purported cross-rebuttal testimony does not rebut witness testimony but rather attempts to provide additional direct testimony and should have been filed at the time intervenor direct testimony was filed. For that reason, Steve Cichowski objects to and moves to strike the improper testimony that was an attempt to file supplemental direct testimony. Those objections and the other objections are shown below.

OBJECTION TO ENTIRE TESTIMONY

Intervenor objects to the entire 40 pages of alleged rebuttal testimony filed by Save Huntress Lane Area Association as Item Number 672 and request that it be stricken from the record. With respect to the general rule that objections to testimony must be directed to specific testimony, there exists the inherent assumption in the rule that the proffered testimony will be in such a form as to lend itself to reasonable application of the rule. Such is not the case in Filing number 672. Filing number 672 purports to be the cross-rebuttal testimony of Cynthia Grimes, David Clark, and Jerry Rumpf on behalf of Save Huntress Lane Area Association. However, except for isolated instances, it is impossible to tell whose testimony is being offered. For instance,

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pages 3 thru 6 consist of narrative responses which are attributed to no single witness. This is not isolated, but typical. Without such identification, it is impossible to determine if there exists a proper foundation for the testimony, whose knowledge it is based upon, if a proper predicate for the testimony has previously been laid, if it is hearsay, or who is subject to cross-examination of the testimony at the hearing on the merits. Furthermore, most of filing number 672 does not consist of cross-rebuttal testimony by any reasonable measure. For instance, on page 2, Ms. Grimes is asked about *her* previous testimony about habitable structures. Her buttressing her own previous testimony is, by definition, *not* rebuttal or cross testimony.

On page 3, someone (again no witness is identified) testifies about a letter from the Texas Parks and Wildlife Commission submitted to the PUC *prior* to any of the witnesses' direct testimony being filed. Even if such testimony were not hearsay in its rankest form, it again does not qualify as cross-rebuttal testimony.

The entirety of pages 4 thru 6 consist, not of cross-rebuttal testimony, but a summary of the witnesses' own opinions on who supports what, which lines affect which parties, or information contained in CPS Energy's Application and Amended Application. While all of this testimony is hearsay, suffers from a lack of proper predicate, or is improper expert opinion, its biggest failing is that, again, it is not in the nature of cross-rebuttal testimony.

Pages 12 through 37 consist (with some deviation) of the witness (whoever it might be) offering their opinion on *what some other intervenor* believes or prefers. For the most part none of this offers new testimony or facts but consist of the witness's argument on why the other party is wrong or the witness's own interpretation of another Intervenor's testimony. Again, all of this offered testimony is improper as being without foundation, speculative, improper lay testimony, and hearsay. It is also overwhelmingly not in the nature of cross-rebuttal testimony.

Other intervenors should not be forced to parse through such a mash-up of testimony to decipher the ten percent that is actually cross-rebuttal just to being able to lodge those technical objections. This runs contrary to the purposes of an administrative proceeding; one of which is to streamline and reduce the cost of resolving the issues before it. For the above reasons, Intervenor Steve Cichowski respectfully moves the ALJ's to strike the entirety of filing number 672.

II. SPECIFIC OBJECTIONS

Although Intervenor objects and moves to strike the entirety of the alleged cross-rebuttal testimony filed as Item Number 672 in this proceeding, he offers the following specific objections, in addition to those specific objections identified above and moves to strike any or all of the pages identified.

Pages 1-6. Outside the scope of cross-rebuttal testimony.

Page 7. Mischaracterization of the evidence and of Mr. Cichowski's testimony.

Page 8. Mischaracterization of the evidence and of Mr. Cichowski's testimony. Hearsay with regard to other homeowner opinions. Assumes facts not in evidence. Speculation as to what other homeowners support. Lack of foundation for conclusions offered.

Page 9-10. Hearsay. Lack of Foundation.

Pages 12-37. Lack of foundation or proper predicate. Improper lay opinion. Not in the nature of Cross-rebuttal testimony. Speculative as to the opinions of other Intervenor.

Page 38. Hearsay as to conversation with unidentified Anaqua resident and unidentified Canyons developer. Mischaracterization of the evidence and position of other intervenors who have objected to CPS Energy forcing a landowner to support its favorite route in exchange for Route concessions.

Page 39. Repeat of direct Testimony. Not in the nature of Rebuttal testimony.

Intervenors request the ALJ's sustain these objections and strike all or a significant portion of the objectionable testimony.

Respectfully submitted,

By: *Steve Cichowski*

Steve and Catherine Cichowski
Steve Cichowski TBN # 00793507
24914 Miranda Ridge
(210) 225-2300
(210) (fax)
steve@cichowskilaw.com

INTERVENORS

CERTIFICATE OF SERVICE

I hereby certify that on this 29th day of March 2021, notice of the filing of this document was provided to all parties of record via the PUC Interchange in accordance with SOAH Order No. 3.

Steve Cichowski

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