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

BEFORE THE STATE OFFICE

OF

ADMINISTRATIVE HEARINGS

2021 APR -5 AM 9:28  
PUBLIC UTILITY COMMISSION  
FILE NO. 51023

DIRECT TESTIMONY

OF

STEVE CICHOWSKI

ON BEHALF OF

ANAQUA SPRINGS HOMEOWNERS ASSOCIATION

February 26, 2021

**INDEX TO THE DIRECT TESTIMONY OF  
STEVE CICHOWSKI, WITNESS FOR  
ANAQUA SPRINGS HOMEOWNERS ASSOCIATION**

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**LIST OF EXHIBITS**

Exhibit SC-1	CPS Intervenor Map
Exhibit SC-2	ASHOA Position Paper
Exhibit SC-3	Photographs of houses along Toutant Beauregard
Exhibit SC-4	Photographs of Anaqua’s entrance
Exhibit SC-5	Agreement between CPS and Toutant Ranch Ltd regarding Modifications and Amendment to application



1                    **II.     PURPOSE OF TESTIMONY AND BACKGROUND**

2     **Q.     WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS**  
3             **PROCEEDING?**

4     A.     My purpose is to present the position of Anaqua Springs HOA. I am addressing  
5             the issues related to routing in the preliminary order.

6     ~~**Q.     CAN YOU BRIEFLY SUMMARIZE THAT POSITION?**~~

7     ~~A.     Yes, Anaqua Springs HOA supports the approval of Route R1 Modified. But if~~  
8             ~~another route is approved that uses segments 26a, 38, or 43, Anaqua supports the~~  
9             ~~same modification along those segments. If the Commission does not approve~~  
10            ~~Route R1 Modified, then ASR supports Route W.~~

11    **Q.     ARE OTHER WITNESSES TESTIFYING ON BEHALF ON ANAQUA**  
12            **SPRINGS HOA?**

13    A.     Yes. Mark Anderson testifies on our behalf as well as on behalf of Brad Jauer.  
14            Lauren Pankratz, M.D. and Sunil Dwivedi, M.D. testify on behalf of the HOA.  
15            They are individual intervenors and testify on their individual positions as well.

16                    I am filing testimony on my own behalf as an individual intervenor, but  
17                    because I am a resident of Anaqua Springs, that testimony also impacts Anaqua  
18                    Springs. I incorporate it here by reference with the understanding that my first-  
19                    choice route is the HOA's second choice, and the HOA's second choice route is my  
20                    first choice. This is because of my location in the subdivision and the HOA's  
21                    decision to represent the interests of the community of Anaqua Springs.

1 **Q. WOULD YOU PLEASE DESCRIBE THE BOUNDARIES OF ANAQUA**  
2 **SPRINGS?**

3 A. Anaqua Springs subdivision fronts on Toutant Beauregard Road. Our entrance is  
4 on the road, including our guardhouse, which is staffed 24 hours each day. Our  
5 southern border abuts Bexar Ranch and the Canyons development. Brad Jauer's  
6 property is to our east, and to the west is property known as Pecan Springs, which  
7 is part of the Toutant Ranch intervenor group. CPS's intervenor map generally  
8 reflects the subdivision boundaries, and it is attached to my testimony as Exhibit  
9 SC-1.

10 **Q. CAN YOU PLEASE DESCRIBE THE SUBDIVISION?**

11 A. The subdivision consists of single-family homes. Each home is on a lot size of at  
12 least one acre. The utility lines running to the homes are all buried underground to  
13 preserve the appearance of the properties.

14 **Q. APPROXIMATELY HOW MANY HOMES ARE IN ANAQUA SPRINGS?**

15 A. There are approximately one hundred and fifteen homes in Anaqua Springs.

16 **Q. IS EACH ANAQUA SPRINGS HOMEOWNER A MEMBER OF THE HOA?**

17 A. Yes.

18 **Q. WHEN WAS THE SUBDIVISION FIRST ESTABLISHED?**

19 A. Anaqua Springs was first platted in 2004.

20 **III. HISTORY OF ANAQUA'S INVOLVEMENT**

21 **Q. CAN YOU SUMMARIZE THE HOMEOWNERS' ASSOCIATION'S**  
22 **EARLY INVOLVEMENT IN THIS PROJECT?**

23 A. Yes. The HOA has been involved with this project from the beginning and has  
24 tried to work with CPS. We first became aware of the project in September of 2019

1 when several homeowners received invitations to CPS Energy's open house. This  
2 was a great concern to the Board because of the detrimental effect such a project  
3 could have on our members given the unique character of the community. In  
4 response, several members, myself included, attended the open house. Following  
5 the open house, a delegation of board members arranged to meet with CPS  
6 representatives and its then-acting attorney. Based upon our review of the proposed  
7 routes it appeared that one was clearly superior to all others based on route length,  
8 impact to existing developments and homes, and other geographical data. That  
9 route would have started at Substation 1 (the as-filed Substation 1 is at a different  
10 location), then went on Segments 12, 23, 28, 30, and 41. One of our board members  
11 prepared a position paper to be delivered to CPS as part of our meeting. The paper  
12 noted the relative impacts of different routes to existing structures and property  
13 values. The data relied on in the position paper came from public records such as  
14 the Bexar County Appraisal District, Bexar County Land Records, local real estate  
15 sources, and other sources of data generally relied on for such information. Of  
16 particular interest was the enormous disparity in the values of the properties  
17 affected by routes that avoided Toutant Beauregard versus those that utilized  
18 Toutant Beauregard. We presented our concerns and our position paper to CPS  
19 Energy's representatives and felt that we were in agreement that the most northern  
20 route, beginning with the now abandoned segment 12, was far and away one of the  
21 better choices. The position paper is attached to my testimony as Exhibit SC-2.

22 In addition to meeting with CPS, we also met with the of Anaqua Springs  
23 and the adjoining sister development Pecan Springs. Toutant Ranch is the

1           intervenor developer of those properties. We agreed with that developer that any  
2           route that used Toutant Beauregard was detrimental to Anaqua Springs and Pecan  
3           Springs and that it should be avoided at all costs. More details of this meeting and  
4           subsequent events are detailed in my personal testimony.

5   **Q.   DO YOU REMEMBER THE ROUTE ADEQUACY HEARING HELD IN**  
6   **THIS CASE?**

7   A.   Yes.

8   **Q.   DID YOU TESTIFY IN THAT CASE IN SUPPORT OF CPS BEING**  
9   **ORDERED TO DEVELOP ADDITIONAL ROUTES?**

10  A.   Yes.

11  **Q.   DOES ANAQUA STILL THINK THAT CPS SHOULD DEVELOP**  
12  **ADDITIONAL ROUTES?**

13  A.   The HOA still believes the Application would benefit from additional routing  
14       options, but we understand that CPS has been unwilling to consider options without  
15       being ordered to do so. The northern routes all use Toutant Beauregard, resulting  
16       in routes that impact large numbers of habitable structures and have other  
17       constraints discussed in detail in Mark Anderson's testimony. ~~However, ASR has~~  
18       ~~proposed a slight modification to Route R1 that would be acceptable to the HOA~~  
19       ~~and has asked CPS to include that modification. If that modification, which is~~  
20       ~~discussed in depth in Mr. Anderson's testimony, is not adopted, or any other route~~  
21       ~~that uses Segments 26a, 38, and 43, using the same modification, then we support~~  
22       ~~Route W. The modification we have proposed results in a route we call Route R1~~  
23       ~~Modified.~~



1 **IV. ANAQUA'S HOMES**

2 **Q. PLEASE DESCRIBE THE DIRECTLY AFFECTED PROPERTIES IN**  
3 **ANAQUA SPRINGS.**

4 A. The position of the HOA is that the entire subdivision would be impacted by the  
5 transmission line if the line is routed using any of the following segments: 36, 42a,  
6 38, 39, or 43. There are other segments that necessarily feed into these segments,  
7 but I have not included those segments here.

8 **Q. APPROXIMATELY HOW MANY STRUCTURES WITHIN ANAQUA**  
9 **SPRINGS WOULD BE WITHIN 300 FEET OF THE CENTERLINE OF**  
10 **THE TRANSMISSION LINE IF THE LINE WERE TO PARALLEL**  
11 **TOUTANT BEAUREGARD OR UTILIZE THE SEGMENTS ON THE**  
12 **SOUTH BORDER OF ANAQUA, WHICH INCLUDES SEGMENTS 38, 39,**  
13 **AND 43?**

14 A. At least four. The guardhouse to the subdivision would be within 300 feet. Until  
15 CPS provides specific information as to where the line would be located, it is  
16 difficult to determine the exact distance from the guardhouse to the line. However,  
17 CPS agrees that the guardhouse is a habitable structure within 300 feet of the  
18 centerline. It is habitable structure 201 on CPS's habitable structure map.

19 Three houses along Anaqua Springs' southern border are within 300 feet of  
20 the centerline if the transmission line is routed using Segments 38, 39, and 43. One  
21 of those houses is my house, and the others are homes of other members of the  
22 HOA. CPS did not include one of those homes on its habitable structure list in its  
23 Amended Application. However, we have made CPS aware of the uncounted  
24 habitable structure.

1 **Q. DID CPS INCLUDE THE GUARDHOUSE AS A HABITABLE**  
2 **STRUCTURE?**

3 A. CPS included it in the Amended Application as habitable structure number 200.  
4 However, the guardhouse was not included in the original application even though  
5 it is visible on maps, is staffed 24 hours, and has restroom and cooking facilities.  
6 Nothing prevented CPS or Power from contacting us to ask us about that structure  
7 prior to filing the Application.

8 **Q. WERE THE STRUCTURES ON THE SOUTHERN BORDER INCLUDED**  
9 **IN THE APPLICATION?**

10 A. Habitable structure number 134 was included. However, structure number 201  
11 (which is my home) was not included until the Amended Application was filed.  
12 The other home immediately to the east of habitable structure number 134, within  
13 300 feet of Segment 38, was not included.

14 **Q. WERE THE HOMES ON THE SOUTHERN BORDER WITHIN 300 FEET**  
15 **OF THE CENTERLINE IN THE ORIGINAL APPLICATION?**

16 A. Yes. Both my home and structure 134 were in existence and within 300 feet of the  
17 centerline. However, neither CPS nor Power included my home until the  
18 amendment, and has yet to include the third, which was in existence at the time  
19 CPS filed its Amended Application. CPS did not attempt to contact Anaqua  
20 Springs to get an accurate habitable structure count. We have gladly provided this  
21 information to CPS to ensure that the Amended Application is accurate.

V. ROUTES ALONG TOUTANT

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**Q. WHAT ARE THE HOA’S PRIMARY CONCERNS ABOUT THE ROUTES ALONG TOUTANT BEAUREGARD?**

A. The routes using Toutant Beauregard impact a large number of homes. I have taken photographs of some of these houses along Toutant Beauregard, and they are attached to my testimony as Exhibit SC-3 with captions designating their locations. We are also concerned about the number of times the transmission line crosses Toutant, making it repeatedly visible directly overhead while driving along the road. In addition, segment 36 runs right through our entry way and through dedicated parkland to the northwest and southeast of our entry drive. The clearing of wooded parkland for right of way defeats the very purpose of “parkland” and represents a complete destruction of its intended use. Finally, and importantly, almost all routes that run along Toutant Beauregard will run in close proximity to Sara McAndrew Elementary School and close to or through property owned by Northside Independent School District. This property, when purchased by the Northside, was slated to not only house the existing elementary school, but a future middle school as well. The HOA is opposed to any powerlines running near the school or schools.

**Q. WHAT ARE THE HOA’S CONCERNS RELATED TO HABITABLE STRUCTURES?**

A. The Commission has a policy of prudent avoidance. That policy requires the limiting of exposures to electric and magnetic fields that can be avoided with reasonable investments of money and effort. From looking at the maps showing the habitable structures, the greatest exposure potential is along any route utilizing

1 Toutant Beauregard, and those routes that then continue to run by the school. CPS  
2 has provided other routes with fewer habitable structures that can be built. Those  
3 routes are all more expensive, partially because they do not benefit from the  
4 donation of easements to CPS by a developer who wants to have some control over  
5 how the lines run over their property, and also because they are longer due to the  
6 location of Substation 7, which is nestled between homes in a residential area on  
7 heavily populated Toutant Beauregard.

8 **Q. WHAT ARE THE HOA'S CONCERNS ABOUT THE NUMBER OF TIMES**  
9 **THE LINE CROSSES TOUTANT BEAUREGARD?**

10 A. My understanding of the Commission's routing criteria is to prefer paralleling  
11 existing compatible corridors, such as existing roads and power lines. However,  
12 by choosing to use Toutant Beauregard for all northern routes, CPS crosses it five  
13 or six times starting at Segment 14 and ending at Segment 35. Some of these  
14 crossings appear to be done to slightly increase the distance the line from the school  
15 and from habitable structures. Yet, despite these numerous crossings, there are still  
16 dozens of affected structures. Notably, Segment 36, which impacts habitable  
17 structure 200 and runs directly over the entrance to Anaqua Springs, could remain  
18 on the other side of Toutant, rather than crossing over once into Mr. Jauer's  
19 property and then crossing again to avoid the elementary school.

20 **Q. WHAT ARE THE CONCERNS ABOUT SEGMENT 54?**

21 A. Segment 54 is close to many homes that were built decades ago, many of them  
22 fronting on Toutant Beauregard. We are concerned that the lines would be built so

1 close to these established homes. Mr. Anderson testifies about other technical  
2 aspects of this route.

3 **Q. WHAT ARE THE CONCERNS WITH RESPECT TO THE ELEMENTARY**  
4 **SCHOOL?**

5 A. Sara McAndrew Elementary School is the local public elementary school for this  
6 area. Hundreds of children attend. It opened in 2013, so it is relatively new. The  
7 school's website at [nisd.net/mcandrew/about](http://nisd.net/mcandrew/about) shows a photo of the school looking  
8 toward the front door of the school, with the Hill Country behind it. Proposed  
9 Segment 42a would run directly behind the school and would come very close to  
10 school property, particularly the playground. Segment 41 would run on the north  
11 side of the school and actually be on school property as currently drawn. Segment  
12 35 would parallel the school property all along its northeastern border, including  
13 the only entrance and exit to the school. Children would likely be tempted to  
14 explore the transmission line towers, and those towers, lines, and associated  
15 electromagnetic fields would be in close proximity to the children, faculty, and staff  
16 of the school. Other routes could more easily be chosen that do not impact school  
17 property, and thereby reduce the possibility of children's exposure to  
18 electromagnetic fields, in line with the Commission's policy of prudent avoidance.  
19 Dr. Lauren Pankratz testifies further regarding her concerns relating to transmission  
20 lines being built so close to a school.

1 **Q. CAN YOU EXPLAIN WHAT WILL CHANGE AT THE ENTRANCE TO**  
2 **ANAQUA SPRINGS IF THE ROUTE USES SEGMENT 36?**

3 A. The entrance to Anaqua Springs Ranch is an extensively landscaped and heavily  
4 wooded island with its northern most point touching the right of way of Toutant  
5 Beauregard and its southern tip ending close to the front gate. The west side of the  
6 island is bordered by the entrance drive, and the east side of the island is bordered  
7 by the exit drive. The property is gated, and access and egress are controlled by an  
8 automated gate. Outside the fence line, between the gates and Toutant Beauregard,  
9 there is a guardhouse which controls visitor and contractor traffic into the  
10 neighborhood. This guardhouse is staffed 24 hours a day, seven days a week. It is  
11 self-contained and has its own bathroom, internet, phone, and electrical service.  
12 Microwaves and hot plates allow for heating meals. Acreage on either side of the  
13 guard house is dedicated landscaped or wooded parkland. Photographs of  
14 Anaqua's entrance are attached to my testimony as Exhibit SC-4. Depending on  
15 the exact location of the lines and towers, this entire structure may have to be  
16 demolished and relocated. The entire traffic circulation pattern will have to be  
17 redesigned and reconstructed. Depending on the exact location of the right of way  
18 and overhead lines, the automated gates will have to be relocated in relation to the  
19 new guard house. Centuries old oak and elm trees will have to be destroyed to  
20 comply with the easement clearance regulations. A one-hundred-foot swath of oaks  
21 and elms in the park land will have to be leveled. The aesthetic and subsequent  
22 economic effects will be tremendous. This is not hyperbole. To comply with the  
23 easement requirements, the entrance will be irrevocably damaged. The HOA is

1 concerned about the loss in property values if the line is routed across the entrance.  
2 Any agent seeking to show their buyer a luxury home can easily take them to one  
3 of several communities in Bexar County that do not require driving under  
4 transmission lines and between transmission towers to enter. Unfortunately, for the  
5 residents of Anaqua they are already committed to their investment at the price  
6 point negotiated when it was free of such encumbrances.

7 **Q. DOES THE HOA HAVE CONCERNS ABOUT SUBSTATION SITE 7?**

8 A. Yes, we have concerns about the use of the Substation 7 site. The site is a  
9 residential lot on Toutant Beauregard that backs to a creek. CPS proposes to put a  
10 five-acre industrial site in the middle of a neighborhood. CPS did not include  
11 Substation 7 at its open house, so there was no opportunity for neighboring  
12 landowners along Toutant or behind the substation site to comment on its location.  
13 The HOA was unaware that a substation might be located at that site until the  
14 Application was filed. In fact, after the open house and before CPS filed its  
15 Application, representatives of the HOA contacted CPS numerous times regarding  
16 plans for the transmission lines and updates on the process. During none of those  
17 points of contact did CPS ever reveal that Substation Site 7 was being added to the  
18 Application. CPS never held a second open house, either virtually or in person to  
19 discuss the addition of this substation site. Because CPS elected not to hold a  
20 second open house or provide additional notice, no landowners (other than those  
21 who own the substation site) were ever given the opportunity to provide feedback  
22 to CPS on this location. I discuss these matters in more detail in my personal  
23 testimony.

1 Mr. Anderson discusses in his testimony his concerns regarding the location  
2 selected as Substation Site 7. The HOA also has particular concerns about the site.  
3 The site is surrounded by homes that have been there for decades. We assume that  
4 the substation will be required to be lit at night, all night, every night. The lighting  
5 requirements alone pose a sufficient nuisance to virtually destroy any residential  
6 value to the surrounding homeowners, who were likely not aware of the site until  
7 the Application was filed because it was not included as an option at the open house.  
8 Neighboring homeowners live on Toutant and also live behind the site, fronting on  
9 Huntress Lane. Neither group had an opportunity to provide feedback to CPS on  
10 the siting of Substation 7 prior to the Application filing. CPS could have held  
11 another open house once that site was under consideration, but CPS chose not to.

12 **Q. IF THE COMMISSION APPROVES ROUTE Z1 OR ANOTHER ROUTE**  
13 **ALONG TOUTANT DOES ASR HAVE ANY SPECIFIC CONCERNS?**

14 A. Yes. ASR is concerned about the proximity of our guard house to the transmission  
15 line. We hire security personnel to staff the guardhouse around the clock. ASR  
16 does not want our guards that close to a transmission line for their entire shifts. It  
17 is contrary to the policy of prudent avoidance. This is in addition to the impacts  
18 previously mentioned.

19 **Q. IS THERE A PARTICULAR MODIFICATION THAT COULD BE MADE**  
20 **TO REDUCE THE EXPOSURE OF THE GUARDHOUSE?**

21 A. Yes. Moving the line across the street would reduce the exposure of the  
22 guardhouse. The landowners across the street from the ASR guardhouse, the  
23 Barrera family, has been noticed of this project, so additional notice would not be



1 necessary. As that property is now pasture and range land, the impacts to humans  
2 from electromagnetic fields would be minimal. Mr. Anderson discusses this  
3 modification in his testimony.

4 **VI. ROUTING ALONG SEGMENTS 38 AND 43**

5 **Q. DOES THE HOA TAKE A POSITION REGARDING ROUTES THAT**  
6 **UTILIZE SEGMENTS ALONG THE SOUTHERN PROPERTY**  
7 **BOUNDARY?**

8 A. Yes. The HOA opposes these routes as well because they negatively impact our  
9 residents both on the southern border and those who live higher in the southern  
10 hills.

11 **Q. ARE YOU AWARE OF THE REASON CPS ROUTED THE**  
12 **TRANSMISSION LINE TOWARD THE ANAQUA SPRINGS**  
13 **SUBDIVISION FROM SEGMENT 38?**

14 A. Not specifically. When you look at the routing map, Segment 38 slants to the  
15 southwest then turns to the northwest in a “V” shape, moving closer to the existing  
16 homes in Anaqua Springs. Segment 38 is not paralleling any compatible right of  
17 way in making that “V”, and the area was not platted for subdivision at the time the  
18 Amended Application was filed. CPS may argue that it would be easier to route  
19 the transmission line along the terrain in a “V” shape, but it serves only to move  
20 the line closer to established homes and away from empty land. At the time both  
21 the Application and the Amended Application were filed, and at the time I am filing  
22 this testimony, it is my understanding that there are no homes along the eastern  
23 portion of Segment 38, and no homes if Segment 38 were to continue its path to the  
24 southwest. But the move to the northwest impacts three homes unnecessarily.

1 **Q. OTHER THAN RUNNING CLOSE TO THE BACK OF YOUR PROPERTY,**  
2 **IS THERE ANOTHER CONCERN YOU HAVE REGARDING THE**  
3 **ROUTING OF SEGMENT 43?**

4 A. Yes. In my personal direct testimony, I discuss how CPS previously trespassed on  
5 my land.

6 **Q. CAN YOU EXPLAIN THE CONCERNS WITH THE ROUTES TO THE**  
7 **SOUTH THAT UTILIZE SEGMENTS 38, 39, AND 43?**

8 A. Yes. In looking at the routes that run to the south of Anaqua Springs, they come in  
9 from either 37 or 26a, run along 38, and then either continue west to 43, or turn  
10 south along 39. I will take each Segment separately.

11 Segment 37 cannot be reached without impacting numerous habitable  
12 structures on Toutant Beauregard. Also, Segment 37 slants to the southwest, and  
13 after passing the node at Segment 26a, becomes Segment 38 where it travels  
14 southwest and then turns to the north.

15 As a result of Segment 38's turn to the northwest, additional habitable  
16 structures are impacted. If Segment 38 turned to the west sooner, along a parcel line  
17 and then continued on the southwesterly direction, it could meet up with the current  
18 southern turn of Segment 43, reducing the overall number of impacted habitable  
19 structures by eliminating the two structures on Segment 38 and the structure on  
20 Segment 43.

21 Mr. Anderson addresses the proposed modification in detail in his  
22 testimony.

1 **Q. SO DOES ANAQUA SPRINGS OPPOSE ALL ROUTES THAT UTILIZE**  
2 **SEGMENTS 38, 39, AND 43?**

3 A. As those segments are currently drawn, yes. ~~However, Anaqua Springs would be~~  
4 ~~agreeable to and has proposed Route R1 Modified, which modifies those segments~~  
5 ~~to move them farther away from currently impacted habitable structures and from~~  
6 ~~all the habitable structures in the southern portion of Anaqua Springs. Similarly, if~~  
7 ~~a route is chosen that utilizes any of those segments, Anaqua Springs supports the~~  
8 ~~use of the same modifications. If a route using Segment 37 is approved, we would~~  
9 ~~also support Segment 37 turning south along 26a to feed into the modified Segment~~  
10 ~~38.~~

11 **~~Q. IF THAT MODIFICATION IS NOT MADE, WHAT IS ANAQUA SPRINGS'~~**  
12 **~~POSITION?~~**

13 A. ~~If that modification is not made, then Anaqua Springs supports Route W.~~

14 **Q. WHY DOES ANAQUA SPRINGS SUPPORT ROUTE W AS ITS CHOICE**  
15 **~~IF THE PROPOSED MODIFICATIONS ARE NOT MADE?~~**

16 A. Route W uses Substation 6, which is farther from existing homes than Substation 7.  
17 It does not utilize Toutant Beauregard, and it impacts fewer habitable structures  
18 that Route Z1. It skirts newer, developing subdivisions, which will give landowners  
19 who choose to build in that subdivision the ability to site their houses taking the  
20 transmission line into consideration, which the people along Toutant Beauregard  
21 and in Anaqua Springs do not have the ability to do. Route W also performs  
22 exceedingly well in the amount of high-value golden-cheeked warbler habitat that

1 is impacted by the route. Mr. Anderson provides a detailed analysis of Route W in  
2 his testimony.

3 **VII. COMMUNITY VALUES**

4 **Q. ARE YOU AWARE OF SOME OF THE COMMUNITY VALUES**  
5 **EXPRESSED IN THIS CASE IN GENERAL?**

6 A. Yes. CPS provided landowners an opportunity to answer a questionnaire asking  
7 what landowners thought should be the top five factors that should be considered  
8 in routing. The top two were the impact to residences and the proximity to schools,  
9 churches, and cemeteries. The results of the questionnaires are discussed in more  
10 detail in Mr. Anderson's testimony.

11 The HOA is advocating for ~~Route R1-Modified~~ to lower the impact to  
12 residences and to keep the line away from Sara McAndrew Elementary School, the  
13 only public elementary school in the study area.

14 **Q. IN YOUR ROLE AS THE HOA PRESIDENT, HAVE YOU TALKED WITH**  
15 **OTHER HOA BOARD MEMBERS AND RESIDENTS ABOUT THEIR**  
16 **CONCERNS?**

17 A. Yes. They expressed all the same concerns as cited above plus additional concerns.  
18 The consensus is that other properties with little to no development on them at the  
19 time of the Application and Amended Application have been given priority over  
20 properties whose value, both economic and aesthetic, was determined by the free  
21 market before the potential routes were even proposed. These owners are being  
22 deprived of their value based an open arm's length transaction between a willing  
23 buyer and a willing seller, while being forced to the market loss for a property they  
24 would not have purchased had the transmission lines been in place at the time of

1 sale. All property is unique; however, it should be noted that Anaqua Springs has  
2 been recognized as one of the most unique developments in Bexar County with a  
3 combination of strict design and build regulations and environmental preservation.  
4 This recognition can be found at  
5 <http://www.sanantonioexceptionalhomes.com/communities/anaqua-springs-ranch>  
6 under the “Best of” categories. This recognition drove the market value of the  
7 homes even more than the traditional metric of square footage. The erosion of this  
8 aesthetic by some of the proposed locations of the transmission line impacts the  
9 entire neighborhood far beyond those homes within the Commission’s required  
10 300-foot notice corridor. However, there are proposed alternative routes that cross  
11 as yet undeveloped properties. Any future development of those properties would  
12 take into account the existing transmission line in developing the location of new  
13 homes in its economic model. Additionally, homebuyers would have the choice to  
14 build there or elsewhere or negotiate a price taking into account the existing lines;  
15 a choice being denied the residents of Anaqua who are now committed to mortgages  
16 and properties negotiated in the absence of the lines. Additionally, there are several  
17 families with children who attend McAndrew Elementary School. These families  
18 have expressed considerable concern over the potential health effects that constant  
19 exposure to an electromagnetic field may have on still developing children. While  
20 CPS will downplay this concern, there is no definitive answer to the question of the  
21 effects, if any, of electromagnetic fields on children, and the HOA is concerned.

22 Our residents do not believe that their children should be unnecessarily  
23 exposed to electromagnetic fields when alternatives exist. There is also concern

1 over the attraction of the physical towers themselves to children whose decision  
 2 making is not yet sound. Large and inviting to adventurous children, the  
 3 construction site and the finished towers would pose a continuing invitation to risk  
 4 taking behavior.

#### 5 **VIII. CPS'S ACTIONS IN THE CASE**

6 **Q. DOES THE HOA HAVE CONCERNS ABOUT CPS'S ACTIONS IN THIS**  
 7 **CASE?**

8 A. Yes. The HOA considers this case to be different than a standard plaintiff versus  
 9 defendant civil case. CPS is the applicant. CPS should take the position, and has  
 10 stated its position, that it can build any route that is ordered, that it is route-neutral,  
 11 and that Z1 is simply the route that it contends best meets the applicable routing  
 12 criteria. CPS has not behaved in this manner. CPS, behind closed doors, negotiated  
 13 an agreement with Toutant Ranch and other developers ("Developers") who are in  
 14 the process of developing property to reroute the lines on their property in exchange  
 15 not only for a donation of the right of way to build the line but also for additional  
 16 right of way to keep the cost differentials the same.<sup>1</sup> Potential or planned  
 17 development is not a routing criterion.

18 As part of that same agreement, CPS required the Developers to support  
 19 routing the line down Segment 46 Modified or Segments 46 Modified-49a-49. In  
 20 so doing, CPS has turned from a disinterested applicant, into a litigant strong-  
 21 arming a party to support a route that is against that party's best interests. The HOA  
 22 is particularly concerned that CPS is not a private party. CPS is part of the City of

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<sup>1</sup> A copy of the agreement between CPS and the Developers is included as Exhibit SC-5

1 San Antonio, a governmental entity, that is using its power to limit the arguments  
2 a party can make.

3 **Q. HOW DOES CPS'S BEHAVIOR IMPACT THE CASE?**

4 A. Rather than treating all intervenors equally, CPS has engaged with certain  
5 intervenors who are in the position of being able to donate land to CPS in exchange  
6 for having some say in the location of the route but also requiring those intervenors  
7 to support routes that cross their property, against their best interests, and silence  
8 their voice and their right to advocate against routes that negatively impact them.  
9 Early in this process, the HOA and Toutant Ranch were working together to try to  
10 keep the routes off Toutant Beauregard Road. CPS used its power to prevent  
11 Toutant Ranch from arguing against the routes on Toutant Beauregard even though  
12 those routes negatively impact their land. That agreement silenced what would  
13 likely have been one of the loudest voices against the northern routes.

14 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

15 A. Yes.


STATE OF TEXAS           §  
  §  
COUNTY OF BEXAR       §

**AFFIDAVIT OF STEVE CICHOWSKI**

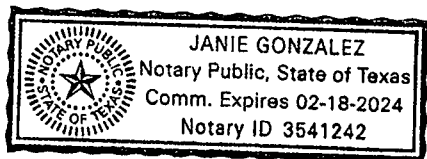
BEFORE ME, the undersigned authority, on this day personally appeared Steve Cichowski, who having been placed under oath by me did depose as follows:

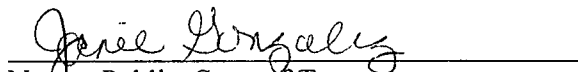
1. "My name is Steve Cichowski. I am of sound mind and capable of making this affidavit. The facts stated herein are true and correct based on my personal knowledge. My current position is President of the Anaqua Springs Homeowners' Association Board.
2. I have prepared the foregoing direct testimony on behalf of Anaqua Springs, and the information contained in this document is true and correct to the best of my knowledge."

Further affiant sayeth not.

  
\_\_\_\_\_  
Steve Cichowski

SUBSCRIBED AND SWORN TO BEFORE ME by the said Steve Cichowski on this 26<sup>th</sup> day of February, 2021.



  
\_\_\_\_\_  
Notary Public, State of Texas

My commission expires: 02/18/2024





ANAQUA SPRINGS POSITION PAPER  
CPS PROPOSALS FOR A NEW SUBSTATION/ TRANSMISSION LINES - SCENIC LOOP/  
BOERNE STAGE ROAD- ANAQUA SPRINGS HOA AND DEVELOPER INPUT  
OCTOBER 29, 2019

ISSUE: CPS has identified the need for a new substation and 138kv transmission line to service the area West of the Boerne Stage Road and Scenic Loop corridor. Decisions must be made regarding location of the substation and best transmission line routing to the existing Menger Spring/ Creek transmission line.

BACKGROUND: In the last 15 years, growth of residential home development indicated in the "ISSUES" boundaries, above, has grown from a small developed area( about 150 homesites in Scenic Hills development) to now approximately 300. From that base of 150, there has been a tenfold increase (150-1500) in residential homesites now including the Canyons(500), Sundance Ranch (300), Anaqua Springs (220 with further annexing to 300), Pecan Springs Ranch, Pecan Springs Estates, and Pecan Creek(platted for 300 lots/homes), all contiguous to Anaqua Springs and owned by the same developer. In addition, a new grade school is now open, less than one mile from Anaqua Springs entrance( on Toutant Beauregard) a new middle school is platted and planned for construction contiguous to the grade school.

DISCUSSION/ANALYSIS:

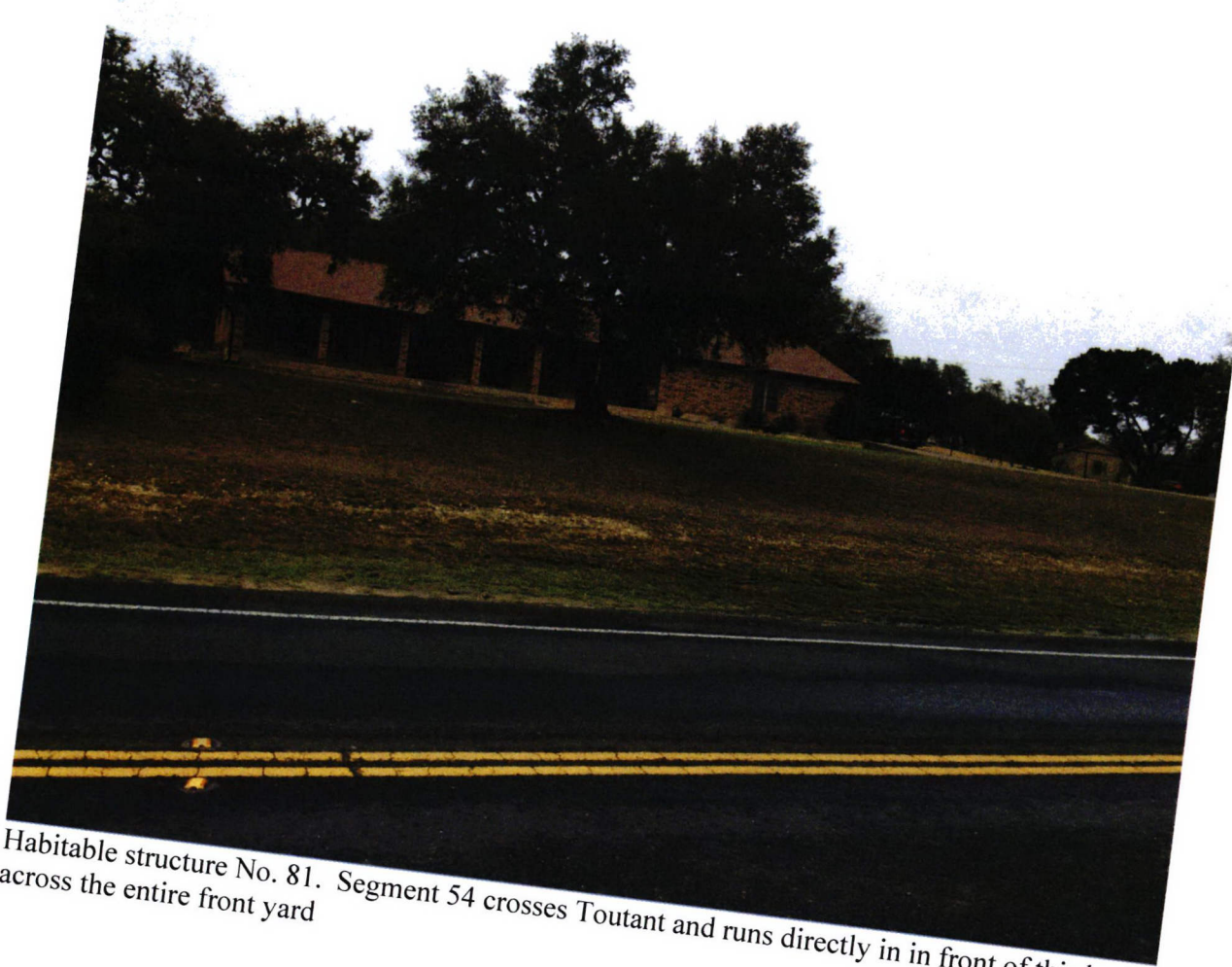
- Site Selection
  - Substation Site #1(4.61 acres) is the most logical, out of higher traffic patterns. Avoids all intersection issues at Boerne Stage road and Scenic loop. It's also the best start for any Northern options. Offers the starting of the best route with the least impact on current residential construction.
  - Site 2/3 are at a major cross over intersection, and very close to a large restaurant complex. Also would have the highest probability of late night car wrecks and it's the most in your face visible to all traffic East/ West and North/South.
  - Site 4 would work but adds an unnecessary crossover of the same intersection, above.
  - Site 5 is a reasonable second alternative for a Southern route. It also offers a suitable route with a reduced impact on residential construction.
- Transmission line routes( assumes the start at substation site 1 as best possibility of everything workable)
  - Route 12/23/28/29/40
    - Least impact, by far, on current and projected residential/ School development.
    - Comparatively minimal tax revenue loss.
    - Value impact estimated to be \$12 million over an estimated 8 properties
    - Does not infringe on or go right thru schools
    - From site 1, shortest distance to connect, with best terrain to do so.
  - Route 12//23/30/41
    - Goes right next to grade school and directly thru the proposed site for building the middle school.
    - Impacts Pecan Spring Ranch, with 50 lots/ homes platted/ proposed, with an estimated property value of \$77 million
    - Borders other high value property in CPS proposed route 42
  - Route 12/23/31/42
    - Close to grade school and future middle school
    - Highest impact to residential homes/ construction
    - Affects the Northern boundary of Anaqua Springs Ranch with a current property value of \$350 Million and a build out value of of \$650 Million.

- Affects Pecan Springs and Estates valued at \$312 Million and 250 proposed lots/ homes and buildout of \$688 Million. The combined value of these two adjacent sister projects is \$1.2 Billion.
- Route 8/15/24/38/43
  - Would require starting at site 5, not optimal.
  - Would border all the Canyons( 500 homesites) on the North side and impact property values of \$425 Million
  - Would border all of Anaqua Springs on South border. Would impact property values of \$350 Million existing and buildout of \$650 Million property value.
  - Very tough terrain, highest hills ( on Anaqua Southern border)compared to any other route.

RECOMMENDATIONS:

- Start at site 1, with that substation option
  - Best choice from many standpoints( see discussion)
  - Use transmission Route 12/23/28/29/40 with possibility of minor variations. Clearly the best option from many standpoints, most importantly from a residential disruption, school, and value impact basis. ( see rationale)
  - Remove routes 41, 42 and 43 as all are high residential, school, valuation and tax Revenue burdens.
- Use routes 44 and 45, and Site 5, as a second set, of Southern alternatives, with reduced Residential, value impact, and no school impact.

Signed ANAQUA SPRINGS HOA BOARD AND DEVELOPER



Habitable structure No. 81. Segment 54 crosses Toutant and runs directly in front of this house across the entire front yard



Habitable structure No. 80 directly adjacent to Substation Site 7. Segment 54 cuts through the northeast corner of the lot, travels directly in front of the house and crosses Toutant about mid-lot.



Habitable structure No. 178 with No. 79 on the right. No. 79 is directly across from Substation Site 7.



Habitable structure No. 78, adjacent to Substation Site 7.



North side of Toutant looking west to the intersection of Lost and Toutant. Habitable structures 88 and 89 are visible on the right side of photo. Segment 54 crosses Toutant directly in front of No. 88, which is the white house on the corner.





Typical home fronting Toutant. Probably Habitable structure No. 91.



Entrance to Anaqua Springs with guardhouse (Habitable Structure No. 200)



Trees and parkland area near Anaqua entrance



Anaqua Springs looking toward Toutant Beauregard



Entrance to Anaqua Springs



Intersection of Toutant Beauregard and Anaqua Springs entrance



Mature trees near the entrance to Anaqua Springs showing parkland

**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.<sup>1</sup>

- 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:** Developers<sup>2</sup> 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

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

<sup>2</sup> 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;<sup>3</sup> 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.<sup>4</sup> 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.<sup>5</sup>
    - 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

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


<sup>4</sup> 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.

<sup>5</sup> 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 23<sup>rd</sup> day of November, 2020.**

 (Sign)

TAYLOR DREISS (Print)  
For Developers

 (Sign)

PAUL BARHAM (Print)  
For CPS Energy

