



Control Number: 51023



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| APPL. OF THE CITY OF SAN ANTONIO | § | |
| TO AMEND ITS [CCN] FOR THE | § | STATE OFFICE OF |
| SCENIC LOOP 138-KV TRANS. LINE IN | § | ADMINISTRATIVE HEARINGS |
| BEXAR COUNTY, TX | § | |

**SAVE HUNTRESS LANE AREA ASSOCIATION'S
RESPONSE TO THE NORTHSIDE INDEPENDENT SCHOOL DISTRICT'S OBJECTIONS
TO AND MOTION TO STRIKE CROSS-REBUTTAL TESTIMONY**

Save Huntress Lane Area Association ("SHLAA"), an intervenor, submits this timely response to the objections by Northside Independent School District ("NISD") to the cross-rebuttal testimony of Cynthia Grimes, David Clark, and Jerry Rumpf on pages 22-25. (NISD does not object to the cross-rebuttal testimony of SHLAA's expert witness Mr. Harold L. Hughes, Jr. P.E.).

NISD's objections are set forth in italicized text, and the SHLAA response is set forth in bold text. As the responses below show, those objections are without merit and should be overruled, and the associated motion to strike denied.

"As discussed above, the playground in the back of the school is also beyond 300 feet from Segment 42a, and only the grassy edge of a sports field is a little less than 300 feet from Segment 42a."

NISD objects to the foregoing statement on the grounds that the testimony lacks foundation, is speculative, and misstates the facts.

RESPONSE: Although NISD asserts that the statement lacks foundation, is speculative, and misstates the facts, NISD simply wants to argue with the SHLAA witnesses about their factual understanding of the CPS energy discovery response to Mr. Cleveland regarding the distances of Segment 42a to the outside areas behind the school (Question 1-10). NISD's disagreement with the statement does not itself constitute proof that there is any speculative, unfounded, or misstated testimony. NISD may explore the specific testimony on cross examination and the Administrative Law Judges will be able to give the testimony, as well as NISD's disagreement with it, the appropriate weight. Moreover, the statement is fully accurate and has a foundation, because the witnesses expressly quoted the foregoing CPS Energy discovery response in their cross-rebuttal testimony, and of course live in the area, and are personally familiar with the area. Their short-hand description in the objected-to-testimony of the fuller description in the discovery response earlier in the cross-rebuttal testimony is reasonably accurate and avoids lengthy repetition of the full discovery response every time the specific area is referenced in the testimony. The statement cannot be

speculative, because it is instead based directly on what is contained in the CPS Energy discovery response.

“One can use Google Earth to see that the western point of the school building is approximately 549 feet from Segment 42a, and that the eastern point of the school building is approximately 243 feet from Segment 35.”

NISD objects to the foregoing statement on the grounds that it the testimony lacks foundation, is speculative, and misstates the facts.

RESPONSE: Although NISD asserts that the statement lacks foundation, is speculative, and misstates the facts, NISD simply wants to argue with the SHLAA witnesses about their factual understanding of the distances of Segments 42a and 35 to the edges of the school building. NISD’s disagreement with the statement does not itself constitute proof that there is any speculative, unfounded, or misstated testimony. NISD may explore the specific testimony on cross examination and the Administrative Law Judges will be able to give the testimony, as well as NISD’s disagreement with it, the appropriate weight. Moreover, the statement is fully accurate and has a foundation, because the witness, Ms. Grimes, explained where she got the factual information, and included a copy of it in the testimony: she used Google Earth. As a publicly available mapping software, it is easy to replicate on Google Earth what she did. The statement cannot be speculative, because it is instead based directly on what is contained in the Google Earth map information which she provided.

“In contrast, the NISD testimony indicates that its concern regarding Segment 42a is because using that segment would not take into account the “outdoor recreation area of the school” As a result, it appears that NISD ranks Segments 41 and 35 as the lines segments of most concern to it and ranks Segment 42a as the lessor one of concern.”

NISD objects to the foregoing statement on the grounds that the testimony lacks foundation, is speculative, and misstates the facts.

RESPONSE: Although NISD asserts that the statements lack foundation, are speculative, and misstate the facts, NISD simply wants to argue with the SHLAA witnesses about their factual understanding of the NISD’s direct testimony. NISD’s disagreement with them does not itself constitute proof that there is any speculative, unfounded, or misstated testimony. NISD may explore the specific testimony on cross examination and the Administrative Law Judges will be able to give the testimony, as well as NISD’s disagreement with it, the appropriate weight. Moreover, the statements are fully accurate and have a foundation, recounting what the NISD witness (Mr. Villarreal) actually stated in his direct testimony and making factual observations regarding what it appeared to indicate in

comparison to the rest of the testimony that he proffers. The statements cannot be speculative, because they instead are based directly on what is contained in the NISD direct testimony.

“It is a disappointment to those SHLAA members that their school district would take a position that could result in the placement of high-voltage transmission lines on or along SHLAA member properties, with all the same concerns as other intervenors including NISD about EMF, aesthetic impacts, etc. In short, the school district appears to have taken sides in a dispute between different constituents, and the NISD position that there should be no transmission lines anywhere near the school should be discounted accordingly.”

NISD objects to the foregoing statement on the grounds that the testimony is speculative at best, and it assumes facts not in evidence. It is unfortunate that the witness has not been advised or recognized that NISD has not “taken sides” in this dispute, NISD has not supported a particular route that impacts impact the community. NISD does oppose segments that directly impact the school district properties.

RESPONSE: Although NISD asserts that the statements are speculative and assume facts not in evidence, nothing is further from the truth. Mr. Villarreal on behalf of NISD specifically testified (see p. 10, ll.1-2) that NISD “opposes the routes that would use Segments 33, 34, 35, 41, and 42a or any route that utilizes those segments.” While NISD did not identify a particular route it supports, by definition its opposition to the segments it identified results in its non-opposition to the segments and resulting routes that it did not identify. The other segments and resulting routes include those which would run through the SHLAA area. As the witnesses accurately described in the testimony quoted above, the NISD position “could result in the placement of high-voltage transmission lines on or along SHLAA member properties.” As a result, NISD has taken a position contrary to the position of SHLAA which has school district constituents among its members. The NISD position is also consistent with the position of other intervenors such as Anaqua Springs HOA, who are actively seeking to have a route selected which would run through the SHLAA area rather than a route such as Route Z1 which would run along the front entrance to the Anaqua Springs subdivision. Therefore, the statements do not assume facts not in evidence, since they are based directly on what the NISD witness actually stated in his direct testimony regarding the NISD position and are making factual observations regarding what the impact of that NISD position is on the SHLAA members.

Moreover, the accuracy of the statements regarding the NISD position and the disappointment felt by the SHLAA members who are school district constituents regarding the NISD position has been borne out by the fact that NISD was lobbied by Anaqua Springs HOA’s President to intervene in the case and oppose what was then Route Z, the variant of which is now Route Z1. This is shown by Anaqua Springs HOA’s Response to CPS Energy’s

1st RFI No. 1-9 and the 21 pages attached to that response, which is available at <https://interchange.puc.texas.gov/Search/Documents?ControlNumber=51023&ItemNumber=656>, and for which official notice is requested for purposes of ruling on these objections. The segments which the NISD witness identifies in his testimony as those which NISD opposes include segments that are part of Route Z1. Therefore, the SHLAA testimony was correct when it expressed disappointment that the NISD would take sides in the dispute in this case between different school district constituents, and that taking of sides has been confirmed by the discovery in this case.

“Segment 42a in the far back of the school area, such as in Routes Z1 and AA1, essentially eliminates the EMF concern about the school.”

NISD objects to the foregoing statement on the grounds that it is speculative, lacks foundation, and is an attempt to provide an unqualified expert opinion.

RESPONSE: As SOAH Order No. 10 indicates regarding EMF claims and concerns: “Unless such testimony is specifically found to be relevant or offered by an expert, the ALJs will only regard it as a legitimate statement of concern by intervenors, but not as evidence upon which to base a recommendation to the PUC regarding placement of the line. Subject to this caveat, intervenor testimony on these topics will not be struck from the record, but rather will be considered under the category of community values.” The SHLAA testimony was in response to NISD testimony by Mr. Jacob Villarreal, NISD’s Executive Director of Construction and Engineering. He did not purport to be an expert on EMF, but did express EMF concerns regarding all line segments in the vicinity of the school area. Therefore, his testimony is an expression of community values. The SHLAA testimony is therefore also an expression of community values, by landowners living in the area including SHLAA members whose children attend the school (as discussed both in SHLAA direct and cross-rebuttal testimony). The SHLAA testimony is also not speculative and has a foundation, being based upon the facts recounted in the cross-rebuttal testimony, the information set forth in CPS Energy’s discovery response to Mr. Cleveland regarding the school, and the information found within the CPS Energy application as amended, such as the placement of distance from the school for segment 42a.

WHEREFORE, PREMISES CONSIDERED, it is respectively requested that the NISD objections to SHLAA's cross-rebuttal testimony be overruled, and the associated motion to strike denied.

Respectfully submitted,

By: /s/ Thomas K Anson
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ATTORNEYS FOR SHLAA

Certificate of Service: I certify I served the foregoing under SOAH Order No. 3 on Apr. 5, 2021.

/s/ Thomas K Anson
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