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

STATE OFFICE OF
ADMINISTRATIVE HEARINGS

**SAVE HUNTRESS LANE AREA ASSOCIATION'S
RESPONSE TO PATRICK CLEVELAND'S OBJECTIONS
TO CROSS-REBUTTAL TESTIMONY**

Save Huntress Lane Area Association ("SHLAA"), an intervenor, submits this timely response to the objections filed with the Commission by Mr. Patrick Cleveland.

Mr. Cleveland'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.

1. Q. WHICH INTERVENORS OPPOSE SELECTION OF ROUTES Z1 AND AA1? A. "As described in more detail below, the only intervenors actually located along key segments in Route Z1 and AA1 who oppose use of those key segments are the NISD (as to Segment 42a, even though it is in the floodplain area behind the school), Anaqua (as to Segment 36 even though it only goes in front of its entrance and by one habitable structure which is its entrance gatehouse), Jauer (as to Segment 36 even though it only goes in front of its entrance and by no habitable structures), Rose Palace (as to Segment 54 which goes along the road by its affiliated ranch but not along the road by the Rose Palace itself), and Mr. Steven Herrera (as to Segment 54, and in the entire Scenic Hills subdivision is the only one with property along Toutant Beauregard Road that intervened in this case)."

OBJECTION: These statements are a misstatement of the evidence, assume facts not in evidence, are speculative, misleading, and lack foundation. There are 30 habitable structures along Route AA1 and also 30 habitable structures along Route Z1. There are many properties adjacent to or crossed by Route AA1 and Z1 and many of these property owners have intervened and objected to those segments.

RESPONSE: Although Mr. Cleveland asserts that the statements are a misstatement of the evidence and misleading, Mr. Cleveland simply wants to argue with the SHLAA witnesses about their factual understanding of the other intervenor's direct testimony (including the factual assertions and other information proffered in the intervenor direct pre-filed testimony). His disagreement with them does not itself constitute proof that there is any misstated or misleading testimony. Mr. Cleveland may explore the specific SHLAA testimony on cross examination and the Administrative Law Judges will be able to give the SHLAA testimony, as well as Mr. Cleveland's disagreement with it, the appropriate weight. Moreover, the SHLAA testimony statements are fully accurate and have a foundation in the intervenor pre-filed direct testimony as well as the CPS Energy application as amended (including property tract and habitable structure information), recounting in summary form what is contained in the other

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intervenor's direct testimony and that utility application. The statements do not assume facts not in evidence, and cannot be speculative, because they instead are based directly on what is contained in the other intervenor's direct testimony and the utility application.

In addition, the point of the testimony is to make clear exactly which intervenor properties are along Route AA1 and Z1 and the positions of those intervenors, as opposed to other intervenors who may espouse opposition to Route AA1 and Z1 but whose properties would not be crossed by those proposed routes and would not have a habitable structure within 300 feet of the centerline of those proposed routes. Mr. Cleveland does not state that he has authority to speak for any other intervenors or property owners who are not intervenors in this case, and therefore his objection amounts to nothing more than argumentative disagreement about the SHLAA testimony.

2. Q. MR. CICHOWSKI AND THE ANAQUA WITNESS MR. MARK ANDERSON EXPRESS CONCERN ABOUT THE HOMES NEAR SUBSTATION SITE 7. HOW DO YOU RESPOND? A. "Cynthia Grimes: For example, the property for the family with the horse stable boarding business along Segment 15 which I identified in my direct testimony backs up to Substation Site 6. They are members of SHLAA, and oppose the use of Substation Site 6 and line segments which utilize that substation."

OBJECTION: This statement is hearsay, to which there is no exception.

RESPONSE: The statement is not hearsay. The landowners with the family residence and horse stable business on the tract that backs up to Substation Site 6 are members of SHLAA. SHLAA opposes the use of Substation Site 6 and line segments which utilize that substation. Hence, the landowners with the family residence and horse stable business on the tract that backs up to Substation Site 6, by their operative conduct of membership in SHLAA, oppose the use of Substation Site 6 and line segments which utilize that substation. In addition, Ms. Grimes has been to this property several times and observed the business and its location in relationship to the proposed Substation Site 6, and Mr. Cleveland may explore the specific SHLAA testimony on cross examination regarding what Ms. Grimes saw during her visits thereto.

3. Q. DOES HE SAY THE ROSE PALACE IS HISTORIC? A. "No. The Rose Palace is a large structure suitable for sporting and other events, but not historic in appearance."

OBJECTION: The witnesses are not testifying as experts and have not alleged any specialized knowledge in cultural and historical appearances of buildings, thus, their opinion on the historic appearance of the Rose Palace should be stricken, subject to Tex. R. Evid. 701.

RESPONSE: The witnesses, as their cross-rebuttal testimony indicates, are testifying based on personal knowledge, and as their direct testimony indicates, live in the area and are personally familiar with the area. They did not offer an expert witness opinion on an expert subject matter, they instead offered a purely factual observation about the sporting arena.

4. *Q. WHAT CPS ENERGY PROPOSED LINE SEGMENTS AND ROUTES APPEAR TO BE OF CONCERN TO MR. PATRICK CLEVELAND? A. "His testimony says he opposes Routes G1, J1, AA1, and EE, which include Segment 49a, because it goes through High Country Ranch.*

While he opposes routes which include Segment 49a, such as Route AA1, it appears that he does not oppose Route Z1 because, unlike Route AA1, it uses Segment 46b which would run along the northern property line of the Hill Country Ranch (sic), rather than going through that ranch. He cites a number of other features regarding Route Z and its variant Z1 that he thinks are more favorable compared to Route AA1 (such as shortest length), and disagrees with the Texas Parks and Wildlife Department on its original recommendation of Route AA (the variant of which is now Route AA1) instead of Route Z. As a result, while he says he is not advocating for Route Z1, he clearly favors Route Z1 over Route AA1, and does not oppose it outright."

OBJECTION: These statements regarding support or opposition to routes AA1 and Z1 are a misstatement of the evidence, assume facts not in evidence, are speculative, misleading, lack foundation, and the witness lacks authority to state my position. I oppose both Routes AA1 and Route Z1 "outright." My comparison of these routes was simply to show that TPWD's comparison of them and selection was not supported by the evidence. In no way did I intend my testimony to favor Route Z1 over Route AA1.

RESPONSE: Although Mr. Cleveland asserts that the statements are a misstatement of the evidence and misleading, Mr. Cleveland simply wants to argue with the SHLAA witnesses about their factual understanding of his direct testimony. His disagreement with them does not itself constitute proof that there is any misstated or misleading testimony. Mr. Cleveland may explore the specific testimony on cross examination and the Administrative Law Judges will be able to give the testimony, as well as Mr. Cleveland's disagreement with it, the appropriate weight. Moreover, the statements are fully accurate and have a foundation (based on the information proffered in his intervenor direct pre-filed testimony and in light of the CPS Energy application regarding route locations), recounting what Mr. Cleveland actually stated in his direct testimony and making factual observations regarding what it appeared to indicate. The statements do not assume facts not in evidence, and cannot be speculative, because they instead are based directly on what is contained in his direct testimony. The witnesses were not asserting any authority to state a position on behalf of Mr. Cleveland, they simply recounted what he said in his direct testimony about his own position and made factual observations regarding what it appeared to indicate. If Mr. Cleveland wants to clarify or even change his position, he is free to do so in post-hearing briefing.

5. Q. PLEASE SUMMARIZE AND RESPOND TO THE PORTIONS OF THE TESTIMONY OF MR. CLEVELAND THAT ARE OF CONCERN TO SHLAA. A. "So the actual playground is more than 300 feet from Segment 42a, and only the grassy edge of a sports field is what is within 280 feet of the segment. The grassy edge of a sports field would have a much more intermittent use than both the actual playground and the permanent school building. That is much different than the situation with Segment 36, which would be within 300 feet of a permanent school building and the entrance to the school. And the grassy edge of a sports field is not a "habitable structure" as the Commission rules define it (and as we quoted it in our direct testimony)."

OBJECTION: These statements regarding a "grassy edge" are a misstatement of the evidence, speculative, misleading, and assume facts not in evidence. The actual testimony of CPS Energy never mentions the word "edge" but instead, states, "[b]ased on fencing and other indications of potential property use, the distance between proposed Segment 42 and the closest corner of an outdoor area on the elementary school property that POWER Engineers, Inc. believes may be accessible to children on a regular basis is approximately 335 feet to the area with playground structures and approximately 280 feet to the grass area with a baseball/kickball backstop in the southwest corner of the elementary school property." CPS Energy's Response to Patrick Cleveland's First Request for Information, No. 51023-432, filed on 12/16/20.

RESPONSE: Although Mr. Cleveland asserts that the statements are a misstatement of the evidence and misleading, Mr. Cleveland simply wants to argue with the SHLAA witnesses about their factual understanding of the CPS energy discovery response and Mr. Cleveland's direct testimony. His disagreement with them does not itself constitute proof that there is any misstated or misleading testimony. Mr. Cleveland may explore the specific testimony on cross examination and the Administrative Law Judges will be able to give the testimony, as well as Mr. Cleveland's disagreement with it, the appropriate weight. Moreover, the statements are fully accurate and have a foundation, because the witnesses expressly quoted the CPS energy discovery response, and of course live in the area, and are personally familiar with the area. Their short-hand description of the fuller description in the discovery response is reasonably accurate and avoids lengthy repetition of the full discovery response every time the specific area is referenced in the testimony. The statements do not assume facts not in evidence, and cannot be speculative, because they instead are based directly on what is contained in his direct testimony and in the CPS Energy discovery response.

6. CONTINUED FROM PREVIOUS QUESTION. A. "Moreover, routes which Mr. Cleveland apparently prefers further south and which go through the SHLAA area would be within or near the recreational areas of the SHLAA area as well as families with home schooling.

OBJECTION: These statements regarding recreational areas of the SHLLA are a misstatement of the evidence, speculative, misleading, lack foundation, and assume facts not in evidence. There is no evidence that any routes in the south go through any recreational areas or are within 1,000 feet of any recreational areas, based on testimony submitted and the Environmental Assessment provided by CPS Energy in this case.

RESPONSE: Although Mr. Cleveland asserts that the statements are a misstatement of the evidence and misleading, Mr. Cleveland simply wants to argue with the SHLAA witnesses about their factual understanding of what should be considered a “recreational area.” His disagreement with them does not itself constitute proof that there is any misstated or misleading testimony. He has asserted, even though CPS Energy did not agree, that High Country Ranch is a “recreational area,” and the point of the SHLAA cross-rebuttal testimony, including in light of the SHLAA direct testimony about areas where SHLAA members recreate, are as much “recreational areas” as is his High Country Ranch area. In other words, while CPS Energy may use a technical definition of “recreational area,” his more colloquial use of the phrase is also applicable to other areas including such areas within the SHLAA area. Mr. Cleveland may explore the specific testimony on cross examination and the Administrative Law Judges will be able to give the testimony, as well as Mr. Cleveland’s disagreement with it, the appropriate weight. Moreover, the statements are fully accurate and have a foundation, because the witnesses live in the area, and are personally familiar with the area and were building upon that knowledge and their direct testimony in connection with the colloquial use of the phrase “recreational area.” The statements do not assume facts not in evidence, and cannot be speculative, because they instead are based directly on what is contained in their own direct testimony and in their personal experience.

7. *Q. ARE THERE AREAS OF AGREEMENT BETWEEN THE ROCKWOOD AND SHLAA POSITIONS? A. “While the Rockwoods say they favor using Routes Fl, Ni, P, Ql, Rl, and Ul, all of which SHLAA opposes, they do not appear to directly oppose use of Route Zl, which SHLAA does support. Therefore, there is some consistency between SHLAA’s support of Route Zl and the Rockwoods’ concern about but not outright opposition to Route Zl. As with Mr. Cleveland’s position, SHLAA can agree with selection of Route Zl so as to have the line run along the northern border of High country Ranch rather than through the middle of it.”*

OBJECTION: These statements regarding support or opposition to route Z1 are a misstatement of the evidence, assume facts not in evidence, are speculative, misleading, lack foundation, and the witness lacks authority to state the Rockwoods’ position. Stephen Rockwood stated, “Additionally, I am also concerned about routes E, H, Y, Bl, Cl, Dl, Il, Ml, Tl, X1, Zl, DD, Gl, Jl, AA1 and their potential impact to HCRA. More specifically, these routes include segments, 40, 46b, and 49a. which could potentially impact HCRA and those parcels referenced above. My objection to these routes is largely based on PURA criteria and the Environmental Assessment and Alternative Route Analysis provided for this proposed project.” Amended Testimony of Stephen Rockwood, No. 51023-592, filed on 2/26/21, (emphasis added). Clearly, Mr. Rockwood is objecting to Route Z1, which constitutes outright opposition Also, by this objection, Mr. Rockwood is clearly not favoring route 46b over route 49a.

RESPONSE: Although Mr. Cleveland asserts that the statements are a misstatement of the evidence and misleading, Mr. Cleveland simply wants to argue with the SHLAA witnesses

about their factual understanding of the Rockwoods' direct testimony. His disagreement with them does not itself constitute proof that there is any misstated or misleading testimony. Mr. Cleveland may explore the specific testimony on cross examination and the Administrative Law Judges will be able to give the testimony, as well as Mr. Cleveland's disagreement with it, the appropriate weight. Moreover, the statements are fully accurate and have a foundation, recounting what the Rockwoods actually stated in their direct testimony and making factual observations regarding what it appeared to indicate. The statements do not assume facts not in evidence, and cannot be speculative, because they instead are based directly on what is contained in the Rockwoods' direct testimony, including the fact that they only said they were "concerned about" and not expressly say they "oppose" in regard to Route Z1. The witnesses were not asserting any authority to state a position on behalf of the Rockwoods, they simply recounted what they said in their direct testimony about their position and made factual observations regarding what it appeared to indicate.

8. *Q. ARE THERE AREAS OF AGREEMENT BETWEEN THE NISD AND SHLAA POSITIONS?*

A. *"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 lesser one of concern "*

OBJECTION: These statements regarding ranking of segments and that segment 42a is a lesser concern than segments 41 and 35 are a misstatement of the evidence, speculative, misleading, lack foundation, and assume facts not in evidence. Mr. Villarreal actually states, "As with the other proposed segments on or near the school property, due to the unknown concerns of electromagnetic frequencies, there are safety concerns especially for at-risk children who are taught in our schools. In addition, while the documents may show that proposed 42a is more than 300 feet from the school building, it is not more than 300 feet from the playgrounds and outdoor education areas for the school. It is also closer to the water treatment plant and the school's drain field which is believed to be very near or right under proposed Segment 42a. The proximity of 42a is concerning to both the elementary school and middle school properties." Direct Testimony of Jacob Villarreal, No. 51023-429, filed on 2/17/21. Nowhere in his testimony does he indicate a ranking or less concern for segment 42a over segments 41 and 35.

RESPONSE: Although Mr. Cleveland asserts that the statements are a misstatement of the evidence and misleading, Mr. Cleveland simply wants to argue with the SHLAA witnesses about their factual understanding of the NISD' direct testimony. His disagreement with them does not itself constitute proof that there is any misstated or misleading testimony. Mr. Cleveland may explore the specific testimony on cross examination and the Administrative Law Judges will be able to give the testimony, as well as Mr. Cleveland's disagreement with it, the appropriate weight. Moreover, the statements are fully accurate and have a foundation,

recounting what the NISD witness 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 do not assume facts not in evidence, and cannot be speculative, because they instead are based directly on what is contained in the NISD direct testimony.

9. Q. WHAT ARE THE AREAS OF AGREEMENT AND DISAGREEMENT BETWEEN MR. CRAIG AND SHLAA? A. "SHLAA of course opposes the use of Segments 15 or 16 and Substation 6. However, his position regarding Segment 13 and Substation Sites 1, 2, 3, and 5 is consistent with the position of SHLAA, since none of those are part of Routes Z1 or AA1."

OBJECTION: These statements are misleading, lack foundation, assume facts not in evidence and the witness lacks authority to state the positions of other parties Based on his testimony, Mr. Craig's position is inconsistent with SHLAA's position as he states, "I am very strongly opposed to proposed line Segments 13, 14, 2, and 5, and to substation locations 1 and 7. I am also opposed to proposed line Segments 54 and 17, and to substation locations 2, 3 and 5." Direct Testimony of Paul Craig, No. 51023-594, filed on 3/1/21. The fact that he is opposed to a few segments in addition to those that are included in Routes AA1 and Z1 does not make his position consistent with SHLAA. Whatever coincidental consistency exists should be given no weight because his position is clearly against SHLAA's.

RESPONSE: Although Mr. Cleveland asserts that the statements are misleading, Mr. Cleveland simply wants to argue with the SHLAA witnesses about their factual understanding of Mr. Craig's direct testimony. His disagreement with them does not itself constitute proof that there is any misstated or misleading testimony. Mr. Cleveland may explore the specific testimony on cross examination and the Administrative Law Judges will be able to give the testimony, as well as Mr. Cleveland's disagreement with it, the appropriate weight. Moreover, the statements are fully accurate and have a foundation, recounting what Mr. Craig actually stated in his direct testimony and making factual observations regarding what it appeared to indicate. The statements do not assume facts not in evidence, and cannot be speculative, because they instead are based directly on what is contained in Mr. Craig's direct testimony. The witnesses were not asserting any authority to state a position on behalf of Mr. Craig, they simply recounted what he said in his direct testimony about his own position and made factual observations regarding what it appeared to indicate.

10. Q. WHAT ARE THE AREAS OF AGREEMENT AND DISAGREEMENT BETWEEN MS. REYNA AND SHLAA? A. "Ms. Reyna, like Ms. Sykes, opposes use of Segment 17, and also opposes use of Substation Site1. Routes Z1 and AA1 do not include Segment 17 or Substation Site 1. Therefore, her position opposing use of Segment 17 or Substation Site 1 is consistent with the position of SHLAA supporting Routes Z1 and AA1."

OBJECTION: These statements regarding support of Routes Z1 and AA1 are misleading, lack foundation, assume facts not in evidence and the witness lacks authority to state the positions of other parties. Ms. Reyna's silence on opposition to Routes Z1 and AA1 should not be distorted to mean that her position is consistent with SHLAA. She states, "I support all routes using Substation 6," which is clearly an inconsistent position with SHLAA. Direct Testimony of Yvette Reyna, No. 51023-547, pg. 5, filed on 2/19/21. Whatever coincidental consistency exists should be given no weight because her position is clearly inconsistent with SHLAA's.

RESPONSE: Although Mr. Cleveland asserts that the statements are a misstatement of the evidence and misleading, Mr. Cleveland simply wants to argue with the SHLAA witnesses about their factual understanding of Ms. Reyna's direct testimony. His disagreement with them does not itself constitute proof that there is any misstated or misleading testimony. Mr. Cleveland may explore the specific testimony on cross examination and the Administrative Law Judges will be able to give the testimony, as well as Mr. Cleveland's disagreement with it, the appropriate weight. Moreover, the statements are fully accurate and have a foundation, recounting what Ms. Reyna actually stated in her direct testimony and making factual observations regarding what it appeared to indicate. The statements do not assume facts not in evidence, and cannot be speculative, because they instead are based directly on what is contained in Ms. Reyna's direct testimony. The witnesses were not asserting any authority to state a position on behalf of Ms. Reyna, they simply recounted what she said in her direct testimony about her own position and made factual observations regarding what it appeared to indicate.

In addition, the point of the testimony is to make clear exactly which intervenor properties are along Route AA1 and Z1 and the positions of those intervenors, as opposed to other intervenors who may espouse opposition to Route AA1 and Z1 but whose properties would not be crossed by those proposed routes and would not have a habitable structure within 300 feet of the centerline of those proposed routes. Mr. Cleveland does not state that he has authority to speak for any other intervenors or property owners who are not intervenors in this case, and therefore his objection amounts to nothing more than argumentative disagreement about the SHLAA testimony.

11. Q. WHAT ARE THE AREAS OF AGREEMENT AND DISAGREEMENT

BETWEEN MS. BIEMER AND SHLAA? A. "Ms. Biemer testifies that she opposes the use of Segment 17 and the routes which include it. Routes Z1 and AA1 do not include Segment 17. Therefore,

the position of SHLAA in support of Routes Z1 and AA1 is consistent with Ms. Biemer's opposition to the use of Segment 17 and the routes which include that segment."

OBJECTION: These statements regarding support of Routes Z1 and AA1 are misleading, lack foundation, assume facts not in evidence and the witness lacks authority to state the positions of other parties. Ms. Biemer's position is clearly inconsistent with SHLAA's as she is against Segment 54, which is part of Routes AA1 and Z1 and she is in favor of Routes N1, P, Q1, R1 and U1. See Direct Testimony of Laura Biemer, No. 51023-537, filed on 2/19/21. The fact that she is opposed to a few segments in addition to those that are included in Routes AA1 and Z1 does not make her position consistent with SHLAA. Whatever coincidental consistency exists should be given no weight because her position is clearly against SHLAA's.

RESPONSE: Although Mr. Cleveland asserts that the statements are a misstatement of the evidence and misleading, Mr. Cleveland simply wants to argue with the SHLAA witnesses about their factual understanding of Ms. Biemer's direct testimony. His disagreement with them does not itself constitute proof that there is any misstated or misleading testimony. Mr. Cleveland may explore the specific testimony on cross examination and the Administrative Law Judges will be able to give the testimony, as well as Mr. Cleveland's disagreement with it, the appropriate weight. Moreover, the statements are fully accurate and have a foundation, recounting what Ms. Biemer actually stated in her direct testimony and making factual observations regarding what it appeared to indicate. The statements do not assume facts not in evidence, and cannot be speculative, because they instead are based directly on what is contained in Ms. Biemer's direct testimony. The witnesses were not asserting any authority to state a position on behalf of Ms. Biemer, they simply recounted what she said in her direct testimony about her own position and made factual observations regarding what it appeared to indicate.

In addition, the point of the testimony is to make clear exactly which intervenor properties are along Route AA1 and Z1 and the positions of those intervenors, as opposed to other intervenors who may espouse opposition to Route AA1 and Z1 but whose properties would not be crossed by those proposed routes and would not have a habitable structure within 300 feet of the centerline of those proposed routes. Mr. Cleveland does not state that he has authority to speak for any other intervenors or property owners who are not intervenors in this case, and therefore his objection amounts to nothing more than argumentative disagreement about the SHLAA testimony.

12. Q. WHAT ARE THE AREAS OF AGREEMENT AND DISAGREEMENT BETWEEN MR. BERNSEN AND SHLAA? A. "Mr. Bernsen testifies that he opposes the use of Segment 17 and the routes which include it. As is the case with the other intervenors along Segment 17, Routes Z1 and AA1 do not

include Segment 17. Therefore, the position of SHLAA in support of Routes Z1 and AA1 is consistent with Mr. Bernsen's opposition to the use of Segment 17 and the routes which include it."

OBJECTION: These statements regarding support of Routes Z1 and AA1 are misleading, lack foundation, assume facts not in evidence and the witness lacks authority to state the positions of other parties. Mr. Bernsen states, "I oppose any of the routes that include segments 17, 20, 31, 33, 34, 35, 36, 41, and 42a." Direct Testimony of Robert Bernsen, No. 51023-558, pg. 4, filed on 2/22/21 Segments 20, 36, and 42a are all a part of Routes AA1 and Z1. The fact that he is opposed to a few segments, in addition to those that are included in Routes AA1 and Z1, does not make his position consistent with SHLAA. Whatever coincidental consistency exists should be given no weight because his position is clearly against SHLAA's

RESPONSE: Although Mr. Cleveland asserts that the statements are misleading, Mr. Cleveland simply wants to argue with the SHLAA witnesses about their factual understanding of Mr. Bernsen's direct testimony. His disagreement with them does not itself constitute proof that there is any misstated or misleading testimony. Mr. Cleveland may explore the specific testimony on cross examination and the Administrative Law Judges will be able to give the testimony, as well as Mr. Cleveland's disagreement with it, the appropriate weight. Moreover, the statements are fully accurate and have a foundation, recounting what Mr. Bernsen actually stated in his direct testimony and making factual observations regarding what it appeared to indicate. The statements do not assume facts not in evidence, and cannot be speculative, because they instead are based directly on what is contained in Mr. Bernsen's direct testimony. The witnesses were not asserting any authority to state a position on behalf of Mr. Bernsen, they simply recounted what he said in his direct testimony about his own position and made factual observations regarding what it appeared to indicate.

In addition, the point of the testimony is to make clear exactly which intervenor properties are along Route AA1 and Z1 and the positions of those intervenors, as opposed to other intervenors who may espouse opposition to Route AA1 and Z1 but whose properties would not be crossed by those proposed routes and would not have a habitable structure within 300 feet of the centerline of those proposed routes. Mr. Cleveland does not state that he has authority to speak for any other intervenors or property owners who are not intervenors in this case, and therefore his objection amounts to nothing more than argumentative disagreement about the SHLAA testimony.

WHEREFORE, PREMISES CONSIDERED, it is respectively requested that Mr. Cleveland's objections to SHLAA's cross-rebuttal testimony be overruled.

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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