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THE TEXAS STATE OFFICE OF ADMINISTRATIVE HEARINGS

In re Application of the City of San Antonio,
Acting By and Through the City Public Service
Board (CPS Energy) To Amend its Certificate
of Convenience and Necessity for the Proposed
Scenic Loop 138-kV Transmission Line Project
in Bexar County, Texas

Docket Number: 51023
SOAH Docket No. 473-21-0247
OBJECTIONS TO REBUTTAL
TESTIMONY OF LISA B. MEAUX

I, Patrick Cleveland, file this Objection to the Rebuttal Testimony of Ms. Lisa B. Meaux (hereinafter RT Ms. Meaux) in the above captioned case.

I object to the following testimony:

RT Ms. Meaux, Page 9: "The ability to conduct hunting and implement wildlife management plans is completely compatible with a transmission line."

RT Ms. Meaux Page 9-10: "When an individual is hunting, they tend to be focused on specific animals during the hunt and not necessarily the surrounding area. Therefore, I do not believe that the proposed transmission line will negatively impact hunting activities."

These statements are improper expert testimony. "A witness who is qualified as an expert by knowledge, skill, experience, training, or education may testify in the form of an opinion or otherwise if the expert's scientific, technical, or other specialized knowledge will help the trier of fact to understand the evidence or to determine a fact in issue." Tex. R. Evid. 702. This rule contains three requirements for the admission of expert testimony: "(1) the witness must be qualified; (2) the proposed testimony must be 'scientific . . . knowledge'; and (3) the testimony must 'assist the trier of fact to understand the evidence or to determine a fact in issue.'" *E.I du Pont de Nemours and Co., Inc. v. Robinson*, 923 S.W.2d 549, 556 (Tex. 1995). In order to constitute scientific knowledge which will assist the trier of fact, the proposed testimony must be relevant and reliable. *Id.* "Scientific evidence which is not grounded 'in the

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1 methods and procedures of science' is no more than 'subjective belief or unsupported
2 speculation.'" *Id.* at 557. There are many factors that a trial court may consider in making the
3 threshold determination of [reliability], including "(1) the extent to which the theory has been or
4 can be tested; (2) the extent to which the technique relies upon the subjective interpretation of the
5 expert; (3) whether the theory has been subjected to peer review and/or publication; (4) the
6 technique's potential rate of error; (5) whether the underlying theory or technique has been
7 generally accepted as valid by the relevant scientific community; and (6) the non-judicial uses
8 which have been made of the theory or technique." *Id.*

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13 "Trial courts must 'ensur[e] that those who purport to be experts truly have expertise
14 concerning the actual subject about which they are offering an opinion.'" *Gammill v. Jack*
15 *Williams Chevrolet, Inc.*, 972 S.W.2d 713, 719 (Tex. 1998). "[T]he party offering the expert's
16 testimony bears the burden to prove that the witness is qualified under [Rule] 702." *Id.* at 718.
17 In addition, the "offering party must demonstrate that the witness 'possess[es] special
18 knowledge as to the very matter on which he proposes to give an opinion.'" *Id.*

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22 Here, there is no evidence of this witness being qualified or having specialized
23 knowledge of hunting in her resume which was included in her testimony. Specifically, there is
24 nothing listed in her education, areas of expertise, special training or affiliations, or experience
25 summary that would indicate she has any experience in hunting, let alone being an expert in
26 hunting. In addition, the above statements are not scientific knowledge because they are not
27 grounded in the methods and procedures of science, rather they are subjective belief and
28 unsupported speculation. Finally, even if this witness was considered an expert in hunting, her
opinions do not meet ANY of the six factors listed above; therefore, they are not reliable.

WHEREFORE, for the above reasons, I, Patrick Cleveland, respectfully submit this
Objection to Rebuttal Testimony and ask that my objections be sustained and the statements
described herein be stricken from the record.

1 Respectfully submitted this 13th day of April 2021.

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3 /Patrick Cleveland/

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19 CERTIFICATE OF SERVICE

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21 I certify that notice of the filing of this document was provided to all parties of record via
22 electronic mail on April 13, 2021, in accordance with the Order Suspending Rules, issued in
23 Project No. 50664.
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/Patrick Cleveland/

Patrick Cleveland