



Control Number: 51023



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SOAH DOCKET NO. 473-21-0247
PUC DOCKET NO. 51023



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

MOTION FOR CONTINUANCE AND OTHER RELIEF AND
NOTICE OF ISSUE AT OPEN MEETING

Anaqua Springs Homeowners' Association ("Anaqua Springs HOA"), Steve Cichowski, Brad Jauer & BVJ Properties, LLC, and The San Antonio Rose Palace, Inc. ("Rose Palace") and Strait Promotions, Inc. ("Strait Promotions") file this Motion for Continuance and Other Relief and Notice of Issue at Open Meeting.

I. BACKGROUND

Less than one week before the hearing on the merits, despite receiving numerous discovery requests regarding the width and specifics of its right-of-way (particularly along Toutant Beauregard Road), CPS altered its position that the right-of-way in this case should be assumed to be 100 feet for the entire study area. Anaqua Springs HOA, Mr. Cichowski, the Jauer Parties and Rose Palace and Strait Promotions devoted hundreds of hours over the course of the discovery process to determine and analyze the right-of-way issues in this case. During that time, the Filing Parties were repeatedly told that the right-of-way along Toutant Beauregard was 100 feet and that CPS was not going to use road right-of-way. From the initial discovery requests on this matter that were served on CPS in January 2021, the Filing Parties have prepared for this case using incorrect information provided by CPS that was just corrected on April 26 -- *less than one week before the hearing on the merits*. Therefore, in order to have sufficient time to evaluate the new information and to prepare appropriately for hearing, the Filing Parties are requesting a continuance of approximately 4 weeks, which would include specified periods for discovery,

discovery responses, and amendments/supplements to testimony and evidence, and certain of the Filing Parties also are requesting their expenses incurred as a result of CPS's incorrect responses to RFIs dating back to January 2021.

From the beginning of this case, CPS has shared documents with parties pursuant to a protective order on a Sharefile site, including a spreadsheet of right-of-way costs. While the Filing Parties do not know the exact date on which CPS filed its spreadsheet on right-of-way costs, it was on the Sharefile site before Intervenors' direct testimony was due, and it is included in Mark Anderson's direct testimony as Exhibit MDA-17, which is attached to this motion as Exhibit 1.¹ Based on this exhibit, the Filing Parties initially understood that CPS anticipated using a 75-foot right-of-way in some of the segments along Toutant Beauregard. In fact, based on the information the spreadsheet contains, the Filing Parties estimate that as much as 72% of Segments 54, 20 and 36 along Toutant Beauregard road may utilize 75-foot right-of-way, rather than 100-foot. Nevertheless, CPS has persistently maintained in its responses to discovery requests that the right-of-way width for the proposed routes is assumed to be 100 feet. And, for months, the Filing Parties have attempted to reconcile CPS's apparently contradictory positions so they could know the facts, adequately evaluate them, and prepare for hearing. Exhibit 2 includes RFIs propounded by the Filing Parties in January that ask CPS to provide right-of-way width information and whether CPS will have to use road right-of-way along Toutant Beauregard.

One of the bases for the Filing Parties' ongoing and, as yet, not fully resolved discovery inquiries is that routing the transmission line along Toutant Beauregard may be more difficult and expensive than CPS has estimated because of the unique constraints associated with the narrow gap between the road and the houses, curves and changes in terrain, and the existence of other

¹ Because access to this document was available only on the Sharefile site after signing a protective order, the Filing Parties believed it was confidential and filed it as such. After discussions with CPS, CPS indicated that it was not confidential, and Anaqua Springs HOA filed a motion to declassify. Accordingly, it is included as an exhibit that is not under seal.

infrastructure, such as distribution lines on both sides of the road – in many instances, made all the worse when the area in question is in the front yards and along the driveways of established homeowners. The Filing Parties devoted much of their discovery and case preparation time trying to reconcile CPS’s apparently contradictory positions relative to right-of-way and developing evidence and testimony that CPS’s routing maps were inaccurate, but never receiving and, therefore, not knowing the real answers to their questions.

Over the last several months, CPS has repeated that they are relying on a 100-foot right-of-way for every routing aspect except for pricing. *See* Exhibit 2. In an attempt to reconcile that position with Mark Anderson’s analysis, Anaqua Springs HOA and the Jauer Parties propounded numerous RFIs and incurred substantial expense in an attempt to solidify CPS’s position and routing plan.

It was not until Friday afternoon, April 23, 2021 (*five days before exhibits are required to be prefiled, and one week before the prehearing conference*) that counsel for CPS responded to a voicemail from the undersigned counsel for the Jauer Parties indicating that a just-filed response by CPS to another party’s discovery request regarding the pricing of right-of-way simply could not be correct.² In that call between counsel and another that followed, the Jauer Parties’ counsel was informed, for the first time, that CPS would be using 75-foot right-of-way *and* road right-of-way on Toutant Beauregard and that CPS would be filing an errata to amend its rebuttal testimony and filing “supplemental” responses to multiple discovery requests dating as far back as January 2021.

² Notably, the other party’s discovery request and CPS’s response to it provide further evidence of the problems that have been experienced in this case relative to CPS’s disclosure of information regarding right-of-way issues in this case. In the discovery request, Bexar Ranch asked CPS to price Route Z1 as if it had a 100- foot right-of-way for its entire distance, CPS provided a spreadsheet where the “ROW and Land Acquisition Cost” cost of Route Z1 is approximately \$3,176,463. Exhibit 3. That number corresponds exactly to the estimated cost of Route Z1 included in CPS’s Amended Application, Exhibit 4, which includes substantial portions of right-of-way at 75 feet, which therefore makes the cost less than what it would be if the entire route were priced at 100 feet. CPS’s supplemental response filed after the phone call between counsel still contains the same error. Exhibit 5.

Three days later, on April 26, 2021, CPS filed its errata to amend its rebuttal testimony, in which it disclosed, for the first time, that 75-foot right-of-way *and* road right-of-way would be used on Segments 54 and 36 along Toutant Beauregard. The errata to CPS’s rebuttal testimony are attached as Exhibit 6. In addition, CPS “supplemented” three related sets of responses to discovery originally propounded by the Filing Parties in January, which are attached as Exhibit 7. When read together, it is apparent from these last-minute discovery responses (*filed after discovery has been closed*) that there may be *other* instances along Toutant Beauregard where 75-foot right-of-way and road right-of-way may be used; however, there still is no indication as to where they may be.

This is simply not appropriate. In fact, it is highly objectionable and might even be sanctionable in other adjudicative contexts. In transmission line routing cases, it is the utility’s legal obligation to come forward with the facts regarding the routes proposed, especially in response to appropriate discovery requests. The utility’s failure to meet that legal obligation should not shift the burden to the requesting intervenor to devise or derive those facts on its own. That is not how the deliberative administrative process, involving citizens, works. The procedural schedule in this case was developed to allow the parties sufficient time to conduct discovery, and the discovery requests were propounded months ago. CPS should not benefit— and more importantly, the due process rights of the Filing Parties should not be impaired — due to last-minute changes to CPS’s testimony and discovery responses on the eve of hearing. There simply is no feasible way for the Filing Parties to review and revise their case preparation at this late date.

II. CPS’S CHANGES ARE MATERIAL

As an example of the materiality of these changes, Anaqua Springs propounded RFI 2-5, a portion of which asked CPS the direct question of whether on Segment 54, close to Habitable Structure Nos. 79, 178, 81, 85 – 89, 70, 72, 78, and 80, CPS planned to use a 75-foot right-of-way. Exhibit 2. CPS responded that the proposed right-of-way would be approximately 100 feet and

that CPS could not at that time determine where narrower than anticipated right-of-way might be required. In its supplemental response filed less than one week before the hearing on the merits, CPS acknowledged that less than 100 feet of right-of-way is proposed on portions of Segment 54 and that road right -of-way would be used. But this was the first time CPS indicated this to be a fact. While CPS attempts to indicate the information was in the application based on Sheet 8 of Attachment 6 to its Application that attachment does not in any way show the width of the right-of-way. *See Exhibits 7 and 8.* Rather, it shows an approximation of the routing of the line. The purpose of RFI 2-5 was to tie CPS down to the fact that it was using a 75-foot right-of-way in that location. That was why the question was asked directly. CPS's response that it was using 100 feet has now materially changed and the fact that it had a map in the application is insufficient to relieve CPS of its duty to fully and accurately respond to discovery in this case. CPS supplemented multiple RFIs on this basis. *See Exhibit 7.*

Because the parties could not reconcile CPS's response to the second set of Anaqua Springs HOA's RFIs, with Mark Anderson's analysis of the right-of-way, the Jauer Parties submitted a follow-up RFI asking CPS to clarify its answers to Anaqua Springs 2-4 and 2-5. *See Exhibit 2,* specifically Jauer RFI 2-2. As reflected in Brad Jauer & BVJ Properties RFI 2-2, the Jauer Parties literally framed the two incongruent positions that CPS had taken and asked CPS to "Please clarify". Nevertheless, CPS again stated that the right-of-way width would be approximately 100 feet, and although CPS does acknowledge that it may use some road right-of-way or narrower right-of-way, it does not indicate where – and this remained the case until yesterday, and, as indicated below, it appears other instances along Toutant Beauregard may exist. There has, however, been no change in the Amended Application since that time relative to right-of-way width. Put another way, CPS had this information available to it and should have answered the RFIs completely and correctly in January. That would have obviated the need for Jauer's clarifying RFI and the subsequent work that flowed from CPS's responses.

In yesterday's Supplemental Response to Brad Jauer & BVJ Properties RFI 2-2 (April 26, 2021), included as part of Exhibit 7, CPS provides as follows:

"Along that portion of Segment 54, road right of way will be utilized for the necessary clearances. In a couple of other instances, slightly less than a total width of 100 feet right of way is required on private property because of the curvature of the roadway between poles. Exhibit SDL-4R to Mr. Lyssy's Rebuttal Testimony shows *an example* of such an occurrence in the area of the Anaqua Springs entranceway."

The reference to "an example" clearly indicates that there are other instances that have not yet been disclosed. CPS confirms this fact, at least with respect to Toutant Beauregard, in the following excerpt from yesterday's Supplemental Response to Anaqua Springs RFI 2-12 (April 26, 2021), also included as part of Exhibit 7:

"Along Segments 14, 20, and 36, less than a full 100 feet of right of way will be required on private property in some locations due to the curvature or the road between pole locations and crossings of Toutant Beauregard Road."

Just as it was necessary for CPS to take the unprecedented step of amending its testimony and discovery responses at the last minute to disclose the limited right-of-way, constraints and use of road right-of-way reflected in the errata filed as Exhibit SDL-3R to the Rebuttal Testimony of Mr. Scott D. Lyssy, which is attached as Exhibit 6, it is equally necessary for CPS to disclose the other locations where such limited right-of-way, constraints and use of road right-of-way will occur or exist.

Based on the answers to those discovery requests, the parties proceeded with case preparation assuming both a 100-foot right-of-way and that most if not all right-of-way, including the placement of the towers would be on private property. At the same time, the parties continued, through the advice of their expert to try to reconcile the costing spreadsheet showing 75-foot right-of-way and CPS's indication that they were using 100 foot right-of-way. The case preparation moved forward on that basis.

III. THE FILING PARTIES NEED ADDITIONAL TIME

Based on CPS's new discovery responses, and Mr. Lyssy's revised rebuttal testimony, the Filing Parties need to conduct additional discovery. Additionally, although Mr. Lyssy provided some minor changes to his testimony, it appears there may need to be more. For example, on page 11 of his testimony, Mr. Lyssy responds to Mr. Anderson's safety concerns along Segment 54 by stating "the transmission line pole centerline will be located at last 25 feet from the edge of road right-of-way." Yet, looking at the map filed as Exhibit SDL-3R to Mr. Lyssy's errata (Exhibit 6 to this motion) there is a turn of the transmission line in the road right-of-way almost directly south of Habitable Structure No. 88. A turn in the line requires a structure. That structure would then be located within the road right-of-way. So, is Mr. Lyssy's testimony still accurate? That cannot be determined without discovery. Is Mr. Lyssy's testimony still accurate regarding the distance from the road rights of way in areas where Bexar County plans to construct flood control? The answer cannot be determined without additional discovery. Are the changes shown in Mr. Lyssy's errata consistent throughout any other portions of the study area where CPS has priced a 75-foot right-of-way? Again, the parties need discovery to find these answers.

Additionally, since CPS filed its revised discovery answers and rebuttal testimony on Monday afternoon, the Filing Parties have spent significant time that would normally have been spent preparing for the hearing reviewing the new responses, errata, and analyzing whether those changes impact other aspects of the case. Furthermore, the Filing Parties will need to revisit their own discovery responses and testimony and determine whether they need to amend as a result of a CPS's discovery responses and rebuttal.³ The Filing Parties do not have the human resources to both prepare for hearing and revisit discovery responses and testimony before the hearing set to begin May 3, 2021.

³ Although the Filing Parties would not normally seek to amend after CPS filed rebuttal testimony, CPS has changed answers to discovery sent on CPS's direct case, on which the Filing Parties based their own analysis and testimony.

**IV. THE FILING PARTIES HAVE INCURRED SIGNIFICANT EXPENSES AS A
RESULT OF CPS'S FAILURE TO DISCLOSE THIS INFORMATION DURING
DISCOVERY**

Anaqua Springs HOA, Brad Jauer, and Steve Cichowski have incurred significant costs to determine how CPS indicated that it had assumed a 100-foot right-of-way for construction while at the same time calculated a 75-foot right-of-way for costs and was also physically able to route the transmission line along Toutant Beauregard without using road right-of-way. Discovery on this matter was propounded as early as January 2021 with corrections not coming until April 26, 2021. This discovery was propounded on CPS's direct case. The answers to those discovery requests, which based on Mark Anderson's (routing expert for Anaqua Springs HOA and Brad Jauer) analysis could not be correct if CPS were in fact not using road right-of-way, resulted in numerous other discovery requests on the same matter, hours of Mr. Anderson's analysis, and phone calls with counsel for CPS to try to resolve the issue.

Because the Filing Parties have not been able to evaluate all of their bills to their clients at this time, the following conservative estimate is provided, along with an affidavit from Mr. Cichowski regarding his time, which is attached as Exhibit 9.

Mark Anderson estimates he spent 45 hours attempting to reconcile CPS's discovery answers with its application and helping to draft discovery to elicit additional information, which would not have occurred if CPS had correctly answered discovery in January. His hourly rate is \$360, for a total of \$16,200.

Steve Cichowski's affidavit regarding the time he put into this issue on his own behalf and to assist in Anaqua Springs HOA's review of the issue is attached as Exhibit 9. He estimates he has incurred \$11,000.

Lynn Sherman, Brad Jauer's attorney, estimates he and his team spent at least 40 hours, in addition to an additional site visit to the study area, trying to reconcile this information. The combined cost of their efforts is, at a minimum, \$16,000.

Wendy Harvel, Anaqua Springs HOA's attorney, estimates she spent 34.2 hours trying to reconcile this issue. Her hourly rate is \$465, for a total of \$15,903. These amounts do not include the attorney and expert fees to review the new discovery answers and draft this motion.

None of these expenses would have been incurred had CPS provided the correct data in its initial discovery responses. And now the parties will incur additional costs in having to review and prepare for hearing with new information and conduct more discovery. These costs would not have been incurred had CPS complied with discovery rules and provided complete and accurate answers. By not acting with due diligence to respond completely and accurately to discovery, CPS directly caused these parties to incur substantial costs to correct CPS's mistakes. These parties should not be forced to bear the costs of CPS's substantial, repeated errors and lack of due diligence.

As Mr. Cichowski notes in his affidavit, this case should not be a war of attrition. The Filing Parties have worked within the framework of this case to ask for relevant information in discovery at great cost. Due to CPS's repeated failure to provide correct and complete information, they will continue to incur costs through no fault of their own, and this case may lose intervenor participation due to costs driven not by the intervenor's acts but by CPS's inaction.

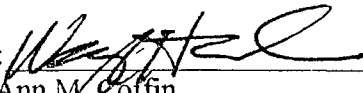
Sanctions are appropriate when a party abuses the discovery process in resisting discovery. 16 TAC § 22.161(b)(2). CPS has resisted providing the requested information despite repeated asks first from Anaqua Springs HOA, then almost immediately after from Brad Jauer to seek clarification. CPS swore to the accuracy of those discovery requests; the Filing Parties spent significant time trying to reconcile the (incorrect) answers, and now on the eve of trial, CPS produced still incomplete answers, giving an example rather than a comprehensive review of the rights-of-way. This type of delay and resistance in providing a complete response causing parties to incur substantial costs through no fault of their own is appropriate for monetary sanctions. These

expenses would not have been incurred but for CPS repeatedly providing incorrect and incomplete answers.

**V. THE COMMISSION IS TAKING UP AN ISSUE ON APPEAL IN THIS CASE ON
MAY 6, 2021**

As an additional matter, the Commission is taking up Mr. Cichowski's appeal of the denial for certified issue on the public policy ramifications of the contract between Toutant Ranch and CPS on May 6, 2021. The result of that open meeting may change the subject matter of cross-examination of both CPS and Toutant Ranch. Accordingly, the parties to this motion would respectfully request that even if the Administrative Law Judges deny the Motion for Continuance, that they recess the hearing for a period of time sufficient for Mr. Cichowski and other interested parties to attend the open meeting and report back to the ALJs on the Commission's ruling, at a minimum for the morning of May 6, 2021.

Respectfully submitted,

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INTERVENORS

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been filed with the Commission and served on all other parties via the PUC Interchange on this 27th day of April 2021, pursuant to SOAH Order No. 3 issued in this docket.


Wendy K. L. Harvel

Segment #	No. of Properties	BCAD Property Id	Total Linear Ft	100 ft Esmt Linear ft	100 Sq Ft	75 ft Esmt Linear ft	75 Sq Ft	Total Sq Ft	Estimated Value Per Sq Ft	Total Easment Compensation	Legal Fees @ 15,000 per parcel	Appraisal @ 3,500 per parcel	Survey @ 4,000 per parcel	Agent Costs @ 1,000 per parcel	Title Work @ 1,000 per parcel	Total Estimate for Segment
1	4	251413, 251432, 29173, 250911	3,218	0	0	3,218	241350	241350	\$ 3.00	\$ 724,050.00	\$ 60,000.00	\$ 14,000.00	\$ 16,000.00	\$ 4,000.00	\$ 4,000.00	\$ 822,050.00
2	3	250911, 251446, 251443	2,247	2,247	224700	0	0	224700	\$ 3.00	\$ 674,100.00	\$ 45,000.00	\$ 10,500.00	\$ 12,000.00	\$ 3,000.00	\$ 3,000.00	\$ 747,600.00
3	1	250911	148	0	0	148	11100	11100	\$ 7.50	\$ 83,250.00	\$ 15,000.00	\$ 3,500.00	\$ 4,000.00	\$ 1,000.00	\$ 1,000.00	\$ 107,750.00
4	1	250911	315	0	0	315	23625	23625	\$ 7.50	\$ 177,187.50	\$ 15,000.00	\$ 3,500.00	\$ 4,000.00	\$ 1,000.00	\$ 1,000.00	\$ 201,687.50
5	6	250911, 251051, 251052, 251053, 251054, 251454	1,981	750	75000	1,231	92325	167325	\$ 2.00	\$ 334,650.00	\$ 90,000.00	\$ 21,000.00	\$ 24,000.00	\$ 6,000.00	\$ 6,000.00	\$ 481,650.00
7	2	250911, 1127912	1,801	0	0	1,801	135075	135075	\$ 1.50	\$ 202,612.50	\$ 30,000.00	\$ 7,000.00	\$ 8,000.00	\$ 2,000.00	\$ 2,000.00	\$ 251,612.50
8	4	1127912, 251136, 251047, 251046	3,050	1,532	153200	1,518	113850	267050	\$ 2.00	\$ 534,100.00	\$ 60,000.00	\$ 14,000.00	\$ 16,000.00	\$ 4,000.00	\$ 4,000.00	\$ 632,100.00
13	2	251454, 251440	3,153	2,893	289300	260	19500	308800	\$ 1.50	\$ 463,200.00	\$ 30,000.00	\$ 7,000.00	\$ 8,000.00	\$ 2,000.00	\$ 2,000.00	\$ 512,200.00
14	6	251454, 250937, 251055, 251056, 1011726, 251059	1,688	0	0	1,688	126600	126600	\$ 2.00	\$ 253,200.00	\$ 90,000.00	\$ 21,000.00	\$ 24,000.00	\$ 6,000.00	\$ 6,000.00	\$ 400,200.00
15	8	250940, 250941, 250942, 251084, 251092, 1209739, 1265520, 1091388	4,708	4,092	409200	616	46200	455400	\$ 2.00	\$ 910,800.00	\$ 120,000.00	\$ 28,000.00	\$ 32,000.00	\$ 8,000.00	\$ 8,000.00	\$ 1,106,800.00
16	12	250940, 251239, 250603, 250588, 250578, 250579, 250580, 250747, 1193812, 1193801, 1193802, 250581	3,665	0	0	3,665	274875	274875	\$ 1.50	\$ 412,312.50	\$ 180,000.00	\$ 42,000.00	\$ 48,000.00	\$ 12,000.00	\$ 12,000.00	\$ 706,312.50
17	6	250307, 250312, 250310, 250504, 1135355, 1168451	6,459	6,459	645900	0	0	645900	\$ 1.50	\$ 968,850.00	\$ 90,000.00	\$ 21,000.00	\$ 24,000.00	\$ 6,000.00	\$ 6,000.00	\$ 1,115,850.00
20	8	1166451, 250499, 250504, 250501, 1174202, 1167179, 249798, 250498	3,139	2,580	258000	559	41925	299925	\$ 1.50	\$ 449,887.50	\$ 120,000.00	\$ 28,000.00	\$ 32,000.00	\$ 8,000.00	\$ 8,000.00	\$ 645,887.50
21	3	1166451, 1135344, 250505	2,420	2,420	242000	0	0	242000	\$ 1.50	\$ 363,000.00	\$ 45,000.00	\$ 10,500.00	\$ 12,000.00	\$ 3,000.00	\$ 3,000.00	\$ 436,500.00
22	7	1091388, 250527, 250515, 250539, 250537, 250536, 1135344	2,184	2,184	218400	0	0	218400	\$ 1.50	\$ 327,600.00	\$ 105,000.00	\$ 24,500.00	\$ 28,000.00	\$ 7,000.00	\$ 7,000.00	\$ 499,100.00
25	3	1135344, 1135345, 1091357	2,651	2,651	265100	0	0	265100	\$ 1.50	\$ 397,650.00	\$ 45,000.00	\$ 10,500.00	\$ 12,000.00	\$ 3,000.00	\$ 3,000.00	\$ 471,150.00
26	18	1091388, 1313993, 1313992, 1091389, 1091391, 1091386, 1091384, 1303013, 249764, 1091384, 1057955, 1091383, 1057947	7,092	7,092	709200	0	0	709200	\$ 1.50	\$ 1,063,800.00	\$ 270,000.00	\$ 63,000.00	\$ 72,000.00	\$ 18,000.00	\$ 18,000.00	\$ 1,504,800.00
27	9	249459, 250542, 1295932, 1295931, 1295940, 1301383, 1301384, 1281892, 249773	7,960	7,960	796000	0	0	796000	\$ 0.50	\$ 398,000.00	\$ 135,000.00	\$ 31,500.00	\$ 36,000.00	\$ 9,000.00	\$ 9,000.00	\$ 618,500.00
28	3	250307, 1249008, 249790	2,979	2,979	297900	0	0	297900	\$ 1.50	\$ 446,850.00	\$ 45,000.00	\$ 10,500.00	\$ 12,000.00	\$ 3,000.00	\$ 3,000.00	\$ 520,350.00
29	6	249790, 249648, 1168323, 249814, 1145655, 249636	3,703	3,703	370300	0	0	370300	\$ 1.50	\$ 555,450.00	\$ 90,000.00	\$ 21,000.00	\$ 24,000.00	\$ 6,000.00	\$ 6,000.00	\$ 702,450.00
30	1	249790	2,602	2,602	260200	0	0	260200	\$ 1.50	\$ 390,300.00	\$ 15,000.00	\$ 3,500.00	\$ 4,000.00	\$ 1,000.00	\$ 1,000.00	\$ 414,800.00
31	4	249793, 1300392, 249790, 250307	3,142	3,142	314200	0	0	314200	\$ 1.50	\$ 471,300.00	\$ 60,000.00	\$ 14,000.00	\$ 16,000.00	\$ 4,000.00	\$ 4,000.00	\$ 569,300.00
32	7	250498, 250500, 1174210, 1057951, 1057952, 1057949, 1091357	4,609	4,609	460900	0	0	460900	\$ 1.50	\$ 691,350.00	\$ 105,000.00	\$ 24,500.00	\$ 28,000.00	\$ 7,000.00	\$ 7,000.00	\$ 862,850.00
33	3	1154263, 249636, 249642	1,839	0	0	1,839	137925	137925	\$ 0.50	\$ 68,962.50	\$ 45,000.00	\$ 10,500.00	\$ 12,000.00	\$ 3,000.00	\$ 3,000.00	\$ 142,462.50
34	2	249790, 1154263	198	198	19800	0	0	19800	\$ 1.50	\$ 29,700.00	\$ 30,000.00	\$ 7,000.00	\$ 8,000.00	\$ 2,000.00	\$ 2,000.00	\$ 78,700.00
35	4	249793, 249794, 1188207, 249790	2,722	0	0	2,722	204150	204150	\$ 1.50	\$ 306,225.00	\$ 60,000.00	\$ 14,000.00	\$ 16,000.00	\$ 4,000.00	\$ 4,000.00	\$ 404,225.00
36	10	250498, 250500, 1174210, 1252050, 249782, 988892, 988860, 988862, 988893, 249793	2,478	0	0	2,478	185850	185850	\$ 1.50	\$ 278,775.00	\$ 150,000.00	\$ 35,000.00	\$ 40,000.00	\$ 10,000.00	\$ 10,000.00	\$ 523,775.00
37	6	1091357, 1091358, 1057950, 1057945, 1057953, 249764	3,105	3,105	310500	0	0	310500	\$ 0.50	\$ 155,250.00	\$ 90,000.00	\$ 21,000.00	\$ 24,000.00	\$ 6,000.00	\$ 6,000.00	\$ 302,250.00
38	1	249764	2,235	2,235	223500	0	0	223500	\$ 0.50	\$ 111,750.00	\$ 15,000.00	\$ 3,500.00	\$ 4,000.00	\$ 1,000.00	\$ 1,000.00	\$ 136,250.00
39	3	249764, 249775, 249772	4,612	4,612	461200	0	0	461200	\$ 0.50	\$ 230,600.00	\$ 45,000.00	\$ 10,500.00	\$ 12,000.00	\$ 3,000.00	\$ 3,000.00	\$ 304,100.00
40	6	249636, 1248867, 249745, 249747, 1245810, 1195437	13,543	10,641	1064100	2,902	217650	1281750	\$ 1.50	\$ 1,922,625.00	\$ 90,000.00	\$ 21,000.00	\$ 24,000.00	\$ 6,000.00	\$ 6,000.00	\$ 2,069,625.00
41	3	1154263, 249636, 1316331	2,428	2,428	242800	0	0	242800	\$ 0.50	\$ 121,400.00	\$ 45,000.00	\$ 10,500.00	\$ 12,000.00	\$ 3,000.00	\$ 3,000.00	\$ 194,900.00
42	5	249793, 1316330, 1167416, 249636, 1316331	2,548	2,548	254800	0	0	254800	\$ 0.50	\$ 127,400.00	\$ 75,000.00	\$ 17,500.00	\$ 20,000.00	\$ 5,000.00	\$ 5,000.00	\$ 249,900.00
42 A	7	249793, 1316330, 1167416, 1227560, 249636, 1316332, 1154283	2,745	2,745	274500	0	0	274500	\$ 0.50	\$ 137,250.00	\$ 105,000.00	\$ 24,500.00	\$ 28,000.00	\$ 7,000.00	\$ 7,000.00	\$ 308,750.00
43	2	249764, 248512	10,836	10,836	1083600	0	0	1083600	\$ 0.50	\$ 541,800.00	\$ 30,000.00	\$ 7,000.00	\$ 8,000.00	\$ 2,000.00	\$ 2,000.00	\$ 590,800.00
44	2	249772, 248512	10,449	10,449	1044900	0	0	1044900	\$ 0.50	\$ 522,450.00	\$ 30,000.00	\$ 7,000.00	\$ 8,000.00	\$ 2,000.00	\$ 2,000.00	\$ 571,450.00
45	3	249773, 249462, 248512	13,700	13,700	1370000	0	0	1370000	\$ 0.50	\$ 685,000.00	\$ 45,000.00	\$ 10,500.00	\$ 12,000.00	\$ 3,000.00	\$ 3,000.00	\$ 758,500.00
46	4	1316331, 1301376, 1280739, 249754	4,180	4,180	418000	0	0	418000	\$ 0.50	\$ 209,000.00	\$ 60,000.00	\$ 14,000.00	\$ 16,000.00	\$ 4,000.00	\$ 4,000.00	\$ 307,000.00
46 a	3	1316331, 1301376, 249754	4,548	4,548	454800	0	0	454800	\$ 0.50	\$ 227,400.00	\$ 45,000.00	\$ 10,500.00	\$ 12,000.00	\$ 3,000.00	\$ 3,000.00	\$ 300,900.00
46 b	6	249754, 249594, 249598, 249592, 249666, 249589	5,248	5,248	524800	0	0	524800	\$ 0.50	\$ 262,400.00	\$ 90,000.00	\$ 21,000.00	\$ 24,000.00	\$ 6,000.00	\$ 6,000.00	\$ 409,400.00
47	1	249773	983	983	98300	0	0	98300	\$ 0.50	\$ 49,150.00	\$ 15,000.00	\$ 3,500.00	\$ 4,000.00	\$ 1,000.00	\$ 1,000.00	\$ 73,650.00
48	1	1316331	828	828	82800	0	0	82800	\$ 0.50	\$ 41,400.00	\$ 15,000.00	\$ 3,500.00	\$ 4,000.00	\$ 1,000.00	\$ 1,000.00	\$ 65,900.00
49	6	1316331, 1316330, 249754, 1301376, 249755, 249589	11,223	11,223	1122300	0	0	1122300	\$ 0.50	\$ 561,150.00	\$ 90,000.00	\$ 21,000.00	\$ 24,000.00	\$ 6,000.00	\$ 6,000.00	\$ 708,150.00
49 a	3	249754, 249755, 249590	7,140	7,140	714000	0	0	714000	\$ 0.50	\$ 357,000.00	\$ 45,000.00	\$ 10,500.00	\$ 12,000.00	\$ 3,000.00	\$ 3,000.00	\$ 430,500.00
50	2	251046, 250940	200	200	20000	0	0	20000	\$ 2.00	\$ 40,000.00	\$ 30,000.00	\$ 7,000.00	\$ 8,000.00	\$ 2,000.00	\$ 2,000.00	\$ 89,000.00
51	1	249773	801	801	80100	0	0	80100	\$ 0.50	\$ 40,050.00	\$ 15,000.00	\$ 3,500.00	\$ 4,000.00	\$ 1,000.00	\$ 1,000.00	\$ 64,550.00
52	1	249773	547	547	54700	0	0	54700	\$ 0.50	\$ 27,350.00	\$ 15,000.00	\$ 3,500.00	\$ 4,000.00	\$ 1,000.00	\$ 1,000.00	\$ 51,850.00
53	2	249773, 249772	531	531	53100	0	0	53100	\$ 0.50	\$ 26,550.00	\$ 30,000.00	\$ 7,000.00	\$ 8,000.00	\$ 2,000.00	\$ 2,000.00	\$ 75,550.00
54	14	251059, 251060, 250952, 250953, 250954, 250955, 250956, 250957, 251024, 251025, 251074, 250924, 1135355, 1166451	3612	0	0	3612	270900	270900	\$ 2.00	\$ 541,800.00	\$ 210,000	\$ 49,000	\$ 56,000	\$ 14,000	\$ 14,000	\$ 884,800.00
55	6	250581, 250547, 1317490, 250544, 250554, 1288509	7777	7777	777700	0	0	777700	\$ 0.50	\$ 388,850.00	\$ 90,000	\$ 23,000	\$ 24,000	\$ 6,000	\$ 6,000	\$ 535,850.00
56	14	250581, 250547, 1317490, 1270974, 1270923, 1270924, 1270925, 1271095, 250555, 250553, 250570, 250571, 250561, 250554	5954	2724	272400	3230	242250	514650	\$ 1.00	\$ 514,650.00	\$ 210,000	\$ 49,000	\$ 56,000	\$ 14,000	\$ 14,000	\$ 857,650.00
57	7	250554, 1288509, 1057444, 1057442, 1057441, 1057440, 249459	3269	3269	326900	0	0	326900	\$ 0.50	\$ 163,450.00	\$ 105,000	\$ 24,500	\$ 28,000	\$ 7,000	\$ 7,000	\$ 334,950.00

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**CPS ENERGY'S RESPONSE TO ANAQUA SPRINGS HOMEOWNERS'
ASSOCIATION SECOND REQUEST FOR INFORMATION**

Anaqua Springs Question No. 2-5:

Regarding Segment 54, please provide the anticipated distance from the edge of the right-of-way to Habitable Structure Nos. 79, 178, 81, 85, 86, 87, 88 and 89 on the north side of Toutant Beauregard Road (EA Figure 4-1) and Habitable Structure Nos. 70, 72, 78, and 80 on the south side of Toutant Beauregard. Please provide a sketch or drawing showing anticipated ROW easement width, structure spacing and locations for Segment 54 given the need to follow the sharp curve in the road and proximity to housing. Is it accurate that in this stretch of 54, CPS plans to use a 75-foot right-of-way with structures spaced more closely together? If not, how will this segment be constructed?

Response No. 2-5:

The approximate distance from the edge of the right-of-way to the habitable structures identified above are as follows:

Habitable Structure No.	Approximate Distance (feet)
70	156
72	154
78	119
79	165
80	152
81	32
85	108
86	112
87	250
88	72
89	84
178	163

As stated in response to Question 6 of the Application and on page 1-1 of the Environmental Assessment, which is Attachment 1 to the Application, it is currently anticipated that the proposed

transmission line facilities will be constructed utilizing a right-of-way width of approximately 100 feet. The survey, geotechnical, and engineering work necessary to design the proposed transmission line facilities along Segment 54 have not yet been completed. Thus, CPS Energy cannot yet identify where pole structures will be located and whether narrower than anticipated right-of-way may be required in that area.

Prepared By:	Lisa B. Meaux	Title:	Project Manager, POWER Engineers, Inc.
	Scott D. Lyssy	Title:	Manager Civil Engineering
Sponsored By:	Lisa B. Meaux	Title:	Project Manager, POWER Engineers, Inc.
	Scott D. Lyssy	Title:	Manager Civil Engineering

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**CPS ENERGY'S RESPONSE TO ANAQUA SPRINGS HOMEOWNERS'
ASSOCIATION SECOND REQUEST FOR INFORMATION**

Anaqua Springs Question No. 2-6:

Regarding Segment 5, please provide the anticipated distance from the edge of the right-of-way to Habitable Structure No. 56 (EA Figure 4-1). Please provide a sketch or drawing showing anticipated ROW easement width, structure spacing and locations for Segment 5.

Response No. 2-6:

As currently proposed, the distance from the edge of the right-of-way to Habitable Structure 56 is approximately 292 feet. The survey, geotechnical, and engineering work necessary to design the proposed transmission line facilities along Segment 5 have not yet been completed. Thus, CPS Energy cannot yet identify where pole structures will be located and whether narrower than anticipated right-of-way may be required in that area.

Prepared By:	Lisa B. Meaux	Title:	Project Manager, POWER Engineers, Inc.
	Scott D. Lyssy	Title:	Manager Civil Engineering
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**CPS ENERGY'S RESPONSE TO ANAQUA SPRINGS HOMEOWNERS'
ASSOCIATION SECOND REQUEST FOR INFORMATION**

Anaqua Springs Question No. 2-7:

How many transmission structures does CPS anticipate will be located on Segment 14? How many structures on Segment 54, 36, and 20? And what will the approximate distance be between each structure, given the 75-foot right-of-way?

Response No. 2-7:

As stated in response to Question 6 of the Application and on page 1-1 of the Environmental Assessment, which is Attachment 1 to the Application, it is currently anticipated that the proposed transmission line facilities will be constructed utilizing a right-of-way width of approximately 100 feet. The survey, geotechnical, and engineering work necessary to design the proposed transmission line facilities along Segments 14, 20, 36, and 54 have not yet been completed. Thus, CPS Energy cannot yet identify where pole structures will be located or the exact number of poles, nor whether narrower than anticipated right-of-way may be required along some portions of those segments. For preliminary estimating, the following structure count and span lengths were used.

Segment	Number of Structures	Estimated Average Span Length
14	4	550 feet
54	9	465 feet
36	6	500 feet
20	6	630 feet

Prepared By: Scott D. Lyssy
Sponsored By: Scott D. Lyssy

Title: Manager Civil Engineering
Title: Manager Civil Engineering

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**CPS ENERGY'S RESPONSE TO ANAQUA SPRINGS HOMEOWNERS'
ASSOCIATION SECOND REQUEST FOR INFORMATION**

Anaqua Springs Question No. 2-8:

Please provide the estimated structure heights and conductor arms lengths for the portions of Segments 14, 54, 20, and 36 that are planned to have a 75 foot right-of-way.

Response No. 2-8:

As stated in response to Question 6 of the Application and on page 1-1 of the Environmental Assessment, which is Attachment 1 to the Application, it is currently anticipated that the proposed transmission line facilities will be constructed utilizing a right-of-way width of approximately 100 feet. The survey, geotechnical, and engineering work necessary to design the proposed transmission line facilities along Segments 14, 20, 36, and 54 have not yet been completed. Thus, CPS Energy cannot yet identify the exact structure heights that may be required in that area. As stated in response to Question 5 of the Application, the heights of typical structures proposed for the Project range from 70 to 130 feet above ground. CPS Energy anticipates that most or all of the poles utilized for Segments 14, 20, 36, and 54 will likely fall within that range.

The length of the arms currently anticipated for use by CPS Energy for the Project (see Application Attachment 1, Figures 1-2 through 1-4) will extend approximately 12-15 feet from the center of the pole. For a single circuit dead end pole, there will not be arms extending from the pole (see Application Attachment 1, Figure 1-5).

Prepared By: Scott D. Lyssy	Title: Manager Civil Engineering
Sponsored By: Scott D. Lyssy	Title: Manager Civil Engineering

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**CPS ENERGY'S RESPONSE TO ANAQUA SPRINGS HOMEOWNERS'
ASSOCIATION SECOND REQUEST FOR INFORMATION**

Anaqua Springs Question No. 2-9:

If the transmission line were to fail during a storm and fall towards the houses within a 75 foot right-of-way on Segments 14, 54, 36, 20, and any other portions along Toutant Beauregard with 75 foot rights-of-way, are any houses within the fall radius of either the structures or conductors, given due regard to conductor sag being extended towards the houses?

Response No. 2-9:

As stated in response to Question 6 of the Application and on page 1-1 of the Environmental Assessment, which is Attachment 1 to the Application, it is currently anticipated that the proposed transmission line facilities will be constructed utilizing a right-of-way width of approximately 100 feet. The transmission line proposed in this proceeding will be designed to meet or exceed all safety and clearance requirements applicable to the facilities, including the current version of the National Electrical Safety Code. The transmission line facilities proposed in this Project are not anticipated to ever fail during a storm and fall. However, as a general design principle, the transmission line, if it does fail, it will likely fail within the right-of-way.

Because the transmission line has not been designed and pole heights and conductor clearances have not yet been determined, CPS Energy cannot determine whether any structures are located within a theoretical fall radius of the proposed facilities.

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	Scott D. Lyssy	Title:	Manager Civil Engineering
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	Scott D. Lyssy	Title:	Manager Civil Engineering

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**CPS ENERGY’S RESPONSE TO ANAQUA SPRINGS HOMEOWNERS’
ASSOCIATION SECOND REQUEST FOR INFORMATION**

Anaqua Springs Question No. 2-10:

What is the distance between the end of the nearest conductor arm and the closest edge of the houses, including the roof lines, on segments along Toutant Beauregard with 75 foot rights-ofway?

Response No. 2-10:

As stated in response to Question 6 of the Application and on page 1-1 of the Environmental Assessment, which is Attachment 1 to the Application, it is currently anticipated that the proposed transmission line facilities will be constructed utilizing a right-of-way width of approximately 100 feet. For purposes of answering this question, it is presumed that the conductor will extend approximately 15 feet from the pole centerline on conductor arms as described in CPS Energy’s response to Anaqua Springs Question No. 2-8. Subtracting 15 feet (as an average) from the previously reported distances to habitable structures along Toutant Beauregard Road results in the following approximate distances between the end of the nearest conductor arm and the habitable structures along Toutant Beauregard Road:

Habitable Structure No.	Approximate Distance (feet)
17	199
18	147
55	289
58	214
67	217
69	193
70	191
71	236
72	189
73	229
74	213
75	215
76	245
77	252

78	154
79	200
80	187
81	67
82	236
83	192
84	199
85	143
86	147
88	107
89	119
90	269
91	208
92	249
93	185
94	209
95	264
96	265
97	180
98	226
99	226
100	229
101	250
102	251
103	248
104	196
105	240
178	198

Prepared By: Lisa B. Meaux
Scott D. Lyssy
Sponsored By: Lisa B. Meaux
Scott D. Lyssy

Title: Project Manager, POWER Engineers, Inc.
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**CPS ENERGY'S RESPONSE TO ANAQUA SPRINGS HOMEOWNERS'
ASSOCIATION SECOND REQUEST FOR INFORMATION**

Anaqua Springs Question No. 2-11:

What is the estimated mid-span height above ground for the lowest conductor along Toutant Beauregard where there are 75-foot rights-of-way?

Response No. 2-11:

As stated in response to Question 6 of the Application and on page 1-1 of the Environmental Assessment, which is Attachment 1 to the Application, it is currently anticipated that the proposed transmission line facilities will be constructed utilizing a right-of-way width of approximately 100 feet. The survey, geotechnical, and engineering work necessary to design the proposed transmission line facilities along Toutant Beauregard Road has not yet been completed. Thus, CPS Energy cannot yet identify the exact structure heights and clearances that may be required in that area. The transmission line proposed in this proceeding will be designed to meet or exceed all safety and clearance requirements applicable to the facilities, including the current version of the National Electrical Safety Code. At a minimum, the clearances above ground for the proposed transmission line facilities along Toutant Beauregard Road (and for all other proposed segments) will exceed 20.6 feet required by the NESC plus five feet of buffer utilized by CPS Energy in its standard design practices.

Prepared By: Scott D. Lyssy
Sponsored By: Scott D. Lyssy

Title: Manager Civil Engineering
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**CPS ENERGY'S RESPONSE TO ANAQUA SPRINGS HOMEOWNERS'
ASSOCIATION SECOND REQUEST FOR INFORMATION**

Anaqua Springs Question No. 2-12:

Please advise if homes, playground equipment, fences, metal roofing, gutters and downspouts, etc. along Toutant Beauregard where there is 75 foot right-of-way anticipated, including Segments 14, 54, 20, and 36, or any location where there is a planned 75 foot right-of-way would need cathodic protection grounding systems installed to protect inhabitants from induced currents?

Response No. 2-12:

As stated in response to Question 6 of the Application and on page 1-1 of the Environmental Assessment, which is Attachment 1 to the Application, it is currently anticipated that the proposed transmission line facilities will be constructed utilizing a right-of-way width of approximately 100 feet. No cathodic protection is required or will be installed to safely operate the proposed transmission line facilities along any segment proposed for the Project, including those identified in this question. As a prudent utility operator, CPS Energy will ensure appropriate grounding, if necessary, for any of the facilities proposed for construction of the Project.

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**CPS ENERGY’S RESPONSE TO ANAQUA SPRINGS HOMEOWNERS’
ASSOCIATION SECOND REQUEST FOR INFORMATION**

Anaqua Springs Question No. 2-15:

Regarding CPS Energy’s Response to Statements on Route Adequacy, Page 7, Paragraph No. 3, entitled “Segment 54,” please describe in detail how CPS “avoids habitable structures to the extent reasonable” along Segment 54.

Response No. 2-15:

Where possible, CPS Energy and POWER avoided the habitable structures on Segment 54 by identifying the location for the segment across the road from the habitable structures. When necessary to be on the same side of the road as the habitable structures, Segment 54 parallels the roadway as opposed to being directly located over the habitable structures.

Prepared By: Lisa B. Meaux

Title: Project Manager, POWER Engineers, Inc.

Sponsored By: Lisa B. Meaux

Title: Project Manager, POWER Engineers, Inc.

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**CPS ENERGY'S RESPONSE TO BRAD JAUER'S AND BVJ PROPERTIES, L.L.C.'S
SECOND REQUESTS FOR INFORMATION TO CPS ENERGY**

Brad Jauer & BVJ Properties RFI 2-2:

According to the Scenic Loop CE Spreadsheet Final 12-18-2020, Segment 54 is predicted to have a 75-foot ROW. However, the answers to RFIs AS 2-4 and 2-5 appear to be based on a 100-foot ROW. Please clarify.

Response No. 2-2:

As stated in response to Question 6 of the Application and on page 1-1 of the Environmental Assessment, which is Attachment 1 to the Application, it is currently anticipated that the proposed transmission line facilities will be constructed utilizing a right-of-way width of approximately 100 feet. Thus, all of the routes presented in the Application and Amended Application as delineated by POWER Engineers, Inc. and all of the measurements presented in the Application and Amended Application assume a 100 foot right of way in order to present the widest possible impact of the transmission line on the community and the closest possible expected distance of the facilities to measured resources (including habitable structures). As CPS Energy also explained in previous discovery responses in this proceeding (refer to CPS Energy's responses to Anaqua Springs Question Nos. 2-5, 2-6, and 2-7), the survey, geotechnical, and engineering work necessary to design the proposed transmission line facilities has not yet been completed. Thus, CPS Energy cannot yet identify where pole structures will be located nor whether narrower than anticipated right-of-way may be required along some portions of those segments, particularly along road rights-of-way. In some areas along road rights-of-way, CPS Energy may be able to utilize narrower than typical rights-of-way or may be able to utilize up to 25 feet of the road right-of-way for the clearances necessary to safely operate the transmission line facilities.

As stated above, in order to present the Public Utility Commission of Texas and interested members of the community with the widest possible impact of the transmission line on the community and the closest possible distance of the facilities to measured resources (and to ensure notice to owners of habitable structures within 300 feet of such locations), CPS Energy delineated all route segments presented in this proceeding with a 100 foot right-of-way. In determining reasonably anticipated costs to construct several of the segments proposed along road rights-of-way, however, CPS Energy's real estate experts assumed a narrower right-of-way acquisition would be required (75 feet). Thus, there were not specific or particular constraints related to

utilizing a reduced right-of-way cost estimate, rather it was based on location adjacent to existing road rights-of-way. If the segment locations along road rights-of-way were narrowed, all of the distances to measured resources (e.g., habitable structures) will increase 12.5 to 25 feet.

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	Scott D. Lyssy	Title:	Manager Civil Engineering

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**CPS ENERGY’S RESPONSE TO BRAD JAUER’S AND BVJ PROPERTIES, L.L.C.’S
THIRD REQUEST FOR INFORMATION TO CPS ENERGY**

Brad Jauer & BVJ Properties RFI 3-1:

Regarding Segment 36 where it runs along the north side of Brad Jauer/BVJ Properties, LLC property (i.e., Tract No. C-014 as per the Landowner Notice List, which is Attachment 8 of the Application; and Tract No. IA-86 as per the Intervenor Map, Rev. 14), please confirm:

- i) the general height of the ledge or cliff that runs along the north side of the property and the south side of the Toutant Beauregard right-of-way, and its distance from the centerline of Toutant Beauregard's right of way;
- ii) the width of the Toutant Beauregard right-of-way along the north side of the property and whether the ledge/cliff is within that right-of way, and, if not, how far outside does it lie;
- iii) the width of the right-of-way of the distribution line that already exists along the north side of the property;
- iv) whether the distribution line's right-of way abuts and/or overlaps the Toutant Beauregard right-of-way and, if it does neither, what is the distance between the two rights-of-way, and, if it overlaps, what is the width of the overlap;
- v) the distance of the centerline of the distribution line's right-of-way from the centerline of Taunton Beauregard's right-of-way;
- vi) the width of Segment 36's right-of-way where it runs along the north side of the property (e.g., is it 75 feet or 100 feet wide?);
- vii) whether Segment 36's right-of-way will abut and/or overlap the distribution line's right-of-way along the north side of the property, and, if it does neither, what is the distance between the two rights-of-way, and, if it overlaps, what is the width of the overlap; and
- viii) the distance of the centerline of Segment 36's right-of-way from the centerline of Taunton Beauregard's right-of-way.

Response No. 3-1:

- i) POWER and CPS Energy do not have road right-of-way easement information for Toutant Beauregard Road. The requested calculations for these responses have been made using Google Earth visually approximating the location of the Toutant Beauregard Road right-of-way. POWER estimates the height of the rock ledge (road cut) to range from

approximately zero feet to 8-10 feet above Toutant Beauregard Road, depending on where the measurement is taken. The distance from the road cut to the painted centerline of Toutant Beauregard roadway is approximately 30-40 feet depending on where the measurement is taken.

- ii) POWER and CPS Energy do not have road right-of-way information for Toutant Beauregard Road. Based on measurements from Google Earth, the right-of-way of Toutant Beauregard Road visually appears to be approximately 70 feet wide. The road cut appears to be generally close to the edge of the Toutant Beauregard Road right-of-way. CPS Energy and POWER cannot specifically state whether the road cut is within or outside of the Toutant Beauregard Road right-of-way or the distance to the road right-of-way if it is outside of it.
- iii) The operational clearance requirements for the CPS Energy distribution line on the northern edge of the Brad Jauer/BVJ Properties, LLC property adjacent to Toutant Beauregard Road is approximately 28 feet in width. Approximately 14 feet width of right-of-way is located on the Brad Jauer/BVJ Properties, LLC properties and approximately 14 feet width of clearance is utilized from the Toutant Beauregard Road right-of-way.
- iv) Refer to CPS Energy's response to Brad Jauer & BVJ Properties RFI 3-1 iii).
- v) Based on measurements from Google Earth, the distance from the centerline of the CPS Energy's distribution line right-of-way along the northern Brad Jauer/BVJ Properties, LLC property line to the center of the painted centerline of Toutant Beauregard roadway visually appears to range from approximately 30-40 feet depending on where the measurement is taken.
- vi) Refer to CPS Energy's response to Brad Jauer & BVJ Properties RFI 2-2.
- vii) Because the survey, geotechnical, and engineering work necessary to design the proposed transmission line facilities along Segment 36 have not yet been completed, CPS Energy cannot yet identify where pole structures will be located and whether narrower than anticipated right-of-way may be required in that area. In general, however, if the transmission line proposed in this Project is approved for construction along Segment 36, it is anticipated that the transmission line easement will fully overlap the existing distribution line right-of-way. Refer also to CPS Energy's response to Brad Jauer & BVJ Properties RFI 2-2.
- viii) Based on measurements from Google Earth, the distance from the centerline of Segment 36 to the center of the painted centerline of Toutant Beauregard roadway visually appears to range from approximately 70 feet to 90 feet depending on where the measurement is taken. Refer also to CPS Energy's response to Brad Jauer & BVJ Properties RFI 2-2.

Prepared By:	Lisa B. Meaux	Title:	Project Manager, POWER Engineers, Inc.
	Scott D. Lyssy	Title:	Manager Civil Engineering
Sponsored By:	Lisa B. Meaux	Title:	Project Manager, POWER Engineers, Inc.
	Scott D. Lyssy	Title:	Manager Civil Engineering

**SOAH DOCKET NO. 473-21-0247
PUC DOCKET NO. 51023**

APPLICATION OF THE CITY OF	§	BEFORE THE STATE OFFICE
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SCENIC LOOP 138-KV TRANSMISSION	§	ADMINISTRATIVE HEARINGS
LINE IN BEXAR COUNTY	§	

**CPS ENERGY'S RESPONSE TO BEXAR RANCH, L.P.'S
FIRST REQUESTS FOR INFORMATION TO CPS ENERGY**

Bexar Ranch Question No. 1-3:

Assuming a 100-foot right of way for its entire length, what is CPS Energy's "Estimated Total Cost" for each of the following routes:

- a. Route Z-1; and
- b. Route Z-2.

Response No. 1-3:

- a. See Attachment.
- b. See Attachment.

Attachment:

Attachment Bexar Ranch 1-3: Estimated Cost Data for Routes Z-1 and Z-2 with an assumed 100 feet of right of way for the entire length, 1 page, Scott Lyssy, April 22, 2021

Prepared By: Scott D. Lyssy
Sponsored By: Scott D. Lyssy

Title: Manager Civil Engineering
Title: Manager Civil Engineering

CPS Energy CCN Application Amendment
(revised 12/23/2020)
Estimated Costs for Transmission Line and Substation Facilities (Z2 added for Bexar Ranch L.P. First RFI)

Table 1: Transmission and Substation Facilities Total Estimated Costs

Route	Total Length (miles)	Sub Site	**Estimated Total Cost	ROW & Land Acquisition	Engineering & Design (Utility)	Engineering & Design (Contract)	Procurement of Material & Equipment	Construction of Facilities (Utility)	Construction of Facilities (Contract)	Other
Z1	4.53	7	\$38,798,708	\$4,498,080	\$608,520	\$1,561,175	\$11,523,763	\$3,015,760	\$9,891,014	\$7,000,360
Z2	4.46	7	\$38,307,938	\$4,850,212	\$605,440	\$1,543,850	\$11,162,205	\$3,008,060	\$9,656,454	\$6,801,560

**Estimated Costs include a 10% Contingency for unknown project costs not evident at the time these estimates were created

Note: In this table, cost for right of way assumes 100 feet adjacent to all roadways, per the RFI request

Table 3: Transmission Facilities Total Estimated Costs

Route	Total Length (miles)	Sub Site	Estimated Total Cost	ROW & Land Acquisition	Engineering & Design (Utility)	Engineering & Design (Contract)	Procurement of Material & Equipment	Construction of Facilities (Utility)	Construction of Facilities (Contract)	Other
A	6.66	1	\$39,479,733	\$6,205,475	\$266,400	\$1,498,500	\$10,375,854	\$666,000	\$9,249,539	\$11,217,966
B1	6.19	1	\$35,821,831	\$4,604,350	\$247,600	\$1,392,750	\$10,246,212	\$619,000	\$8,906,692	\$9,805,226
C1	5.77	1	\$32,899,624	\$5,381,475	\$230,800	\$1,298,250	\$9,045,109	\$577,000	\$8,091,240	\$8,275,750
D1	5.22	2	\$29,130,346	\$4,260,000	\$208,800	\$1,174,500	\$8,143,958	\$522,000	\$7,219,957	\$7,601,131
E	6.62	2	\$38,654,663	\$6,310,125	\$264,800	\$1,489,500	\$10,091,858	\$662,000	\$9,077,775	\$10,758,605
F1	5.66	2	\$34,248,570	\$4,311,363	\$226,400	\$1,273,500	\$9,516,417	\$566,000	\$8,386,875	\$9,968,015
G1	6.2	3	\$36,200,846	\$4,594,900	\$248,000	\$1,395,000	\$10,172,782	\$620,000	\$8,956,930	\$10,213,234
H	6.32	3	\$37,742,578	\$6,174,925	\$252,800	\$1,422,000	\$9,822,018	\$632,000	\$8,780,019	\$10,658,816
I1	5.03	3	\$28,079,256	\$4,473,713	\$201,200	\$1,131,750	\$7,682,502	\$503,000	\$6,820,609	\$7,266,482
J1	5.46	3	\$29,661,502	\$4,079,413	\$218,400	\$1,228,500	\$8,210,034	\$546,000	\$7,352,759	\$8,026,397
K	5.29	3	\$31,238,339	\$3,703,600	\$211,600	\$1,190,250	\$8,554,942	\$529,000	\$7,581,408	\$9,467,538
L	6.91	3	\$38,164,609	\$4,938,450	\$276,400	\$1,554,750	\$9,836,263	\$691,000	\$8,928,042	\$11,939,704
M1	5.85	4	\$31,931,306	\$5,189,800	\$234,000	\$1,316,250	\$8,647,864	\$585,000	\$7,765,702	\$8,192,689
N1	5.33	5	\$32,774,012	\$4,059,750	\$213,200	\$1,199,250	\$9,162,723	\$533,000	\$8,022,555	\$9,583,534
O	6.83	5	\$41,311,213	\$3,959,163	\$273,200	\$1,536,750	\$12,240,789	\$683,000	\$10,568,993	\$12,049,319
P	4.89	6	\$29,655,409	\$3,195,350	\$195,600	\$1,100,250	\$8,233,678	\$489,000	\$7,241,349	\$9,200,182
Q1	5.56	6	\$31,911,929	\$3,712,400	\$222,400	\$1,251,000	\$8,535,901	\$556,000	\$7,554,785	\$10,079,442
R1	4.76	6	\$29,759,151	\$3,427,650	\$190,400	\$1,071,000	\$8,425,608	\$476,000	\$7,379,204	\$8,789,289
S	6.73	6	\$40,490,343	\$3,429,463	\$269,200	\$1,514,250	\$11,957,738	\$673,000	\$10,506,016	\$12,140,676
T1	5.93	6	\$33,268,576	\$4,674,675	\$237,200	\$1,334,250	\$8,927,893	\$593,000	\$7,735,057	\$9,766,501
U1	6.36	6	\$36,158,857	\$4,026,850	\$254,400	\$1,431,000	\$9,705,097	\$636,000	\$8,721,049	\$11,384,462
V	6.6	6	\$39,437,492	\$3,005,263	\$264,000	\$1,485,000	\$11,933,906	\$660,000	\$10,180,802	\$11,908,522
W	6.25	6	\$38,256,396	\$3,327,063	\$250,000	\$1,406,250	\$11,421,971	\$625,000	\$9,847,938	\$11,378,174
X1	5.34	7	\$31,423,745	\$3,919,700	\$213,600	\$1,201,500	\$8,717,440	\$534,000	\$7,630,041	\$9,207,463
Y	5.23	7	\$28,852,833	\$4,749,475	\$209,200	\$1,176,750	\$7,304,200	\$523,000	\$6,719,861	\$8,170,347
Z1	4.53	7	\$24,986,251	\$3,176,463	\$181,200	\$1,019,250	\$6,914,148	\$453,000	\$6,241,831	\$7,000,360
AA1	4.82	7	\$25,176,699	\$3,612,963	\$192,800	\$1,084,500	\$6,496,341	\$482,000	\$5,973,334	\$7,334,761
BB	4.73	7	\$28,856,185	\$2,821,750	\$189,200	\$1,064,250	\$8,102,730	\$473,000	\$7,216,596	\$8,988,659
CC	5.23	7	\$29,906,929	\$3,422,838	\$209,200	\$1,176,750	\$8,067,743	\$523,000	\$7,260,999	\$9,246,400
DD	4.64	7	\$25,528,232	\$3,442,588	\$185,600	\$1,044,000	\$6,999,527	\$464,000	\$6,172,541	\$7,219,976
EE	4.99	7	\$26,239,758	\$3,463,688	\$199,600	\$1,122,750	\$6,952,628	\$499,000	\$6,238,009	\$7,764,084

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**CPS ENERGY'S SUPPLEMENTAL RESPONSE TO BEXAR RANCH, L.P.'S FIRST
REQUESTS FOR INFORMATION TO CPS ENERGY, QUESTIONS 1-1 AND 1-3**

Bexar Ranch Question No. 1-3:

Assuming a 100-foot right of way for its entire length, what is CPS Energy's "Estimated Total Cost" for each of the following routes:

- a. Route Z-1; and
- b. Route Z-2.

Supplemental Response No. 1-3 (April 26, 2021):

- a. See Supplemental Attachment.
- b. See Supplemental Attachment.

Supplemental Attachment (April 26, 2021):

Supplemental Attachment Bexar Ranch 1-3: Estimated Cost Data for Routes Z-1 and Z-2 with an assumed 100 feet of right of way for the entire length (REVISED 4-24-21), 1 page, Scott Lyssy, April 24, 2021

Prepared By: Scott D. Lyssy	Title: Manager Civil Engineering
Sponsored By: Scott D. Lyssy	Title: Manager Civil Engineering

CPS Energy CCN Application Amendment
(revised 12/23/2020)
Estimated Costs for Transmission Line and Substation Facilities (Z2 added for Bexar Ranch L P First RFI) (REVISED 4-24-21)

Table 1. Transmission and Substation Facilities Total Estimated Costs

Route	Total Length (miles)	Sub Site	**Estimated Total Cost	ROW & Land Acquisition	Engineering & Design (Utility)	Engineering & Design (Contract)	Procurement of Material & Equipment	Construction of Facilities (Utility)	Construction of Facilities (Contract)	Other
Z1	4.53	7	\$38,798,708	\$4,498,080	\$606,520	\$1,561,175	\$11,523,763	\$3,015,760	\$9,891,014	\$7,000,360
Z2	4.46	7	\$37,962,516	\$4,504,790	\$605,440	\$1,543,850	\$11,162,205	\$3,008,060	\$9,656,454	\$6,801,560

**Estimated Costs include a 10% Contingency for unknown project costs not evident at the time these estimates were created

Note: In this table, cost for right of way assumes 100 feet adjacent to all roadways, per the RFI request

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**CPS ENERGY'S ERRATA TO THE
REBUTTAL TESTIMONY OF SCOTT D. LYSSY, P.E.**

COMES NOW the City of San Antonio, acting by and through the City Public Service Board (CPS Energy) and files this Errata to the Rebuttal Testimony of Mr. Scott D. Lyssy, P.E. In preparing discovery responses for Brad Jauer's & BVJ Properties, L.L.C.'s Fifth Request for Information to CPS Energy, filed on April 14, 2021, CPS Energy became aware that a clarification was required for previously filed discovery responses and Mr. Lyssy's Rebuttal Testimony. Contemporaneous with this Errata to Mr. Lyssy's Rebuttal Testimony, CPS Energy is also filing supplemental discovery responses as appropriate. The Errata pages attached hereto should be substituted entirely for the same pages in Mr. Lyssy's previously filed Rebuttal Testimony.

In order to allow Mr. Jauer and Anaqua Springs Home Owners' Association (HOA) sufficient time to prepare for the Hearing on the Merits regarding the subject of this Errata Testimony and the discovery responses being supplemented today, CPS Energy agrees not to object to Mr. Jauer and Anaqua Springs HOA from addressing any aspect related to the subject of the Errata filing and the discovery supplements when the CPS Energy witness panel is being questioned in relation to their rebuttal testimony.

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Respectfully submitted,

/s/ Kirk D. Rasmussen

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ATTORNEYS FOR CPS ENERGY

CERTIFICATE OF SERVICE

I certify that a copy of this document was served on all parties of record on this date via the Commission's Interchange in accordance with SOAH Order No. 3.

/s/ Kirk D. Rasmussen

Kirk D. Rasmussen

**SOAH DOCKET NO. 473-21-0247
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REBUTTAL TESTIMONY OF SCOTT D. LYSSY, P.E.**

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EXHIBITS

Exhibit SDL-1R: Site 7 Preliminary Station Layout

Exhibit SDL-2R: Cost Estimates for Route AA2

Exhibit SDL-3R: Right of Way Proposed for Segment 54

Exhibit SDL-4R: Right of Way Example Along Road Curvature

1 Project will be constructed to withstand significant ice and wind loading (as established in
2 the National Electrical Safety Code (NESC)) beyond that ever reasonably anticipated to be
3 experienced in CPS Energy's service territory. I cannot envision a scenario in which the
4 steel mono-poles on concrete foundations would fall over and I am not aware of any
5 instances where that has happened in CPS Energy's service area. In the event of tornado-
6 like wind force, the construction of the poles for the Project will be designed to withstand
7 the wind to a much higher degree than the existing homes and structures in the area. Thus,
8 other structures in the area would be expected to fail long before the transmission line.

9 Second, because of the tension of the conductor (the "wires") on the poles proposed
10 for the Project, if the transmission line were to fail, the poles would be expected to most
11 likely fail within or 45 degrees to the right of way. Mr. Anderson's theoretical fall radius
12 testimony is not based on a reasonable theory of transmission line engineering.

13 **Q. MR. ANDERSON FURTHER TESTIFIES ABOUT THE RELOCATION RISK OF**
14 **CONSTRUCTING AND OPERATING THE PROPOSED PROJECT ALONG**
15 **TOUTANT BEAUREGARD ROAD. ARE MR. ANDERSON'S CONCERNS**
16 **VALID?**

17 A. No. As I describe in detail later in this rebuttal testimony, CPS Energy is proposing to
18 primarily locate the proposed poles for the Project 25 to 50 feet from the edge of the
19 road right of way. Under any foreseeable expansion of Toutant Beauregard Road,
20 Bexar County (the entity that maintains the roadway) will have more than sufficient
21 right of way to expand the roadway without impacting the Project facilities. Regardless,
22 Bexar County and CPS Energy have a long history of working cooperatively to relocate
23 and modify facilities to accommodate roadway projects. Finally, to the extent any of
24 Mr. Anderson's concerns were valid, the route Mr. Anderson recommends, Route
25 W, parallels another major roadway, Scenic Loop Road, for a significant portion of
26 its length, raising similar issues for that route.

27 **Q. MR. ANDERSON TESTIFIES THAT GROUNDING WILL BE NECESSARY TO**
28 **PROTECT HOMES ALONG SEGMENT 54. DO YOU AGREE?**

29 A. No, I do not. No grounding of any structures outside of the right of way proposed by this

1 Project is even remotely anticipated. Mr. Anderson does not present any engineering
2 basis for why such grounding would be necessary just because a structure may
3 ultimately be within a certain number of feet of the Project centerline. There are
4 many instances throughout the CPS Energy system where facilities such as wells,
5 homes, fences, signs, or commercial structures are safely constructed at the edge of
6 CPS Energy's transmission right of way without any grounding concerns. Mr.
7 Anderson's direct testimony about phantom grounding costs associated with Segment 54
8 have no engineering basis and should not be considered.

9 **Q. MR. ANDERSON RAISES QUESTIONS IN HIS TESTIMONY ABOUT**
10 **WHETHER THE RIGHT OF WAY WIDTH WILL BE 100 FEET OR 75 FEET IN**
11 **AREAS ADJACENT TO ROADWAYS. WHAT RIGHT OF WAY IS CPS ENERGY**
12 **PROPOSING IN THIS CASE?**

13 A. As stated in response to Question 6 of the Application, the right of way proposed for the Project is 100 feet.
14 Most measurements included in the Application, including within the Environmental Assessment that is
15 Attachment 1 to the Application, are based on a right of way width of 100 feet. That was done to ensure
16 CPS Energy would have sufficient space for each segment and route proposed in the Application to construct,
17 operate, and maintain the transmission line facilities proposed for the Project. As can be seen on Sheet 8
18 of Attachment 6 to the Application (original filing of 7/22/20), for approximately 1,300 feet
19 along Segment 54, less than 100 feet of right of way is proposed on private property in order to
20 maximize the distance to habitable structures and minimize the impact on the private
21 properties in that area. Exhibit SDL-3R shows the centerline and right of way proposed in
22 that area. Along that portion of Segment 54, road right of way will be utilized for
23 the necessary clearances. In a couple of other instances, slightly less than a total width
24 of 100 feet right of way is required on private property because of the curvature of
25 the roadway between poles. Exhibit SDL-4R shows an example of such an occurrence
26 in the area of the Anaqua Springs entranceway. Using less than a full 100 feet of right
27 of way on private property between the proposed pole placement allows CPS Energy to
28 span the area and leave as many existing trees with as little disruption to the entrance as
29 possible.

30 That being said, in all other areas, if CPS Energy can, adjacent to roadways, utilize the roadway
31 for clearance purposes and can thereby acquire less than 100 feet of right of way on private property
32 (minimizing the impact on the landowner on whose property the line will be located), CPS Energy
33 will explore whether that is reasonable to the extent such a modification can be made in accordance with
34 an order from the Commission approving the CCN amendment. Because I believe in most instances
35 it will be reasonable and acceptable to reduce the right of way adjacent to roadways, the cost estimates
36 included in the Application are based on the cost to acquire 75 feet of right of way adjacent to roadways.

1 Q. IF THE APPLICATION MEASUREMENTS ARE MOSTLY BASED ON 100
2 FEET AND SOME OF THE COST ESTIMATES ARE BASED ON ACQUISITION
3 OF 75 FEET OF RIGHT OF WAY, DOES THE APPLICATION UNDERSTATE
4 THE COST FOR ROUTES WITH SEGMENTS ADJACENT TO ROADWAYS?

5 A. No, it does not. In fact, because the Commission order will very likely require CPS Energy to
6 work with landowners crossed by an approved route for the Project to minimize the
7 impact of the Project, it is reasonable and appropriate for the Application to reflect the cost of
8 the right of way I reasonably anticipate CPS Energy will actually require for each
9 segment of the Project.

10 Q. DOES LESS RIGHT OF WAY ON PRIVATE PROPERTY REQUIRE CLOSE
11 POLE SPACING AS MR. ANDERSON ASSERTS IN HIS DIRECT TESTIMONY?

12 A. Not necessarily. As I have examined each segment for the Project for preliminary structure
13 spotting, the 75 feet of right of way would likely assume the pole line is centered 25 feet
14 from the edge of the road right of way and utilize the roadway for the additional 25 feet of
15 clearances for the Project. Thus, the pole placement would still utilize 100 feet of
16 transmission line clearances (75 feet on private property and 25 feet of clearances in the
17 road right of way). CPS Energy could utilize this strategy because it would not have
18 concerns regarding Bexar County constructing structures in the roadway that would impact
19 the transmission line clearances. As I stated previously, however, if CPS Energy had a
20 particular concern, in consultation with Bexar County, the Application currently proposes
21 100 feet of clearance on private property for most all of the segments.

22 Q. ARE THE GAS, WATER, AND ELECTRIC DISTRIBUTION FACILITIES
23 LOCATED WITHIN THE ROAD RIGHT OF WAY OF TOUTANT
24 BEAUREGARD ROAD A CONCERN, AS DISCUSSED BY MR. JAUER AND MR.
25 CICHOWSKI IN HIS PERSONAL TESTIMONY?

26 A. No. All of the facilities of which I am aware, including natural gas distribution lines, water
27 lines, communication lines, and electric distribution lines are not located in an area of the
28 road right of way that will impact the proposed segments along the roadway.
29 Neighborhood distribution level service facilities will generally be at least 25 feet from the
30 pole centerline (if 75 feet of right of way is acquired on private property)

1 and 50 feet from the pole centerline as primarily proposed in the Application. I do not
2 anticipate any reasonable Project interference with these types of neighborhood
3 distribution utility facilities.

4 **Q. IN HIS PERSONAL TESTIMONY, MR. CICHOWSKI DISCUSSES TWO BEXAR**
5 **COUNTY BRIDGE PROJECTS THAT MAY BE UNDERTAKEN ALONG**
6 **TOUTANT BEAUREGARD ROAD IN THE FUTURE. ARE YOU FAMILIAR**
7 **WITH THESE PROJECTS?**

8 A. From my review of publicly available information on the Bexar County website, I am
9 generally familiar with the projects Mr. Cichowski discusses in his testimony. These are
10 the types of projects that Bexar County undertakes regularly within its road rights of way.
11 I do not anticipate any impact to the transmission line facility alignment along Toutant
12 Beauregard Road because of these current Bexar County projects or any similar future
13 projects. These projects regularly occur throughout Bexar County and in proximity to CPS
14 Energy's transmission line facilities. CPS Energy and Bexar County have a long history of
15 working cooperatively with respect to adjacent projects. In this instance, the centerline
16 alignments proposed by CPS Energy along Toutant Beauregard are sufficiently distant
17 from the edge of the road right of way that I do not anticipate any cross impacts between
18 the projects.

19 **Q. MR. ANDERSON STATES THAT SEGMENT 54 IS MORE DANGEROUS TO**
20 **THE COMMUNITY DUE TO AN INCREASED RISK OF VEHICLE**
21 **COLLISIONS. DO YOU AGREE?**

22 A. No. As stated above, the transmission line pole centerline will be primarily located
23 interior to the road right of way and there are existing electric distribution lines located
24 within the road right of way on both sides of the road in the area of Segment 54 with
25 poles approximately every 100 to 150 feet. If the Project is approved along a
26 route utilizing Segment 54, it will likely be located interior to or in-line with the
27 existing distribution poles with far fewer poles (anticipated to be





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SCENIC LOOP 138-KV TRANSMISSION § ADMINISTRATIVE HEARINGS
LINE IN BEXAR COUNTY §**

**CPS ENERGY'S SUPPLEMENTAL RESPONSE TO ANAQUA SPRINGS
HOMEOWNERS' ASSOCIATION'S SECOND REQUEST
FOR INFORMATION QUESTIONS 2-5, 2-7, 2-8, 2-9, 2-10, 2-11, 2-12, AND 2-15**

Anaqua Springs Question No. 2-5:

Regarding Segment 54, please provide the anticipated distance from the edge of the right-of-way to Habitable Structure Nos. 79, 178, 81, 85, 86, 87, 88 and 89 on the north side of Toutant Beauregard Road (EA Figure 4-1) and Habitable Structure Nos. 70, 72, 78, and 80 on the south side of Toutant Beauregard. Please provide a sketch or drawing showing anticipated ROW easement width, structure spacing and locations for Segment 54 given the need to follow the sharp curve in the road and proximity to housing. Is it accurate that in this stretch of 54, CPS plans to use a 75-foot right-of-way with structures spaced more closely together? If not, how will this segment be constructed?

Supplemental Response No. 2-5 (April 26, 2021):

The approximate distance from the edge of the right-of-way to the habitable structures identified above are as follows:

Habitable Structure No.	Approximate Distance (feet)
70	156
72	154
78	119
79	165
80	152
81	32
85	108
86	112
87	250
88	72
89	84
178	163

As stated in response to Question 6 of the Application and on page 1-1 of the Environmental Assessment, which is Attachment 1 to the Application, it is currently anticipated that the proposed transmission line facilities will be constructed utilizing a right-of-way width of approximately 100 feet.

As can be seen on Sheet 8 of Attachment 6 to the Application (original filing of 7/22/20), for approximately 1,300 feet along Segment 54, less than 100 feet of right of way is proposed on private property in order to maximize the distance to habitable structures and minimize the impact on the private properties in that area. Exhibit SDL-3R to the Rebuttal Testimony of Mr. Scott D. Lyssy shows the centerline and right of way proposed in that area. Along that portion of Segment 54, road right of way will be utilized for the necessary clearances.

Prepared By:	Lisa B. Meaux	Title:	Project Manager, POWER Engineers, Inc.
	Scott D. Lyssy	Title:	Manager Civil Engineering
Sponsored By:	Lisa B. Meaux	Title:	Project Manager, POWER Engineers, Inc.
	Scott D. Lyssy	Title:	Manager Civil Engineering

**SOAH DOCKET NO. 473-21-0247
PUC DOCKET NO. 51023**

APPLICATION OF THE CITY OF	§	BEFORE THE STATE OFFICE
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**CPS ENERGY'S SUPPLEMENTAL RESPONSE TO ANAQUA SPRINGS
HOMEOWNERS' ASSOCIATION'S SECOND REQUEST
FOR INFORMATION QUESTIONS 2-5, 2-7, 2-8, 2-9, 2-10, 2-11, 2-12, AND 2-15**

Anaqua Springs Question No. 2-7:

How many transmission structures does CPS anticipate will be located on Segment 14? How many structures on Segment 54, 36, and 20? And what will the approximate distance be between each structure, given the 75-foot right-of-way?

Supplemental Response No. 2-7 (April 26, 2021):

As stated in response to Question 6 of the Application and on page 1-1 of the Environmental Assessment, which is Attachment 1 to the Application, it is currently anticipated that the proposed transmission line facilities will be constructed utilizing a right of way width of approximately 100 feet.

As can be seen on Sheet 8 of Attachment 6 to the Application (original filing of 7/22/20), for approximately 1,300 feet along Segment 54, less than 100 feet of right of way is proposed on private property in order to maximize the distance to habitable structures and minimize the impact on the private properties in that area. Exhibit SDL-3R to the Rebuttal Testimony of Mr. Scott D. Lyssy shows the centerline and right of way proposed in that area. Along that portion of Segment 54, road right of way will be utilized for the necessary clearances. Along Segments 14, 20, and 36, less than a full 100 feet of right of way will be required on private property in some locations due to the curvature or the road between pole locations and crossings of Toutant Beauregard Road. Refer to Exhibit SDL-4R to the Rebuttal Testimony of Mr. Lyssy for a depiction of such an occurrence.

The survey, geotechnical, and engineering work necessary to design the proposed transmission line facilities along Segments 14, 20, 36, and 54 have not yet been completed. Thus, CPS Energy cannot yet identify where pole structures will be located or the exact number of poles along those segments. For preliminary estimating, the following structure count and span lengths were used.

Segment	Number of Structures	Estimated Average Span Length
14	4	550 feet
54	9	465 feet
36	6	500 feet
20	6	630 feet

Prepared By: Scott D. Lyssy
Sponsored By: Scott D. Lyssy

Title: Manager Civil Engineering
Title: Manager Civil Engineering

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**CPS ENERGY'S SUPPLEMENTAL RESPONSE TO ANAQUA SPRINGS
HOMEOWNERS' ASSOCIATION'S SECOND REQUEST
FOR INFORMATION QUESTIONS 2-5, 2-7, 2-8, 2-9, 2-10, 2-11, 2-12, AND 2-15**

Anaqua Springs Question No. 2-8:

Please provide the estimated structure heights and conductor arms lengths for the portions of Segments 14, 54, 20, and 36 that are planned to have a 75 foot right-of-way.

Supplemental Response No. 2-8 (April 26, 2021):

As stated in response to Question 6 of the Application and on page 1-1 of the Environmental Assessment, which is Attachment 1 to the Application, it is currently anticipated that the proposed transmission line facilities will be constructed utilizing a right of way width of approximately 100 feet.

As can be seen on Sheet 8 of Attachment 6 to the Application (original filing of 7/22/20), for approximately 1,300 feet along Segment 54, less than 100 feet of right of way is proposed on private property in order to maximize the distance to habitable structures and minimize the impact on the private properties in that area. Exhibit SDL-3R to the Rebuttal Testimony of Mr. Scott D. Lyssy shows the centerline and right of way proposed in that area. Along that portion of Segment 54, road right of way will be utilized for the necessary clearances. Along Segments 14, 20, and 36, less than a full 100 feet of right of way will be required on private property in some locations due to the curvature or the road between pole locations and crossings of Toutant Beauregard Road. Refer to Exhibit SDL-4R to the Rebuttal Testimony of Mr. Lyssy for a depiction of such an occurrence.

The survey, geotechnical, and engineering work necessary to design the proposed transmission line facilities along Segments 14, 20, 36, and 54 have not yet been completed. Thus, CPS Energy cannot yet identify the exact structure heights that may be required in that area. As stated in response to Question 5 of the Application, the heights of typical structures proposed for the Project range from 70 to 130 feet above ground. CPS Energy anticipates that most or all of the poles utilized for Segments 14, 20, 36, and 54 will likely fall within that range.

The length of the arms currently anticipated for use by CPS Energy for the Project (see Application Attachment 1, Figures 1-2 through 1-4) will extend approximately 12-15 feet from the center of the pole. For a single circuit dead end pole, there will not be arms extending from the pole (see Application Attachment 1, Figure 1-5).

Prepared By: Scott D. Lyssy
Sponsored By: Scott D. Lyssy

Title: Manager Civil Engineering
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**CPS ENERGY'S SUPPLEMENTAL RESPONSE TO ANAQUA SPRINGS
HOMEOWNERS' ASSOCIATION'S SECOND REQUEST
FOR INFORMATION QUESTIONS 2-5, 2-7, 2-8, 2-9, 2-10, 2-11, 2-12, AND 2-15**

Anaqua Springs Question No. 2-9:

If the transmission line were to fail during a storm and fall towards the houses within a 75 foot right-of-way on Segments 14, 54, 36, 20, and any other portions along Toutant Beauregard with 75 foot rights-of-way, are any houses within the fall radius of either the structures or conductors, given due regard to conductor sag being extended towards the houses?

Supplemental Response No. 2-9 (April 26, 2021):

The transmission line proposed in this proceeding will be designed to meet or exceed all safety and clearance requirements applicable to the facilities, including the current version of the National Electrical Safety Code. The transmission line facilities proposed in this Project are not anticipated to ever fail during a storm and fall. However, as a general design principle, the transmission line, if it does fail, it will likely fail within the right of way.

Because the transmission line has not been designed and pole heights and conductor clearances have not yet been determined, CPS Energy cannot determine whether any structures are located within a theoretical fall radius of the proposed facilities.

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	Scott D. Lyssy	Title:	Manager Civil Engineering
Sponsored By:	Lisa B. Meaux	Title:	Project Manager, POWER Engineers, Inc.
	Scott D. Lyssy	Title:	Manager Civil Engineering

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**CPS ENERGY'S SUPPLEMENTAL RESPONSE TO ANAQUA SPRINGS
HOMEOWNERS' ASSOCIATION'S SECOND REQUEST
FOR INFORMATION QUESTIONS 2-5, 2-7, 2-8, 2-9, 2-10, 2-11, 2-12, AND 2-15**

Anaqua Springs Question No. 2-10:

What is the distance between the end of the nearest conductor arm and the closest edge of the houses, including the roof lines, on segments along Toutant Beauregard with 75 foot rights-of-way?

Supplemental Response No. 2-10 (April 26, 2021):

As stated in response to Question 6 of the Application and on page 1-1 of the Environmental Assessment, which is Attachment 1 to the Application, it is currently anticipated that the proposed transmission line facilities will be constructed utilizing a right-of-way width of approximately 100 feet.

As can be seen on Sheet 8 of Attachment 6 to the Application (original filing of 7/22/20), for approximately 1,300 feet along Segment 54, less than 100 feet of right of way is proposed on private property in order to maximize the distance to habitable structures and minimize the impact on the private properties in that area. Exhibit SDL-3R to the Rebuttal Testimony of Mr. Scott D. Lyssy shows the centerline and right of way proposed in that area. Along that portion of Segment 54, road right of way will be utilized for the necessary clearances. Along Segments 14, 20, and 36, less than a full 100 feet of right of way will be required on private property in some locations due to the curvature or the road between pole locations and crossings of Toutant Beauregard Road. Refer to Exhibit SDL-4R to the Rebuttal Testimony of Mr. Lyssy for a depiction of such an occurrence. In all segment locations adjacent to roadways, the proposed segments are identified with 50 feet of right of way on private property opposite of the roadway. Exhibits SDL-3R and SDL-4R to the Rebuttal Testimony of Mr. Lyssy depict such right of way.

For purposes of answering this question, it is presumed that the conductor will extend approximately 15 feet from the pole centerline on conductor arms as described in CPS Energy's response to Anaqua Springs Question No. 2-8. Subtracting 15 feet (as an average) from the previously reported distances to habitable structures along Toutant Beauregard Road results in the following approximate distances between the end of the nearest conductor arm and the habitable structures along Toutant Beauregard Road:

Habitable Structure No.	Approximate Distance (feet)
17	199
18	147
55	289
58	214
67	217
69	193
70	191
71	236
72	189
73	229
74	213
75	215
76	245
77	252
78	154
79	200
80	187
81	67
82	236
83	192
84	199
85	143
86	147
88	107
89	119
90	269
91	208
92	249
93	185
94	209
95	264
96	265
97	180
98	226
99	226
100	229
101	250
102	251
103	248
104	196
105	240
178	198

Prepared By: Lisa B. Meaux
Scott D. Lyssy
Sponsored By: Lisa B. Meaux
Scott D. Lyssy

Title: Project Manager, POWER Engineers, Inc.
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**CPS ENERGY'S SUPPLEMENTAL RESPONSE TO ANAQUA SPRINGS
HOMEOWNERS' ASSOCIATION'S SECOND REQUEST
FOR INFORMATION QUESTIONS 2-5, 2-7, 2-8, 2-9, 2-10, 2-11, 2-12, AND 2-15**

Anaqua Springs Question No. 2-11:

What is the estimated mid-span height above ground for the lowest conductor along Toutant Beauregard where there are 75-foot rights-of-way?

Supplemental Response No. 2-11 (April 26, 2021):

As stated in response to Question 6 of the Application and on page 1-1 of the Environmental Assessment, which is Attachment 1 to the Application, it is currently anticipated that the proposed transmission line facilities will be constructed utilizing a right-of-way width of approximately 100 feet.

As can be seen on Sheet 8 of Attachment 6 to the Application (original filing of 7/22/20), for approximately 1,300 feet along Segment 54, less than 100 feet of right of way is proposed on private property in order to maximize the distance to habitable structures and minimize the impact on the private properties in that area. Exhibit SDL-3R to the Rebuttal Testimony of Mr. Scott D. Lyssy shows the centerline and right of way proposed in that area. Along that portion of Segment 54, road right of way will be utilized for the necessary clearances. Along Segments 14, 20, and 36, less than a full 100 feet of right of way will be required on private property in some locations due to the curvature or the road between pole locations and crossings of Toutant Beauregard Road.

The survey, geotechnical, and engineering work necessary to design the proposed transmission line facilities along Toutant Beauregard Road has not yet been completed. Thus, CPS Energy cannot yet identify the exact structure heights and clearances that may be required in that area. The transmission line proposed in this proceeding will be designed to meet or exceed all safety and clearance requirements applicable to the facilities, including the current version of the National Electrical Safety Code. At a minimum, the clearances above ground for the proposed transmission line facilities along Toutant Beauregard Road (and for all other proposed segments) will exceed 20.6 feet required by the NESC plus five feet of buffer utilized by CPS Energy in its standard design practices.

Prepared By:	Scott D. Lyssy	Title:	Manager Civil Engineering
Sponsored By:	Scott D. Lyssy	Title:	Manager Civil Engineering

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HOMEOWNERS' ASSOCIATION'S SECOND REQUEST
FOR INFORMATION QUESTIONS 2-5, 2-7, 2-8, 2-9, 2-10, 2-11, 2-12, AND 2-15**

Anaqua Springs Question No. 2-12:

Please advise if homes, playground equipment, fences, metal roofing, gutters and downspouts, etc. along Toutant Beauregard where there is 75 foot right-of-way anticipated, including Segments 14, 54, 20, and 36, or any location where there is a planned 75 foot right-of-way would need cathodic protection grounding systems installed to protect inhabitants from induced currents?

Supplemental Response No. 2-12 (April 26, 2021):

As stated in response to Question 6 of the Application and on page 1-1 of the Environmental Assessment, which is Attachment 1 to the Application, it is currently anticipated that the proposed transmission line facilities will be constructed utilizing a right-of-way width of approximately 100 feet.

As can be seen on Sheet 8 of Attachment 6 to the Application (original filing of 7/22/20), for approximately 1,300 feet along Segment 54, less than 100 feet of right of way is proposed on private property in order to maximize the distance to habitable structures and minimize the impact on the private properties in that area. Exhibit SDL-3R to the Rebuttal Testimony of Mr. Scott D. Lyssy shows the centerline and right of way proposed in that area. Along that portion of Segment 54, road right of way will be utilized for the necessary clearances. Along Segments 14, 20, and 36, less than a full 100 feet of right of way will be required on private property in some locations due to the curvature or the road between pole locations and crossings of Toutant Beauregard Road.

No cathodic protection is required or will be installed to safely operate the proposed transmission line facilities along any segment proposed for the Project, including those identified in this question. As a prudent utility operator, CPS Energy will ensure appropriate grounding, if necessary, for any of the facilities proposed for construction of the Project.

Prepared By: Scott D. Lyssy	Title: Manager Civil Engineering
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HOMEOWNERS' ASSOCIATION'S SECOND REQUEST
FOR INFORMATION QUESTIONS 2-5, 2-7, 2-8, 2-9, 2-10, 2-11, 2-12, AND 2-15**

Anaqua Springs Question No. 2-15:

Regarding CPS Energy's Response to Statements on Route Adequacy, Page 7, Paragraph No. 3, entitled "Segment 54," please describe in detail how CPS "avoids habitable structures to the extent reasonable" along Segment 54.

Supplemental Response No. 2-15 (April 26, 2021):

Where possible, CPS Energy and POWER avoided the habitable structures on Segment 54 by identifying the location for the segment across the road from the habitable structures. When necessary to be on the same side of the road as the habitable structures, Segment 54 parallels the roadway as opposed to being directly located over the habitable structures. *As can be seen on Sheet 8 of Attachment 6 to the Application (original filing of 7/22/20), for approximately 1,300 feet along Segment 54, less than 100 feet of right of way is proposed on private property in order to maximize the distance to habitable structures and minimize the impact on the private properties in that area. Exhibit SDL-3R to the Rebuttal Testimony of Mr. Scott D. Lyssy shows the centerline and right of way proposed in that area. Along that portion of Segment 54, road right of way will be utilized for the necessary clearances.*

Prepared By: Lisa B. Meaux	Title: Project Manager, POWER Engineers, Inc.
Sponsored By: Lisa B. Meaux	Title: Project Manager, POWER Engineers, Inc.

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**CPS ENERGY'S SECOND SUPPLEMENTAL RESPONSE TO BRAD JAUER'S
AND BVJ PROPERTIES, L.L.C.'S SECOND REQUESTS
FOR INFORMATION TO CPS ENERGY, QUESTION 2-2**

Brad Jauer & BVJ Properties RFI 2-2:

According to the Scenic Loop CE Spreadsheet Final 12-18-2020, Segment 54 is predicted to have a 75-foot ROW. However, the answers to RFIs AS 2-4 and 2-5 appear to be based on a 100-foot ROW. Please clarify.

Supplemental Response No. 2-2 (April 26, 2021):

As stated in response to Question 6 of the Application and on page 1-1 of the Environmental Assessment, which is Attachment 1 to the Application, it is currently anticipated that the proposed transmission line facilities will be constructed utilizing a right of way width of approximately 100 feet. Thus, all of the routes presented in the Application and Amended Application as delineated by POWER Engineers, Inc. and all of the measurements presented in the Application and Amended Application assume a 100 foot right of way in order to present the widest possible impact of the transmission line on the community and the closest possible expected distance of the facilities to measured resources (including habitable structures). As CPS Energy also explained in previous discovery responses in this proceeding (refer to CPS Energy's responses to Anaqua Springs Question Nos. 2-5, 2-6, and 2-7), the survey, geotechnical, and engineering work necessary to design the proposed transmission line facilities has not yet been completed. Thus, CPS Energy cannot yet identify where pole structures will be located nor whether ***less right of way on private property*** may be required along some portions of those segments, particularly along road rights of way. In some areas along road rights of way, CPS Energy may be able to utilize ***less than 100 feet of right of way on private property and use*** the road right of way for the clearances necessary to safely operate the transmission line facilities.

As can be seen on Sheet 8 of Attachment 6 to the Application (original filing of 7/22/20), for approximately 1,300 feet along Segment 54, less than 100 feet of right of way is proposed on private property in order to maximize the distance to habitable structures and minimize the impact on the private properties in that area. Exhibit SDL-3R to the Rebuttal Testimony of Mr. Scott D. Lyssy shows the centerline and right of way proposed in that area. Along that portion of Segment 54, road right of way will be utilized for the necessary clearances. In a couple of other instances, slightly less than a total width of 100 feet right of way is required on private

property because of the curvature of the roadway between poles. Exhibit SDL-4R to Mr. Lyssy's Rebuttal Testimony shows an example of such an occurrence in the area of the Anaqua Springs entranceway. Using less than a full 100 feet of right of way on private property between the proposed pole placement allows CPS Energy to span the area and leave as many existing trees with as little disruption to the entrance as possible.

As stated above, in order to present the Public Utility Commission of Texas and interested members of the community with the widest possible impact of the transmission line on the community and the closest possible distance of the facilities to measured resources (and to ensure notice to owners of habitable structures within 300 feet of such locations), CPS Energy delineated ***most all of the*** route segments presented in this proceeding with a 100 foot right of way ***on private property***. In determining reasonably anticipated costs to construct several of the segments proposed along road rights of way, however, CPS Energy's real estate experts assumed ***less*** right of way acquisition would be required (75 feet) ***on private property***. Thus, there were not specific or particular constraints related to utilizing a reduced right of way cost estimate, rather it was based on location adjacent to existing road rights of way.

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	Scott D. Lyssy	Title:	Manager Civil Engineering
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	Scott D. Lyssy	Title:	Manager Civil Engineering

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**CPS ENERGY'S SUPPLEMENTAL RESPONSE TO BRAD JAUER'S
AND BVJ PROPERTIES, L.L.C.'S
THIRD REQUEST FOR INFORMATION TO CPS ENERGY**

Brad Jauer & BVJ Properties RFI 3-1:

Regarding Segment 36 where it runs along the north side of Brad Jauer/BVJ Properties, LLC property (i.e., Tract No. C-014 as per the Landowner Notice List, which is Attachment 8 of the Application; and Tract No. 1A-86 as per the Intervenor Map, Rev. 14), please confirm:

- i) the general height of the ledge or cliff that runs along the north side of the property and the south side of the Toutant Beauregard right-of-way, and its distance from the centerline of Toutant Beauregard's right of way;
- ii) the width of the Toutant Beauregard right-of-way along the north side of the property and whether the ledge/cliff is within that right-of way, and, if not, how far outside does it lie;
- iii) the width of the right-of-way of the distribution line that already exists along the north side of the property;
- iv) whether the distribution line's right-of way abuts and/or overlaps the Toutant Beauregard right-of-way and, if it does neither, what is the distance between the two rights-of-way, and, if it overlaps, what is the width of the overlap;
- v) the distance of the centerline of the distribution line's right-of-way from the centerline of Toutant Beauregard's right-of-way;
- vi) the width of Segment 36's right-of-way where it runs along the north side of the property (e.g., is it 75 feet or 100 feet wide?);
- vii) whether Segment 36's right-of-way will abut and/or overlap the distribution line's right-of-way along the north side of the property, and, if it does neither, what is the distance between the two rights-of-way, and, if it overlaps, what is the width of the overlap; and
- viii) the distance of the centerline of Segment 36's right-of-way from the centerline of Toutant Beauregard's right-of-way.

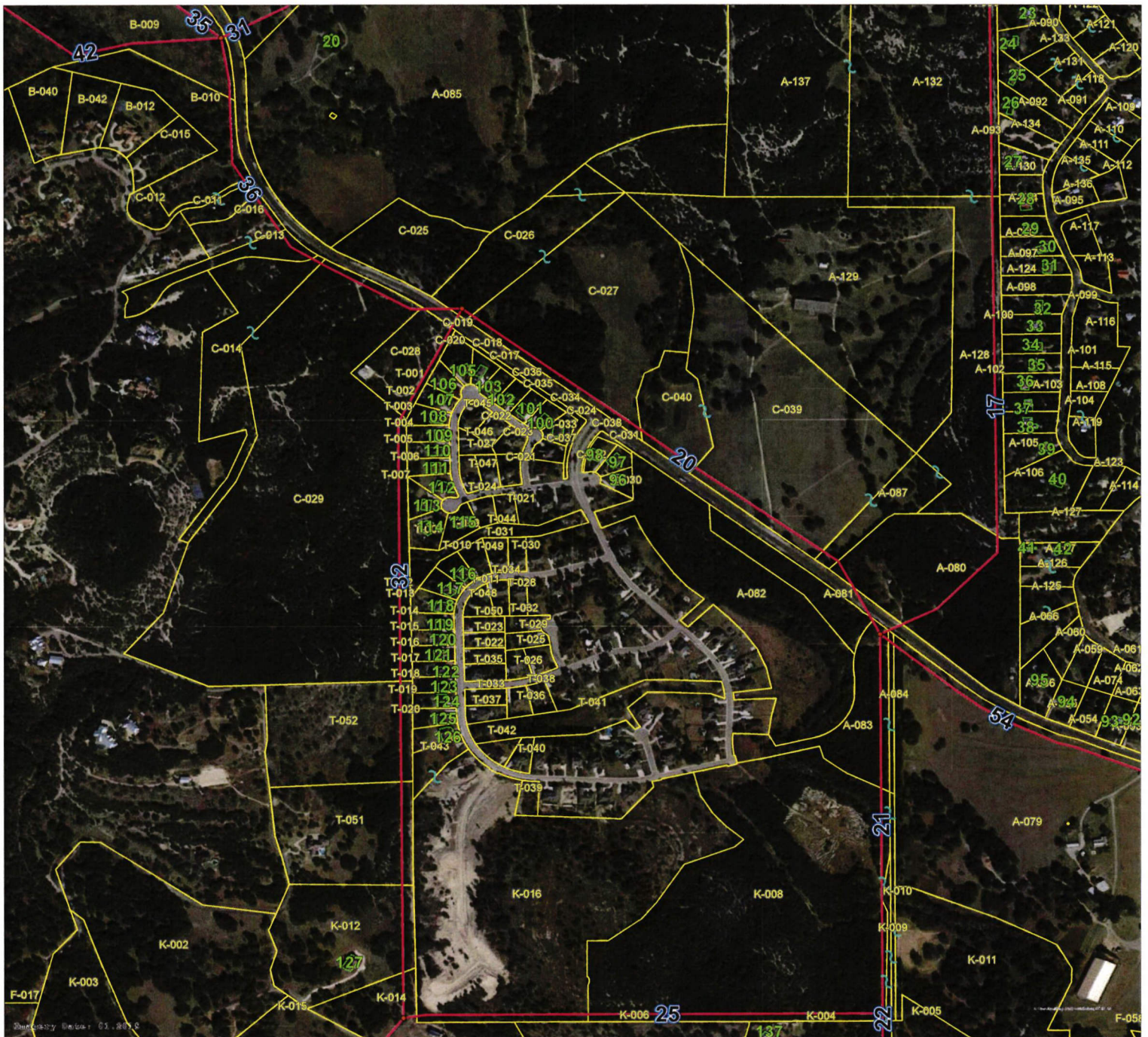
Supplemental Response No. 3-1 (April 26, 2021):

- vi) *Refer to CPS Energy's response to Brad Jauer & BVJ Properties RFI 2-2. As noted in that response and the Rebuttal Testimony of Mr. Scott Lyssy, including Exhibit SDL-4R, in some areas, due to the curvature of Toutant Beauregard Road, although the*

preliminary pole placements are within 100 feet of right of way on private property, the amount of right of way necessary on private property may be slightly less than 100 feet between the poles. In this area, the right of way on private property is approximately 75 feet at the narrowest location between the poles. Exhibit SDL-4R to Mr. Lyssy's Rebuttal Testimony depicts the right of way on private property in this area.

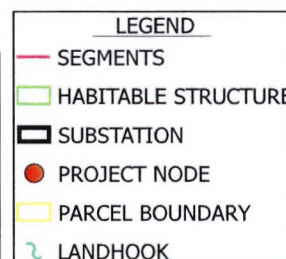
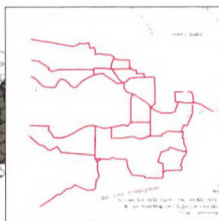
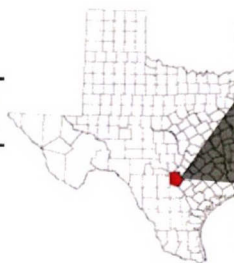
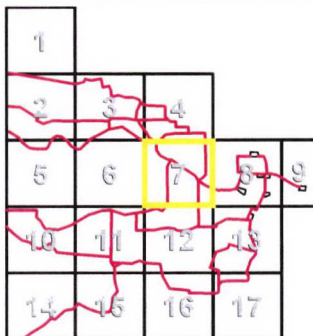
Prepared By:	Lisa B. Meaux	Title:	Project Manager, POWER Engineers, Inc.
	Scott D. Lyssy	Title:	Manager Civil Engineering
Sponsored By:	Lisa B. Meaux	Title:	Project Manager, POWER Engineers, Inc.
	Scott D. Lyssy	Title:	Manager Civil Engineering

Attachment 6



CPS Energy is the nation's largest municipally owned energy utility providing both natural gas and electric service. We serve more than 840,750 electric customers and 352,585 natural gas customers in and around San Antonio, the nation's seventh largest city. This map has been produced by CPS Energy for its own use. Accordingly, certain information, features or details may have been emphasized over others or may have been left out. CPS Energy does not warrant the accuracy of this map, either as to scale, accuracy or completeness.

Prepared by Refined Land Services.
07.06.2020

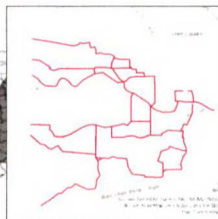
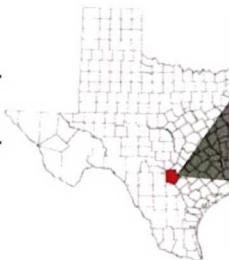
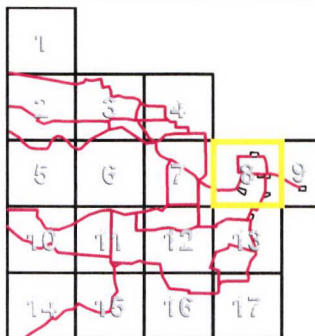


Scenic Loop
138kv Electric Transmission Project
Location of Directly Affected Parcels and Habitable Structures

0 0.08 0.15 Miles



Sheet 7 of 17
36"x42"



LEGEND

- SEGMENTS
- HABITABLE STRUCTURE
- SUBSTATION
- PROJECT NODE
- PARCEL BOUNDARY
- LANDHOOK

138kv Electric Transmission Project

Location of Directly Affected Parcels and Habitable Structures



Sheet 8 of 17
36"x42"

**SOAH DOCKET NO. 473-21-0247
PUC DOCKET NO. 51023**

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

AFFIDAVIT OF STEVE CICHOWSKI

STATE OF TEXAS §
 §
COUNTY OF BEXAR §

Before me, the undersigned authority, on this day personally appeared Steve Cichowski, known to me to be the person whose name is subscribed to the following Affidavit, and after having been duly sworn on his oath, stated and deposes as follows:

"My name is Steve Cichowski. I am over eighteen (18) years of age, have never been convicted of a felony or crime of moral turpitude, am of sound mind, and am competent to make this affidavit. The facts stated herein are within my personal knowledge and are true and correct.

I am an attorney duly licensed to practice law in the State of Texas since November 1995. I am the attorney of record representing myself as an Intervenor in the above styled and numbered proceeding. I am also the representative of Intervener Anaqua Springs Ranch Homeowner's Association and assisting lead counsel in this proceeding. I am licensed in all of the state courts of Texas, the United States District Court for the Southern District of Texas, the United States District Court for the Western District of Texas, the United States Court of Appeals for the Fifth (5th) Circuit, and the United States Court of Federal Claims. Since being licensed I have practiced almost exclusively in civil litigation, including, but not limited to, personal injury claims, oil and gas litigation, business disputes, automotive products liability cases, condemnation cases, and cases involving issues of international law. I am board-certified in personal injury trial law by the Texas Board of Legal Specialization. I am a Registered Professional Engineer in the State of Texas (inactive).

I have prepared this Affidavit in support of a Motion for Continuance and other Relief filed on behalf of Anaqua Springs Homeowner's Association and other parties in which I am joining in my individual capacity as an Intervener. I have just been informed that Applicant CPS Energy has proffered incorrect discovery and testimony on material issues affecting this proceeding. I refer to the Motion to which this affidavit is attached to

summarize the inaccuracies. The incorrect testimony is material in that it deals with the actual location of a proposed 138kV transmission line in relation to the properties it crosses. This is not some intermediate or tangential issue, but the very heart of this proceeding. To acknowledge this mistake at this late hour is extremely prejudicial to my individual case as well as that of Anaqua Springs HOA (ASRHOA). I personally spent many hours investigating and preparing my testimony based on the assumption that the right of way for this line would likely not utilize any public right of way. After submitting my direct testimony on the potential effects of that scenario I received Requests for Information from CPS which was clearly meant as cross-examination and was itself based on the assumption that some public right of way would be used along Toutant Beauregard for the construction of the proposed line. That assumption, that the line would utilize existing right of way, was confirmed through the testimony of CPS Energy's representatives. This required I revisit all of my previous analysis, reconsider its effect on my testimony, respond to the discovery directed to me, and completely redevelop my hearing strategy as both a direct Intervener and the representative of Anaqua Springs. To learn at this late hour that CPS had provided incorrect testimony and responses to discovery request is highly prejudicial. I now have to re-read the corrected testimony and discovery responses, develop yet another strategy, review my own responses for accuracy in light of the new information, analyze the effect of this information to our overall position, confer with counsel on the aforementioned, and prepare for a seven day hearing; all in the next 7 days. CPS Energy filed its revised discovery responses and its revised testimony less than one week before hearing. I cannot adequately and fairly do that prior to the hearing on the merits as it is currently scheduled. Forcing the Interveners to adhere to the hearing schedule under these circumstances is extremely prejudicial.

In addition to being unable to adequately prepare for the hearing on the merits, the ASRHOA has incurred substantial excess attorney fees because of this "mistake". ASRHOA is a member funded non-profit corporation whose only revenue is from fixed annual assessments. Unlike CPS, it does not have a bottomless well of funds to draw from. ASRHOA has expended substantial attorney fees and expert expenses preparing for the scheduled hearing based on the information provided by CPS and the sworn testimony of its representatives. It cannot afford to pay twice for that effort. ASRHOA has no means to "specially assess" its members for litigation costs. If CPS is not ordered to pay for ASRHOA's attorney fees incurred because of its "mistake", it may be excluded from participating further in this proceeding. This is not due to any negligence, mistake, or conscious indifference on the part of ASRHOA, but solely due to the actions of CPS Energy.

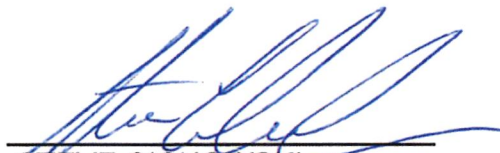
Because of this "mistake" I have incurred substantial attorney time that cannot be recovered or put to double use. The tasks identified above will have to be repeated in order to adequately prepare for a hearing on the merits. If not compensated, I will be unable to continue taking an active part in this proceeding. This would-be an extraordinarily unfair result as a consequence of CPS providing incorrect information and testimony. CPS is not an unsophisticated party. It should not be allowed to prevail through attrition.

The rate of \$500.00/hour is a reasonable rate for this particular type of case, which

involves complex issues of law regarding the interplay between administrative proceedings and civil law, as well as aspects of legislative grants of authority and procedural rights and remedies. As part of my experience as an attorney, I am familiar with the reasonable rates for different types of services performed by attorneys. In addition to my personal experience, I have reviewed the State Bar of Texas periodic analytical surveys on attorney's fees to assist in determining what fees are fair and reasonable. Professional publications such as *Texas Lawyer* also conduct billing rate surveys within different geographical regions to help in determining what rates are fair and reasonable for those areas. According to the 2013 *Texas Lawyer* billing rate survey for the Austin/San Antonio area, the median hourly billing rate for an equity partner is \$353.00, for a non-equity partner, \$355.00, and for a seventh-year associate, \$295.00. These rates are over seven years old and should be considered in that light. In addition to the aforementioned, various trade publications indicate that a billing rate of \$500/hour for a board-certified, experienced attorney on a complicated litigation matter is more than fair and reasonable. A United States Consumer Law Attorney Fee Survey Report for the years 2015-2016 indicates that the average hourly rate for an attorney practicing consumer law with 21-25 years experience is \$400.00. Perhaps the most widely followed set of rates are what is called the Laffey Matrix available from the United States Attorney's Office for the District of Columbia. These have been available since 1982 and are updated annually. Hourly rates are shown by years of experience. For June 1, 2020, to May 31, 2021, the rates are as follows: 20+ years of experience, \$914 per hour; 11-19 years, \$759; 8-10 years, \$672; 4-7 years, \$465; 1-3 years, \$378; and paralegals and law clerks, \$206. These rates reflect the average for the Baltimore-Washington D.C. area and should be considered in that light. I have also reviewed published opinions of the United States Court of Claims involving fee applications by attorney's practicing in that court. Additionally, the attorney fee analysis by Judge Nelva Gonzales Ramos in the case of *Veasy v. Abbott*, No. 2:13-CV-193 (S.D. Tex. May 27, 2020) is very instructive on the fair and reasonable rate for South Texas. In that case Judge Ramos conducted a 106 page analysis to determine the appropriate hourly rate for attorneys practicing in the South Texas region. Based on all of the above, \$500.00 per hour is a fair and reasonable rate for a lawyer of my expertise, experience, and training.

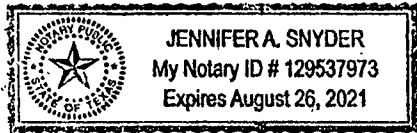
I have been active in this proceeding since CPS first made its application. For performing the tasks identified above which will have to be repeated as a result of CPS Energy's mistake, I incurred 22 hours in time. At \$500.00 per hour that is the equivalent to **\$11,000.00**. In addition to the relief requested by Counsel for ASRHOA, I request that the ALJ's Order CPS to reimburse me for that amount.

Further Affiant sayeth not."



STEVE CICHOWSKI

Subscribed and sworn to before me on the 26 day of April, 2021.



A handwritten signature in black ink, consisting of several loops and a long horizontal stroke, written over the printed text "NOTARY PUBLIC, STATE OF TEXAS".

[SEAL]