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APPL. OF THE CITY OF SAN ANTONIO TO AMEND ITS CCN FOR THE SCENIC LOOP 138-KV TRANSMISSION LINE IN BEXAR COUNTY, TEXAS	§ § § §	STATE OFFICE OF ADMINISTRATIVE HEARINGS ON REFERRAL FROM THE PUBLIC UTILITY COMMISSION OF TEXAS

INITIAL BRIEF OF SAVE HUNTRESS LANE AREA ASSOCIATION

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Save Huntress Lane Area Association ("SHLAA"), intervenor, addresses the following Preliminary Order issue: *Which proposed transmission line route is the best alternative weighing the factors set forth in PURA § 37.056(c) and P.U.C. Subst. R. § 25.101(b)(3)(B)?* The answer should be Route Z2, followed as the next best alternatives by Routes Z1, AA1, and AA2.

I. Introduction and Summary of Position: Routes Z2, Z1, AA1, and AA2 are Best

The SHLAA area is a beautiful part of the Central Texas Hill Country, with hilly terrain, woods, and creeks, and is essentially in the central and south portion of the study area. Approximately half of the proposed routes run through the neighborhoods in the SHLAA area.[1] In addition, all of the proposed routes would affect the SHLAA area due to visibility and other impact aspects for certain SHLAA members.[2]

The SHLAA neighborhood individuals formed SHLAA as a nonprofit to protect those neighborhood areas from having large utility transmission poles and lines go directly through their existing neighborhood areas. The Canyons Property Owners' Association ("POA") and the Altair POA joined SHLAA due to their common interests in not having the transmission poles and lines go directly through their neighborhood areas. The members of SHLAA include over 30 landowners; the Canyons has over 700 individual landowners; and Altair has 14 individual landowners.[3]

The members of SHLAA have the same concerns as others in the study area, including the pro se intervenors, about electro-magnetic field ("EMF") exposure, aesthetics, impacts to habitat and the environment, impacts to land values, and so forth. In other words, what goes for those other

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[1] SHLAA Ex. 1 at p. 5 (Landowners Dir.); CPS Energy Ex. 17 (Route Cost & Data Summary Table).

[2] SHLAA Ex. 1 at pp. 3-5 & 9-10 (Landowners Dir.); SHLAA Ex. 2 at p. 6 (Hughes Dir.). Routes along Toutant Beauregard Road utilizing Substation Site 7 would still be visible to, and thus create adverse aesthetic impacts on, some of the SHLAA members, but do not run on, along, or through the SHLAA area properties and existing neighborhoods. SHLAA Ex. 1 at pp. 4-5 & 14-15 (Landowners Dir.). SHLAA members also utilize Toutant Beauregard Road, including transporting children to the McAndrew Elementary School and traveling to the San Antonio Rose Palace arena. *Id.* at p. 8. SHLAA recognizes there is no perfect solution for transmission facilities in the largely residential study area in this case. *Id.* at pp. 22-23. Despite the aesthetic and other impacts that would arise from selection of Routes Z1, Z2, AA1, or AA2 on some of the SHLAA members, SHLAA and its members support the Commission's selection of Routes Z1 and AA1, and therefore by extension the variations of Routes Z2 and AA2, as the most reasonable routing choice under the circumstances. *See id.* Due to the shared concern with Mr. Patrick Cleveland over bisecting private property, SHLAA supports Route Z1, and by extension its variant Route Z2, over Routes AA1 and AA2, since the latter bisect the Hill Country Ranch, while Routes Z1 and Z2 would run along its northern boundary. *See* SHLAA Ex. 3 at pp. 18-19, & 38-39 (Landowners Cross-Reb.); CPS Energy Ex. 16 (Focus Routes Map); Tr. 804.

[3] SHLAA Ex. 1 at p. 1 (Landowners Dir.).

intervenors as concerns goes for the SHLAA members as well.[4]

CPS Energy proposed in the original application that Route Z best meets the Commission's routing criteria, and was the least expensive of the original routes. Its original Route AA was the second least expensive route.

Route Z1 and new Route Z2 are variations of Route Z, and Routes AA1 and AA2 are variations of Route AA.[5] Those four are among the least expensive route options.[6]

Moreover, unlike the potential routes through the SHLAA area, Routes Z1, Z2, AA1, and AA2 *do not run through existing neighborhoods* (and do not run through the middle of some of their properties).[7] For example, those four routes would use land for which a development group is making a significant right-of-way donation, and the negotiated segment locations would be consistent and compatible with the donor's development plans on its to-be-developed land.[8]

Those four routes would then parallel an existing major thoroughfare – Toutant Beauregard Road.[9] That road already fragments the local habitat – and a transmission line paralleling that road would therefore reduce the amount of new habitat fragmentation associated with a new transmission line (including the cutting down of trees in wooded areas).[10] That road already has existing infrastructure and other development along it, including distribution lines and a tall cell phone tower.[11]

Most importantly, a transmission line along that road would not run *through* existing neighborhoods. It would instead run along the road which provides the *outer edge* of (and road

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[4] SHLAA Ex. 1 at pp. 13-22 (Landowners Dir.); SHLAA Ex. 3 at pp. 7, 11-12, 24-25, 31-32, 37-38 (Landowners Cross-Reb.).

[5] CPS Energy Ex. 16 (Focus Routes Map). In its rebuttal testimony, as clarified in live testimony, since Route Z1 functionally replaced Route Z, Route Z1 became CPS Energy's "best meets" route per that rebuttal testimony. CPS Energy Ex. 12 at p. 5 (Marin Reb.); Tr. at pp. 812-13. Of course, Route Z2 only arose through discovery after the CPS Energy rebuttal testimony was filed.

[6] CPS Energy Ex. 17 (Route Cost & Data Summary Table). Specifically, Routes Z2 = $37.64 million, AA1 = $38.30 million, Z1 = $38.48 million, and AA2 = $39.05 million. While Route DD = $39 million, it has Segment 41 on the McAndrews Elementary School property and Segment 36 along the school's front entrance; thus SHLAA favors Routes Z1, Z2, AA1, and AA2 over Route DD. *See* SHLAA Ex. 3 at pp. 3-4 (Landowners Cross-Reb.).

[7] CPS Energy Ex. 16 (Focus Routes Map).

[8] Toutant Ranch, et al. Ex. 1 *passim* (Dreiss Dir.).

[9] CPS Energy Ex. 16 (Focus Routes Map).

[10] CPS Energy Ex. 16 (Focus Routes Map); Tr. at pp. 182-83.

[11] SHLAA Ex. 3 at pp. 8, 13, 15, & 31-32 (Landowners Cross-Reb.).

entrance accesses for) other existing neighborhoods.[12] In other words, those four routes, by using the existing major thoroughfare, would not *bisect* any existing neighborhoods, they would only run *in between* the existing subdivisions – resulting in significantly less fragmentation of the existing neighborhoods in the study area (and the private properties and existing habitat within each of those neighborhoods).

And by paralleling Toutant Beauregard Road (thereby utilizing, in part, the existing roadway right-of-way for Toutant Beauregard Road), it would reduce the amount of private property that has to be burdened for right-of-way and operational clearance purposes – i.e., it would further reduce the amount of private property fragmentation.[13]

Commission Staff recommended using Route P.[14] That route is one of the worst routes for consideration. Even the most active opponents to the use of Toutant Beauregard Road, Anaqua Springs nor Jauer, do not endorse the use of Route P. The following summarizes why Route P is not a route to be selected.

Route P would go directly *through* the SHLAA neighborhood area and its properties.[15] Indeed, Route P does not even go down the Huntress Lane roadway within the SHLAA neighborhood area; instead it cuts through the existing residential properties and bisects properties in and around Huntress Lane throughout the SHLAA neighborhood area, including passing less than 150 feet from homes on Segment 22 as well as through the middle of the front yard of one of the Huntress Lane residents on Segment 15.[16]

Route P would additionally run through the middle of an area in the Canyons subdivision for

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[12] CPS Energy Ex. 16 (Focus Routes Map).

[13] CPS Energy Ex. 14 at p. 9 & its Exh. SDL-3R (Lyssy Reb.); Tr. at pp. 182-83, 193-94; Tr. at pp. 862-63.

[14] Staff Ex. 1 (Poole Dir.).

[15] CPS Energy Ex. 16 (Focus Routes Map).

[16] CPS Energy Ex. 1, at Attachment 6, Sheets 12 & 13 (landowner maps showing Segments 15 and 22); CPS Energy Ex. 16 (Focus Routes Map); CPS Energy Ex. 18, Inset No. 2 (intervenor map showing Segments 15 and 22); SHLAA Ex. 8 at Table 4-21 in Attachment SHLAA 1-1 (CPS Energy's Responses to SHLAA's 1st RFI); Tr. at pp. 184-86. Similarly, another route shown on the Route Focus Map, Route R1, would go directly through the SHLAA neighborhood area, including through the middle of two of their properties, as well as through the middle of some Clear Water Ranch properties. CPS Energy Ex. 1, at Attachment 6, Sheets 12 and 13 (landowner map showing Segments 15and the unchanged portion of 26a); CPS Energy Ex. 16 (Focus Routes Map); CPS Energy Ex. 18, Inset No. 2 (intervenor map regarding Segments 15 and 26a); Tr. at pp. 184-87. Likewise another route shown on the Route Focus Map, Route W, would go through the interior of properties within the Canyons subdivisions. CPS Energy Ex. 16 (Focus Routes Map); CPS Energy Ex. 18, Inset No. 3 (intervenor map regarding Segment 27); Tr. at p. 701.

which there is a 2019 Master Development Plan.[17] Unlike Routes Z1, Z2, AA1, and AA2, which would utilize donated right-of-way in a manner consistent and compatible with the donor's development plans for that land, Route P would run through the remaining portion of the Canyons development in a manner that is inconsistent and incompatible the Canyons developer's planned development, and thus would not allow the Canyons developer to develop the land in a way which works for the Canyons developer.[18]

As for golden cheek warbler habitat, Route P is the worst route in terms of impacting what the currently available habitat information shows.[19] By definition, that makes all of Routes Z1, Z2, AA1, or AA2 better regarding such habitat.

Route P would also be about $5 million more expensive than Routes Z1, Z2, AA1, or AA2.[20] Route P would thus be a significant burden not only on the existing neighborhoods and their properties crossed and even bisected by the transmission line, as well as a greater impact on the environment, but a larger cost burden on all ratepayers who have to pay for that new line. Ratepayers are already dealing with the cost impacts from the February 2021 Winter Storm Uri, and do not need additional costs imposed upon them beyond that which is absolutely necessary.[21]

Habitable structures are a consideration in every case. However, the number of habitable structures in this case is relatively low compared to those in other cases due to the relatively small study area in what is largely a suburban area, and this case's study area is one of active development such that the number of habitable structures is constantly changing and not a stable factor for making a routing decision compared to more stable factors like line cost and line length.[22]

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[17] SHLAA Ex. 10 (Canyons - Blackbuck Phase 2 Unit 6 Plat per attached 2019 Master Development Plan).

[18] SHLAA Ex. 10 (Canyons - Blackbuck Phase 2 Unit 6 Plat per attached 2019 Master Development Plan); Tr. at pp. 681-82.

[19] CPS Energy Ex. 17 (Route Cost & Data Summary Table).

[20] CPS Energy Ex. 17 (Route Cost & Data Summary Table). Specifically, Route P = $43.41 million. That is respectively $4.93, $5.77, $5.11, and $4.36 million more than Routes Z1, Z2, AA1, and AA2, respectively.

[21] SHLAA Ex. 3 at p. 20 (Landowners Cross-Reb.); Tr. at p. 780.

[22] SHLAA Ex. 1 at pp. 3 & 15 (Landowner Dir.); SHLAA Ex. 2 at pp. 12 & 22-23 (Hughes Dir.); SHLAA Ex. 3 at pp. 19, 26, 31, 33 (Landowner Cross-Reb.); SHLAA Ex. 4 at pp. 4-7 (Hughes Cross-Reb.) (in a recent case involving the same PUC Staff witness, the PUC Staff recommended a route affecting 306 habitable structures, 122 fewer than the route the utility's "best meets" route, but the PUC selected the route which impacted the higher number of habitable structures; here, spending well *over a quarter of a million dollars per avoided structure* to avoid the number of habitable structures within 300 feet of Route Z1 versus Route P is not a reasonable investments of money and effort); SHLAA Ex. 10 (Canyons - Blackbuck Phase 2 Unit 6 Plat per attached 2019 Master Development Plan); Toutant Ranch et al. Ex. 1 *passim* (Dreiss Dir.).

In addition, the notice distance of 300 feet in this case is not an EMF distance, just a notice requirement distance.[23] CPS Energy's position, based on a study it performed, is that the EMF exposure distance for a 138 kV transmission line is approximately 100 feet.[24] Route Z1 and Route P each have only one single family residence within 100 feet of the proposed route centerline.[25] Therefore the apparent EMF effect on the most personal and important habitable structures – homes – is the same between those routes.

Accordingly, Routes Z1, Z2, AA1, or AA2 should be selected instead of Route P or any of the other proposed routes. Of those choices, Route Z1 initially appeared to be the "best of the best," and with the addition of Route Z2, it now appears to be "best of the best of the best."

This is because, among other reasons, Route Z2 has the lowest cost, has the shortest length, uses developer-donated right-of-way that allows its development efforts to proceed, uses a substation site with greater shielding from public views, and parallels and uses the existing major thoroughfare of Toutant Beauregard Road which runs in between existing subdivisions rather than bisecting existing properties, neighborhoods, and subdivisions (except by consent, as in the case of the Toutant Ranch et al. developer).

II. SHLAA and its Area

SHLAA, an unincorporated nonprofit association organized to represent the interests of its members in this proceeding, includes as its members over 30 individual landowners, the Canyons POA with over 700 individual landowners, and the Altair PO with 14 individual landowners. In addition to the expert testimony of Mr. Hughes discussed below, it submitted factual testimony from one of the individual landowner members, Ms. Cynthia Grimes, one of the individual landowners in the Canyons subdivision, Mr. David Clark, and one of the individual landowners in the Altair subdivision, Mr. Jerry Rumpf. They submitted direct testimony, cross rebuttal testimony to other intervenors, and live testimony in the hearing on the merits.

The SHLAA area is largely comprised of individual residences, while Canyons and Altair are existing residential subdivisions. Like other portions of the CPS Energy study area, the SHLAA area is an attractive area in a beautiful part of the Texas Hill Country northwest of San Antonio with both

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[23] Tr. at p. 817.

[24] CPS Energy Ex. 12 at ARM-5R (Marin Reb.); Tr. at pp. 815-17.

[25] SHLAA Ex. 8 at responses to Questions 1-1 and 1-2 (CPS Energy Response to SHLAA's 1st RFI); Tr. at pp. 818 & 820.

long standing residences and active development of new residential construction on various parcels. They are located where they can enjoy daily (from their residences or by walking, running, biking, etc.) the natural beauty and peaceful surroundings of the area, including hills, valleys, and limestone bluffs, woods, springs, creeks, waterfalls, a variety of wild flora and fauna which inhabit that environment, various domesticated animals including horses and Longhorn cattle, and scenic views, panoramic vistas, and sunsets over that landscape.[26]

In addition, for a large portion of the SHLAA area, distribution lines are underground rather than overhead.[27] Furthermore, in terms of the potential paralleling of existing electric distribution lines: Segments 22, 25, 50, 55, and 57 has none along any portion of them; the entire portion of Segment 26a which runs east-west, and which is by far the longest part of Segment 26a, has none along it; and all of Segment 15 moving from the west to the east has none along it until about 600 feet from the node between Segment 15 and Segment 50.[28]

Members of SHLAA have properties that would be crossed by or adjacent to numerous line segments. Fifteen of the 33 potential routes in this case, namely Routes F1, K, L, N1, O, P, Q1, R1, S, T1, U1, V, W, BB, and CC, contain one or more of these segments; Substation Sites 6 and 7 also abut some members' property.[29] Many of those have the segments whose right-of-way would be running through and on the edge of their property as well as near their houses, of which Segment 22 is typical, while others like Segments 15, 26a, and 27 have segments which actually bisect the interior portions of their properties.[30] These fifteen routes and their segments largely pass on or through private properties, and not along existing public roads.[31]

In addition to the routes identified above, all of the proposed routes would affect the SHLAA

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[26] SHLAA Ex. 1 at pp. 3-4, 9-10, 19-20 (Landowner Dir.)

[27] SHLAA Ex. 1 at p. 20 (Landowner Dir.)

[28] SHLAA Ex. 1 at p. 9 (Landowner Dir.).

[29] SHLAA Ex. 2 at pp. 4-5 (Landowner Dir.); SHLAA 2 Ex. 2 at p. 6 (Hughes Dir.).

[30] CPS Energy Ex. 15 at Exh. LBM-2R entitled "Amended Fig. 4-1R" (Meaux Reb.); CPS Energy Ex. 16 (Focus Routes Map); CPS Energy Ex. 18, Inset Nos. 2 & 3 (intervenor maps); SHLAA Ex. 8 at Table 4-21 in Attachment SHLAA 1-1 (CPS Energy's Response to SHLAA's 1st RFI); Tr. at pp. 184-87 & 701. For example, regarding close proximity to homes, Route P would be within 200 feet of 6 single family residences, and its Segment 22 would be less than 200 feet three such residences, one of which would be less than 100 feet from that segment. SHLAA Ex. 8 at response to Question 1-1 & at Table 4-21 in Attachment SHLAA 1-1 (CPS Energy's Responses to SHLAA's 1st RFI).

[31] CPS Energy Ex. 1, at Attachment 6, Sheet 13; CPS Energy Ex. 16 (Focus Routes Map); CPS Energy Ex. 18, Inset Nos. 2 & 3 (intervenor maps).

area due to visibility and other detrimental impact aspects for certain SHLAA members.[32] Specifically, transmission facilities for Routes Z1, Z2, AA1, and AA2 will be visible to, and thus create an adverse aesthetic impact on, SHLAA members located along Segment 22 and 25 who can see Toutant Beauregard Road, and on Huntress Lane in the vicinity of the backside of the proposed Substation 7 site.[33] Therefore, while SHLAA supports selection of Routes Z1, Z2, AA1, and AA2, it does not get them off scot-free from any transmission line impacts.

In addition to those four routes that SHLAA supports, and which are included in the Focus Routes Map,[34] segments on the other routes in that map would also have visual impacts on SHLAA members. That would come not only from the route segments which run on or near a resident's specific property, but given the vistas available to residents depending on their location, and depending on the height and location of the transmission monopoles, the Focus Routes Map routes which run through the SHLAA area (namely, Routes P, R1, and W) would have wide visibility effects on a great number of residents in the SHLAA area (including those in Canyons and even Altair seeing lines in the Huntress Lane neighborhood, and vice versa).[35]

The number of habitable structures within 300 feet of the route centerline for the routes which would run through or along SHLAA member property, using the CPS Energy data table,[36] are:

F1 - 18
K - 39
L - 38
N1 - 17
O - 33
P - 17
Q1 - 12
R1 - 13
S - 29
T1 - 37
U1 - 12

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[32] SHLAA Ex. 1 at pp. 4-5 & 14-15 (Landowners Dir.). SHLAA members also utilize Toutant Beauregard Road, including transporting children to the McAndrew Elementary School and traveling to the San Antonio Rose Palace arena. *Id.* at p. 8.

[33] SHLAA Ex. 1 at pp. 4-5 & 14-15 (Landowners Dir.); SHLAA Ex. 6 at 40 (Staff's Responses to SHLAA's 1st RFI).

[34] CPS Energy Ex. 16 (Focus Route Map).

[35] CPS Energy Ex. 16 (Focus Routes Map);); SHLAA Ex. 1 at p. 15 (Landowners Dir.); SHLAA Ex. 6 at 39 (Staff's Responses to SHLAA's 1st RFI); Tr. 681-82, 685, 700-01, 704, 708-10.

[36] CPS Energy Ex. 17 (Route Cost & Data Summary Table).

V - 32
W - 29
BB - 27
CC - 57

It should be noted that the four best routes for selection – Z2, Z1, AA1, and AA2 – have, per the CPS Energy data table,[37] habitable structures within 300 feet of the route centerline of:

Z2 - 32
Z1 - 31
AA1 - 31
AA2 - 30

The arithmetic average of all 33 potential routes is 37 habitable structures within 300 feet of the route centerline.[38] Therefore, the four best routes for selection are all below the average (by more than 10%) with respect to the number of such habitable structures.

More importantly, using the Focus Map Routes, using the 100 foot distance which CPS Energy testified is the potential EMF exposure concern distance (because 300 feet is only a notice requirement distance and not an EMF exposure distance), and using the most personal and important habitable structures – homes – the single family residences within 100 feet of the Focus Map Routes are:[39]

P - 1
R1 - 1
W - 3
Z1 - 1
Z2 - 1
AA1 - 1
AA2 - 1
DD - 1

In other words, when it comes to homes, as the most important "habitable structure" EMF concern, there is no difference between any of those routes – with the exception of Route W (having 3 instead of 1 such residence). Route W is the route for which Anaqua/Jauer argue should be selected, so that the transmission line will not go in front of their subdivisions' road entrances and

[37] CPS Energy Ex. 17 (Route Cost & Data Summary Table).

[38] Tr. at pp. 228 & 746-47; *see* CPS Energy Ex. 17 (Route Cost & Data Summary Table).

[39] CPS Energy Ex. 16; (Focus Routes Map); CPS Energy Ex. 12 at ARM-6R (Marin Reb.); SHLAA Ex. 8 (CPS Energy Response to SHLAA's 1st RFI).

not go in front of the one habitable structure within 300 foot of such a line, the Anaqua Springs commercial structure (i.e., its subdivision entrance gatehouse).

Routes Z1, Z2, AA1, and AA2 all involve using a portion of Toutant Beauregard Road. Despite the classification of Toutant Beauregard Road – along with Boerne Stage Road and Scenic Loop Road (the latter of which includes Substation Site 6) as part of the "Scenic Loop Road – Boerne Stage Road – Toutant Beauregard Road Historic Corridor," Toutant Beauregard Road is not historic from a visibility standpoint since there are electric distribution lines up and down it, there is the big cell phone tower on Jauer's neighboring property near to and visible from the road, there is development activity with ongoing construction up and down the road, and it is a busy road route.[40] Indeed, the original portions of what became today's Toutant Beauregard Road no longer exist, while the only remaining original portions that still exist are along Scenic Loop Road.[41] And Toutant Beauregard Road was added to the Historic Corridor several years after the original one was created using just Scenic Loop Road and Boerne Stage Road.[42]

Substation Site 6 is on Scenic Loop Road (which is as, if not more, historic as Toutant Beauregard Road, as discussed elsewhere), and is more open to public visibility than Substation Site 7 due to having comparatively less vegetation and more of its site bordering along Scenic Loop Road.[43] It abuts the properties of four individual SHLAA members.[44]

The homeowners closest to Substation Site 7 who are intervenors in this case are all members of SHLAA, as seen on the Intervenors Map.[45] As part of SHLAA, those homeowners support selection of routes which utilize Substation Site 7, even though it has some impacts on the back portions of their properties. This is because they recognize such routes are the most reasonable routing choices under the circumstances, and they are willing to live with impacts such as from Substation Site 7, instead of the impacts on the SHLAA area from routes running through the

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[40] SHLAA Ex. 3 at pp. 13-17, 31-32, & 34 (Landowner Cross-Reb.); Tr. at p. 744.

[41] SHLAA Ex. 3 at pp. 15-16 (Landowner Cross-Reb.).

[42] SHLAA Ex. 4 at p. 10 (Hughes Cross-Reb.); Tr. at p. 744.

[43] SHLAA Ex. 1 at pp. 12-13 (Landowner Dir.); SHLAA Ex. 2 at pp. 14-15 (Hughes Dir.) SHLAA Ex. 3 at pp. 15-16, & 34 (Landowner Cross-Reb.); SHLAA Ex. 4 at pp. 11-12 (Hughes Cross-Reb.).

[44] CPS Energy Ex. 18, at Inset No. 2 (intervenor map).

[45] CPS Energy Ex. 18, at Inset No. 2 (intervenor map).

SHLAA area and into Substation Site 6.[46] One of those reasons for their supporting Substation Site 7 is because Substation Site 7 is heavily wooded, only bordered by a short section of road, and thus has more shielding from public visibility than does Substation Site 6.[47]

The McAndrews Elementary School located in the study area became one of the topics of discussion in the case. SHLAA members include families that have children who attend that school, while other SHLAA members utilize homeschooling of their school age children.[48] Their landowner testimony accordingly expressed a strong interest in the matter of both the school itself and the homeschooled children in the SHLAA area.

Rather than having the transmission line run on the school property (via Segment 41), in front of the school (via Segment 35), or through the SHLAA area near habitable structures with homeschooled children (via the segments which run through the SHLAA area), SHLAA's members support using Segment 42a which runs well behind the school, not on school property, more than 500 feet from the school buildings, and more than 100 feet from the back edge of the sports field in the back of the school.[49] Segment 42a is a component of Routes Z1, Z2, AA1, and AA2.[50]

The Northside Independent School District ("NISD") opposes any routes that include Segments 42a, 41, and 35, because it says does not want electric transmission lines anywhere near its schools.[51] Anaqua lobbied NISD multiple times seeking to get it to oppose using routes Anaqua opposed on the theory that they would be close to the school.[52] Nevertheless, the NISD has, many times, built elementary schools close to existing electric transmission lines and substations in

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[46] SHLAA Ex. 3 at p. 8 (Landowner Cross-Reb.).

[47] SHLAA Ex. 2 at 14-15 (Hughes Dir.); SHLAA Ex. 3 at 34 (Landowner Cross-Reb.); SHLAA Ex. 4 at 11 (Hughes Cross-Reb.); SHLAA Ex. 6 at 36 (Staff's Responses to SHLAA's 1st RFI); CPS Energy Ex. 14 at p. 13 and at Exh. SDL-1R (Site 7 Prelim. Station Layout). Substation Site 7 is also the largest of the proposed sites, is 45 feet above a creek which is a tributary to Leon Creek, is not in an official floodplain, has not flooded in the 38 years that the present owner is there, and is according to CPS Energy's Mr. Lyssy (a Professional Engineer with hydrology engineering training and experience) a viable and non-floodable, as well as less-visible, substation site. SHLAA Ex. 2 at p. 14 (Hughes Dir.); Tr. at pp. 624, 626, 650-52, 654, 657-58, 689-90.

[48] SHLAA Ex. 1 at pp. 8, 21, & 23 (Landowner Dir.); SHLAA Ex. 3 at pp. 10-12, 21, 24-25, 31, & 37-38 (Landowner Cross-Reb.).

[49] SHLAA Ex. 1 at pp. 8, 21, & 23 (Landowner Dir.); SHLAA Ex. 3 at pp. 4, 10-11, 20-23 (Landowner Cross-Reb.); SHLAA Ex. 4 at p. 9 (Hughes Cross-Reb.); CPS Energy Ex. 12 at Exh. ARM-5R (Marin Reb.).

[50] CPS Energy Ex. 16 (Focus Route Map).

[51] NISD Ex. 1.

[52] SHLAA Ex. 5 at Response to RFI No. 1-9 (Anaqua's Response to CPS Energy's 1st RFI).

multiple instances.[53] Therefore, the NISD position should be appropriately discounted, especially as to Routes which use Segment 42a off of, to the back of, and well away from the school and its property.

The Texas Parks and Wildlife Department ("TPWD"), a governmental agency required by law to submit its views to the Commission on proposed new electric transmission routes, originally recommended selection of Route AA in the original CPS application as the one with the least adverse impact to natural resources.[54] In its updated submission, TPWD recommended use of Route DD, which is similar to Route AA1 except it uses Segments 41 and 35 instead of Segment 42a.[55]

Segment 41 crosses the property of the NISD, in an area where NISD indicates it may build a middle school, and in any event would be within 300 feet of the existing McAndrew Elementary School building.[56] Segment 35 runs within 300 feet of the existing McAndrew Elementary School building, along the school entrance road, and along the portion of Toutant Beauregard Road which the Barrera interests oppose (they do not oppose using Segment 36, to which Segment 42a connects). Segment 42a, on the other hand, is not on school property, is behind the school some approximately 550 feet from the existing building, and while the centerline is apparently 280 feet from the back edge of a school sports field, that back edge is still almost three times the 100 distance which CPS Energy maintains is the approximate potential EMF exposure distance.[57]

Therefore, SHLAA supports Routes Z1, Z2, AA1, and AA2, but not Route DD, because SHLAA prefers the use of Segment 42a over Segments 41 and 35, given its much further location relative to the existing and planned school buildings.[58] (As between those, SHLAA supports Routes Z1 and Z2, over Routes AA1 And AA2, due to the bisecting of the High Country Ranch, as discussed elsewhere.[59])

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[53] Bexar Ranch Ex. 6 at pp. 13-14 & Exh. MT-1 (Turnbough Cross-Reb.); CPS Energy Ex. 12 at ARM-6R (Marin Reb.); Tr. at pp. 623, 630-32, & 629-30.

[54] Bexar Ranch Ex. 9 (TPWD letter of Sept. 10, 2020).

[55] Bexar Ranch Ex. 10 (TPWD letter of Feb. 18, 2021).

[56] NISD Ex. 1 (Villareal Dir.); CPSE Ex. 16 (Focus Routes Map).

[57] SHLAA Ex. 3 at pp. 20-22 (Landowner Cross-Reb.); CPS Energy Ex. 12 at ARM-5R (Marin Reb.); Tr. at pp. 815-17.

[58] See SHLAA Ex. 3 pp. at 3-4 (Landowner Cross-Reb.).

[59] See SHLAA Ex. 3 at pp. 21-22 & 38 (Landowner Cross-Reb.).

III. Intervenor Routing Analyses

A. Hughes (SHLAA)

Mr. Harold L Hughes, Jr., a Professional Engineer who previously worked at the Commission and has testified as an expert in numerous transmission line routing cases, evaluated the information CPS Energy provided, as well as made an in-person site visit to the study area, including the relevant public roads the proposed substation sites, and properties within the SHLAA area.[60] He testified on behalf of SHLAA.

The original CPS Energy application identified original Route Z as the one which best meets the Commission's routing criteria. According to Mr. Hughes, Route Z1 in the amended CPS Energy application (a modified version of original Route Z) is even better than Route Z in terms of best meeting the Commission's routing criteria.[61]

By extension, Route Z2 is also a top ranking route, consistent with Mr. Hughes' testimony. This is because it shortens the length and lowers of the cost of what would otherwise be Route Z1 due to the use of only Segment 46 instead of both Segments 46 and 46a, i.e., it eliminates the short digression which adds additional line length and three turning structures.[62] The elimination of that short digression brings the route closer to one habitable structure, but that structure is still 174 feet from the Segment 46 centerline, such that it is more than, by almost two times, the 100 foot distance which CPS Energy maintains is the potential EMF exposure distance.[63]

Mr. Hughes made it clear that all routing criteria are to be considered, and that the habitable structure criterion cannot be relied on alone in isolation of the other criteria.[64] As a result, the Commission has in other cases he has been involved with approved a route with more habitable structures on it than other potential routes in the particular case.[65] In addition, in this

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[60] SHLAA Ex. 2 at p. 4-5. 8, & 13-14 (Hughes Dir.).

[61] SHLAA 2 at p. 11, 20, 24-26 (Hughes Dir.).

[62] CPS Energy 16 (Focus Routes Map); CPS Energy Ex. 17 (Route Cost and Data Summary Table).

[63] CPS Energy Ex. 1 at Attachment 8 entitled "Landowner Notice List" (listing Hab. Structure No. 15 as within 300 feet from Segment 46); CPS Energy Ex. 6, Fig. 4-1 entitled "Inventory Amended" (showing the location of Hab. Structure No. 15 relative to Segments 46 and 46a); SHLAA Ex. 8 at Fig. 4-32 (showing that Hab. Structure No. 15 is 174 feet from Segment 46).

[64] SHLAA Ex. 2 at pp. 22-23 (Hughes Dir.); Tr. at pp. 671-73.

[65] SHLAA Ex. 4 at 4-7 (Hughes Cross-Reb); Tr. at pp. 673-74.

particular case, the number of habitable structures in this case is relatively low compared to those in other cases due to the relatively small study area, and this case's study area is one of active development, such that the number of habitable structures is not a stable factor for making a routing decision compared to more stable factors like line cost and line length.[66]

According to Mr. Hughes, Route AA1 in the amended CPS application (a modified version of original Route AA) is little changed from Route AA in terms of the least adverse impact to natural resources. [67] As a result, Route AA1 in the amended CPS application is still relatively similar to Route DD in terms of the least adverse impact to natural resources. By extension, given their close similarity, Routes Z2 and AA2 have relatively less adverse impact to natural resources compared to all the other proposed routes, including especially Commission Staff's recommended Route P.

Mr. Hughes' expert opinion was that none of the proposed routes other than Route Z1 or AA1 should reasonably be considered as a route best meeting the criteria for routing a transmission line.[68] Mr. Hughes' opinion was based primarily on line costs and line lengths in a relatively compact study area that is largely residential in nature and in which residential development is actively occurring, such that because habitable structure counts are in flux rather than relatively stable, cost and length are better factors on which to rely in this particular case.[69]

CPS Energy did not disagree with or contradict Mr. Hughes' conclusions or his analysis in any of the CPS Energy rebuttal testimony.[70]

B. Andrews (Chandlers/Putnams)

Mr. Brian C. Andrews, on behalf of the Chandlers and Putnams on Segment 40, has also previously testified as an expert in transmission line routing cases, and in his evaluation of the CPS Energy information Mr. Andrews came to the conclusion that Routes Z1 and AA1 were top performing routes and came up with Route AA2 as his even-better performing route.[71] In its rebuttal

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[66] SHLAA Ex. 1 at pp. 3 & 15 (Landowner Dir.); SHLAA Ex. 2 at pp. 12 & 22-23 (Hughes Dir.); SHLAA Ex. 3 at pp. 19, 26, 31, 33 (Landowner Cross-Reb.); SHLAA Ex. 4 at pp. 4-7 (Hughes Cross-Reb.); SHLAA Ex. 10 (Canyons - Blackbuck Phase 2 Unit 6 Plat per attached 2019 Master Development Plan); Toutant Ranch et al. Ex. 1 *passim* (Dreiss Dir.)..

[67] SHLAA Ex. 2 at pp. 18-19 (Hughes Dir.).

[68] SHLAA Ex. 2 at pp. 25-26 (Hughes Dir.); SHLAA Ex. 4 at pp. 4-7, 12-14 (Hughes Cross-Reb.).

[69] SHLAA Ex. 2 at pp. 12 & 22-23 (Hughes Dir.); SHLAA Ex. 4 at pp. 4-7 (Hughes Cross-Reb.).

[70] CPS Energy Exs. 12 (Marin Reb.), 13 (Tamez Reb.), 14 (Lyssy Reb.), & 15 (Meaux Reb.).

[71] Chandlers/Putnams Ex. 1.

testimony CPS Energy stated that Route AA2 is a viable, forward-progressing, constructible route, and CPS Energy included Route AA2 in its other key hearing exhibits.[72]

C. Turnbough (Bexar Ranch)

Dr. Mark Turnbough, on behalf of Bexar Ranch, LP, also evaluated the CPS Energy information, and concurred that Route Z1, as the close variant of original Route Z (and before Route Z2 was created), best addresses and best meets the Commission's routing criteria, such that it should be the route selected (with Route AA2 as an appropriate replacement if Route Z1 was not approved).[73] By extension, since Route Z2 was a close variant of Route Z1 created by CPS Energy in response to Bexar Ranch discovery, which shortens its length and cost, use of Route Z2 would be consistent with Dr. Turnbough's recommendation.

D. Buntz (Rose Palace)

Mr. Jason Buntz, who testified for Rose Palace and its affiliate ranch, focused upon what he described as certain historical features of the area, none of which apply to the Rose Palace itself or the affiliated ranch.[74] He has not previously testified as a routing expert, and in this case was focused solely on the historical aspects of the area.[75]

Nowhere in his testimony does Mr. Buntz contend any of those historic features are constraints which prevent the construction of a transmission line on Routes Z1 or AA1 (and by extension, Routes Z2 or AA2).[76] While he identified certain "historic districts" within the CPS Energy study area, Routes like Z1, AA1, and AA2 (and by extension Route Z2) either do not run along them or, for the one which is along Segment 36, is not objected to by the landowners on which that historic district in located, the Barrera interests.[77]

E. Anderson (Anaqua/Jauer)

Mr. Mark D. Anderson testified on behalf of Anaqua/Jauer in the hearing on the merits. He

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[72] CPS Energy Ex. 13 at p. 4 (Tamez Reb.); CPS Ex. 14 at 15-16 (Lyssy Reb.); CPS Energy Ex. 15 at p. 12 (Meaux Reb.); CPS Energy 16 (Focus Routes Map); CPS Energy Ex. 17 (Route Cost and Data Summary Table).

[73] Bexar Ranch Ex. 1 (Turnbough Dir.).

[74] Rose Palace Ex. 1.

[75] Rose Palace Ex. 1.

[76] Rose Palace Ex. 1 at 6.

[77] SHLAA Ex. 3 at p. 18 (Landowner Cross-Reb.).

proposed use of Route W.[78] That route would of course avoid having the transmission run along Segment 36, and thus avoid running in front of the road entrances to the Anaqua Springs subdivision and the Jauer property, and in front of the one (and commercial) habitable structure within 300 feet of Segment 36's centerline, the Anaqua Springs gatehouse.[79] Route W would also avoid having the transmission run along Segments 38 and 43, and thus avoid running along the back of the Anaqua Springs subdivision near three of its habitable structures, one of which (habitable structure number 201) is the home of Mr. Steve Cichowski, the Anaqua HOA President.[80]

Mr. Anderson recommends selecting Route W even though:

- Route W is $52.87 million in cost, which is *over $15 million more expensive* than Route Z2.[81] (Route P also has approximately $5 million or more in extra expense compared to Routes Z2, Z1, AA1, and AA2.[82])
- At 6.25 miles in length, Route W is among the longest of the potential routes, and about 1.8 miles longer than Route Z2 (which is the shortest of all potential routes, at 4.46 miles).[83]
- Route W has no landowner consent to its use, unlike Route Z2 which has the consent of the Toutant Ranch et al. developer, along with right-of-way donations, for a significant portion of Route Z2's length.
- Route W would run across 6.03 miles of upland woodlands/brushlands, compared to only 3.53 miles by Route Z2 - meaning nearly twice as many trees are at risk of removal or other cutting on Route W than on Route Z2.[84]
- Route W would use Substation Site 6 which would be more publicly visible, unlike Route Z2 which uses the larger Substation Site 7 with its greater shielding from

[78] AS/Jauer Ex. 25 (Anderson Dir.).

[79] SHLAA Ex. 3 at pp. 4, 6-7, 11, & 39 (Landowner Cross-Reb.); CPS Energy Ex. 15 at Exh. LBM-2R entitled "Amended Fig. 4-1R" (Meaux Reb.).

[80] SHLAA Ex. 3 at p. 5 (Landowner Cross-Reb.); CPS Energy Ex. 15 at Exh. LBM-2R entitled "Amended Fig. 4-1R" (Meaux Reb.).

[81] CPS Energy Ex. 17 (Route Cost & Data Summary Table).

[82] CPS Energy Ex. 17 (Route Cost & Data Summary Table).

[83] CPS Energy Ex. 17 (Route Cost & Data Summary Table).

[84] CPS Energy Ex. 17 (Route Cost & Data Summary Table).

public view.[85]

- Route W has 29 habitable structures within 300 feet of its centerline, which is comparable to the 32 habitable structures within 300 feet of the centerline of Route.[86]
- In contrast to *Route Z2 which has only **one** single family residence* within **100 feet** of the centerline, *Route W has **three** single family residences within that distance.*[87]

CPS Energy disagreed with numerous aspects of the testimony of Mr. Anderson, and responded regarding those various disagreements in its rebuttal testimony.[88] So too did Mr. Hughes and Dr. Turnbough.[89] Among other things, CPS Energy, Mr. Hughes, and Dr. Turnbough addressed and negated various claims by Mr. Anderson about why routes with Segment 54 should not be used, including constructability allegations, school distance arguments, the suitability of the Substation Site 7, and the alleged existence of steel natural gas pipelines along Toutant Beauregard Road (which Mr. Anderson later retracted by testimony errata).[90]

IV. John Poole (Staff) Route Recommendation

Mr. John Poole testified on behalf of the Commission Staff. Mr. Poole never physically visited the study area, including the area along Route P, any of the properties or habitable structures that are along Route P, the Huntress Lane portion of the study area, or any of the proposed substations sites including Substation Sites 6 and 7.[91]

Nevertheless, he recommended using Route P.[92] That route would go directly *through* the existing SHLAA neighborhoods and on their private properties, including *through the middle* of a Huntress Lane re*sident's front yard* on Segment 15, as well as less than 150 feet from two of the

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[85] SHLAA Ex. 2 at pp. 14-15 (Hughes Dir.); SHLAA Ex 3 at pp. 34 & 39 (Landowner Cross-Reb.); Bexar Ranch Ex. 6 at 11-12 & 14-17 (Turnbough Cross-Reb.).

[86] CPS Energy Ex. 17 (Route Cost & Data Summary Table).

[87] SHLAA Ex. 8 at Table 4-28 & Table 4-31 (CPS Response to SHLAA's 1st RFI).

[88] CPS Energy Ex. 12 at pp. 7-8, 9-10, & 13-14 (Marin Reb.); , 13 (Tamez Reb.), CPS Energy Ex. 14 at pp. 7-32 (Lyssy Reb.); CPS Energy Ex. 15 at pp. 6-7, & 17-19 (Meaux Reb.).

[89] SHLAA Ex. 4 (Hughes Cross-Reb.); Bexar Ranch Ex. 6 (Turnbough Cross-Reb.).

[90] CPS Energy Ex. 12 at pp. 7-8, 9-10, & 13-14 (Marin Reb.); , 13 (Tamez Reb.), CPS Energy Ex. 14 at pp. 7-32 (Lyssy Reb.); CPS Energy Ex. 15 at pp. 6-7, & 17-19 (Meaux Reb.); SHLAA Ex. 4 (Hughes Cross-Reb.); Bexar Ranch Ex. 6 (Turnbough Cross-Reb.); Anaqua/Jauer Ex. 25 at p. 31 (Anderson Dir. with errata).

[91] SHLAA Ex. 6 at pp. 3-10 (Staff's Responses to SHLAA's 1st RFI).

[92] Staff Ex. 1 (Poole Dir.).

residents on Segment 22.[93]

This is in contrast to routes like Route Z2, which would run *in between the existing subdivisions*, and not bisect anyone's property – except for the developer, Toutant Ranch et al., which has agreed to that for their future development areas.[94] Indeed, in contrast to the situation for Toutant Ranch et al., Route P would run through the middle of an area in the Canyons subdivision for which there is a 2019 Master Development Plan, would run through it in a manner that is inconsistent with that planned development, and thus would not allow the Canyons developer to develop the land in a way which works for the Canyons developer.[95]

Route P also has other multiple features that make it a route that should not be selected, particularly when compared to the four best routes, Z1, Z2, AA1, or AA2:

- Route P would be *about $5 million more expensive* than Routes Z1, Z2, AA1, and AA2.[96]
- Route P is the *worst route on golden cheek warbler habitat* using the currently available habitat information.[97] By definition, Routes Z1, Z2, AA1, and AA2 are better regarding such habitat.[98]
- Route P has *no landowner consent* to its use, unlike Route Z2 which has the consent of the Toutant Ranch et al. developer, mentioned above, along with the benefits from that developer's right-of-way donations for a significant portion of Route Z2's length.[99]
- Route P would run across 4.42 miles of upland woodlands/brushlands, compared to only 3.53

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[93] CPS Energy Ex. 1, at Attachment 6, Sheets 12 & 13 (landowner maps showing Segments 15 and 22); CPS Energy Ex. 16 (Focus Routes Map); CPS Energy Ex. 18, Inset No. 2 (intervenor map showing Segments 15 and 22); SHLAA Ex. 8 at Table 4-21 in Attachment SHLAA 1-1 (CPS Energy's Responses to SHLAA's 1st RFI); Tr. at pp. 184-86.

[94] CPS Energy Ex. 16 (Focus Routes Map); Toutant Ranch, et al. Ex. 1 *passim* (Dreiss Dir.).

[95] SHLAA Ex. 10 (Canyons - Blackbuck Phase 2 Unit 6 Plat per attached 2019 Master Development Plan); Tr. at pp. 681-82.

[96] CPS Energy Ex. 17 (Route Cost & Data Summary Table). Specifically, Route P = $43.41 million. That is respectively $4.93, $5.77, $5.11, and $4.36 million more than Routes Z1, Z2, AA1, and AA2, respectively.

[97] CPS Energy Ex. 17 (Route Cost & Data Summary Table); SHLAA Ex. 6 at p. 56 (Staff's Response to SHLAA's 1st RFI).

[98] CPS Energy Ex. 17 (Route Cost & Data Summary Table); SHLAA Ex. 6 at pp. 56-58 (Staff's Response to SHLAA's 1st RFI). The length of Route P across the Edwards Aquifer Contributing Zone for Routes Z1 and Z2 are also less than for Route P. CPS Energy Ex. 17 (Route Cost & Data Summary Table); SHLAA Ex. 6 at p. 59 (Staff's Response to SHLAA's 1st RFI).

[99] *Compare* SHLAA Ex. 10 (Canyons - Blackbuck Phase 2 Unit 6 Plat per attached 2019 Master Development Plan) *and* Tr. at pp. 681-82 *with* Toutant Ranch, et al. Ex. 1 *passim* (Dreiss Dir.).

miles by Route Z2 - meaning about 20% more trees are at risk of removal or other cutting on Route P than on Route Z2.[100]

- Route P would use the more publicly visible Substation Site 6, unlike Route Z2 which uses Substation Site 7 with its greater shielding from public view (since Substation Site 7 has less of a border on a public road, a greater size, and greater vegetation).[101]
- Route P and Route Z2 are both shown to have the same total "percent of paralleling" (i.e., 71%) in the data table.[102] So in terms of that total data table percentage, there is no difference between the two routes, i.e., Route P is no better.
- Route P, however, is not truly equal to Route Z2 simply because of that data table total percentage. For example, it would only parallel 0.85 miles of other existing right-of-way ("ROW") like roadways, while Route Z2 and Z1 would parallel 1.60 miles of other existing ROW, or nearly two times more.[103] In this regard, Route Z2 is paralleling and utilizing public right-of-way along an existing main thoroughfare, Toutant Beauregard Road.
- Conversely, Route P would run along property lines for 2.62 miles, while a route like Route Z1 would only do so for 1.49 miles.[104]
- Route P would therefore result in greater fragmentation of habitat by paralleling a greater amount of property lines than would a route Like Route Z2 which would parallel a greater amount of roadway and a lesser amount of property lines.[105]
- Reliance on the data table's "habitable structure count" for Route P as the major decisional criterion in this case is not appropriate for several reasons:
    - the number of such habitable structures in this case are relatively low compared to those in other cases;

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[100] CPS Energy Ex. 17 (Route Cost & Data Summary Table).

[101] SHLAA Ex. 2 at pp. 14-15 (Hughes Dir.); SHLAA Ex 3 at pp. 34 & 39 (Landowner Cross-Reb.); Bexar Ranch Ex. 6 at 11-12 & 14-17 (Turnbough Cross-Reb.).

[102] CPS Energy Ex. 17 (Route Cost & Data Summary Table).

[103] CPS Energy Ex. 17 (Route Cost & Data Summary Table); SHLAA Ex. 6 at pp. 48-50 (Staff's Response to SHLAA's 1st RFI); Bexar Ranch Ex. 10 at pp. 2-3 (TPWD letter of Feb. 18, 2021) .

[104] CPS Energy Ex. 17 (Route Cost & Data Summary Table); SHLAA Ex. 6 at pp. 51-52 (Staff's Response to SHLAA's 1st RFI).

[105] CPS Energy Ex. 17 (Route Cost & Data Summary Table); SHLAA Ex. 6 at p. 53 (Staff's Response to SHLAA's 1st RFI); Bexar Ranch Ex. 10 at pp. 2-3 (TPWD letter of Feb. 18, 2021).

- the area is one of active development such that the number of habitable structures is not a stable factor for making a decision compared to more stable factors like cost and length;
- the habitable structures within 300 feet of the centerline of Route P are, with one exception, all to the east of the endpoint of Segment 43 (which segment constitutes 43% of Route P's total length);
- of those habitable structures, Route P has 6 single family residences with 200 feet of that proposed route's centerline, while a Route like Z1 has 7 single family residences with 200 feet of that other proposed route's centerline, so that there is no significant difference between those routes in terms of a 200 foot proximity;
- the notice distance of 300 feet is not an EMF exposure distance, just a notice requirement distance;
- CPS Energy's position based on its EMF study is that the potential EMF concern exposure distance for a 138 kV transmission line is approximately 100 feet;
- Route Z1 and Route P *each only have one single family residence* within 100 feet of the proposed route centerline, so that there is no difference between those routes in terms of a 100 foot proximity; and
- therefore the apparent potential EMF effect on the most personal and important habitable structures – homes – is the same between those routes.[106]

- On Route P the average distance of the habitable structures within 300 feet of its centerline is 23 feet or 12% closer to that route than the average distance of the habitable structures within 300 feet of the centerline of Route Z1.[107]
- This distance concern is particularly pronounced for the homes on Segment 22 of Route P, where all of them are less than 200 feet from that segment, of which two are less than 150 feet, and one of those two is less than the 100 foot distance that CPS Energy believes is the

[106] SHLAA Ex. 1 at pp. 3 & 15 (Landowner Dir.); SHLAA Ex. 2 at pp. 12 & 22-23 (Hughes Dir.); SHLAA Ex. 3 at pp. 19, 26, 31, 33 (Landowner Cross-Reb.); SHLAA Ex. 4 at pp. 4-7 (Hughes Cross-Reb.); SHLAA Ex. 6 at pp. 25 & 27 (Staff's Response to SHLAA's 1st RFI); SHLAA Ex. 8 at responses to Questions 1-1 and 1-2 (CPS Energy Response to SHLAA's 1st RFI); SHLAA Ex. 10 (Canyons - Blackbuck Phase 2 Unit 6 Plat per attached 2019 Master Development Plan); Toutant Ranch et al. Ex. 1 *passim* (Dreiss Dir.); CPS Energy Ex. 12 at ARM-5R (Marin Reb.); Tr. at pp. 815-17.

[107] SHLAA Ex. 8 at pp. 3, 5, & 7-8 (CPS Energy Response to SHLAA's 1st RFI).

potential EMF exposure distance.[108]

- Commission Staff also testified that all of the CPS Energy routes comply with the Commission's prudent avoidance policy, and therefore compliance with the Commission's prudent avoidance policy is not a determinative factor for route selection.[109]
- Route P is not a variant of CPS Energy's "best meets" original Route Z (i.e., it is not Routes Z1, Z2, AA1, AA2, and DD, which are variants of the original Routes Z and AA).
- Route P was not recommended by TPWD as the route with the "least impact to natural resources," is not a variant of the original Route AA or of current Route DD that TPWD recommended as having the "least impact to natural resources," and does not include any of the segments which are in the TPWD's original and current recommended routes.[110]
- Route P was never in any of the top performing routes in the analyses of Mr. Hughes, Mr. Andrews, or Dr. Turnbough.
- Even the Anaqua/Jauer witness, Mr. Anderson, did not include Route P in his recommendation; instead he only proposes use of Route W.
- And Commission Staff has made it clear that all routes are viable and constructible, that all routes comply with the Commission's prudent avoidance policy to the extent reasonable, and that Staff would not oppose approval by the Commission on the basis of whether a particular route minimizes habitable structures.[111]

Given the factors of cost, length, residences within 100 feet, environmental impacts, right-of-way donations versus landowner non-consents, etc., Route P therefore should not be selected.

V. Conclusion: Route Z2 is the Best of the Best

Routes Z1, Z2, AA1, and AA2 remain the best routes for selection in this case. Route Z2 is proposed by one intervenor as a limited variant of Route Z1, and Route AA2 is proposed by another intervenor as a limited variant of Route AA1. Those four comprise the best routes for selection in this case.

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[108] SHLAA Ex. 8 at Table 4-21 in Attachment SHLAA 1-1 regarding Route P habitable structure distances (CPS Energy's Response to SHLAA's 1st RFI).

[109] Staff Ex. 1 at p. 40 (Poole Dir.); Tr. at p.. 796-97 .

[110] CPS Energy Ex. 16 (Focus Routes Map); Tr. at pp. 187-89, 193.

[111] Staff Ex. 1 at 42 (Poole Dir.); Tr. at pp. 796-977, & 805-06.

Prior to the proposal after the CPS Energy Rebuttal stage of the case, Route Z1 appeared to be the "best of the best" routes. After the creation of Route Z2, among the four best routes it appears that Route Z2 is the "best of the best of the best" routes. This is because Route Z2:

- Is the *shortest* route in length.
- Is the *cheapest* of all the routes, for which ratepayers would have to pay, and cheaper by about $5 million to $15 million compared to the routes which do not use Toutant Beauregard Road.
- Runs along the north border rather than bisecting through the middle of High Country Ranch, which reduces the effect on two sets of intervenors, Mr. Cleveland and the Rockwoods.
- Uses Segment 42a, which is well behind the school on a neighboring property (more than 100 feet from the back edge of the school sports field, nearly 300 feet from that back edge, and about 550 feet from the school building), and is not on the school property like Segment 41 or in front of the school entrance like Segment 35.
- Does not go in front of the Barrera family interest's properties on the Toutant Beauregard Road portion which they oppose using, i.e., Segment 35 (and they do not oppose using Segments 42a and Segment 36).
- Utilizes donated right-of-way by the developer west of the school, which helps reduce the cost to ratepayers, reduces the controversy in the case since the developer is agreeing to and supporting the use of the segments with the donated right-of-way, and would involve the only property bisected by a route but with such bisecting occurring on an agreed basis, rather than on an opposed one (in contrast to the opposition to the bisecting by Route P of individual landowner properties and the bisecting by Route P of a developer's active-development property).
- Does not come within 300 feet of any habitable structure in the Anaqua Springs HOA except for the road entrance to its commercial road-entrance gatehouse, as opposed to the 12 to 57 habitable structures on the other routes which would run through or along the SHLAA neighborhood areas.
- Uses a shorter length along Toutant Beauregard Road (from Segment 36 to Substation Site 7) than some of the other routes that also parallel Toutant Beauregard Road (like Route DD).
- Uses the larger and more visibility-shielded Substation Site 7, instead of the smaller and more publicly-visible substation sites like Substation Site 6.

- By terminating on the east side at Substation 7, does not go further east to the Rose Palace sports arena or to the historical marker located at the intersection of Scenic Loop Road, Boerne Stage Road, and Toutant Beauregard Road.
- Is substantially similar to the routes which TPWD says have the least natural resources impacts, but without the use of Segments 41 and 35 which have adverse effects on NISD and the Barrera family interests.
- Avoids running through or along the properties of numerous testifying intervenors such as:
    - SHLAA and its members, which include over 30 individual members, the Canyons subdivision with over 700 landowners, and the Altair subdivision with over a dozen landowners;
    - Jay A. Gutierrez, Amy L. Gutierrez, and the Gutierrez Management Trust who are within the Canyons subdivision, but felt it was important enough to hire their own attorney and file their own specific testimony about the impacts on them and on their habitable structure within 300 feet of Segment 57 (and routes including that segment such as Route W);
    - Bexar Ranch, L.P. (which would be bisected by routes using Segments 43, 44, and 45, and thus by routes such as Routes P, R1, and W, and which is a family-owned property for which the family is taking steps to preserve it from ever being developed);
    - Guajalote Ranch, Inc. (which would be bisected by Segment 27 and Route W);
    - the Clearwater POA, along with its pro se intervenor homeowners, who would have routes like Route P and Route R1 bisect their established neighborhood and some of its properties;
    - Ms. Sykes regarding Segment 17;
    - Ms. Arbuckle regarding Segment 17;
    - Ms. Biemer regarding Segment 17;
    - Mr. Bernsen regarding Segment 17;
    - Ms. Yvette Reyna regarding Segment 17;
    - Lisa Chandler, Clinton R. Chandler, and Chip and Pamela Putnam on Segment 40, whose expert witness Brian Andrews also found Routes Z1 and AA1 were top performing routes and came up with Route AA2;

- Those in the southern portion of the Anaqua Springs subdivision near Segment 38, including the three with habitable structures within 300 feet of that segment;
- Mr. Peter M. Eick and his Serenity Geophysical Consultants, LLC on Segment 16;
- Robert and Rachel Freeman on Segment 40;
- Ms. Lucia Zeevaert near Substation Sites 2 and 5; and
- Primarily Primates Inc. on Segment 13 and near Substation Site 1.

- Has two-thirds of the habitable structures within 300 feet of the route on the *other side of Toutant Beauregard Road* from the proposed transmission route paralleling that existing corridor.[112]
- Has *only one single family residence within 100 feet* of the route centerline, same as for Staff-recommended Route P, but unlike Anaqua/Jauer-recommended Route W which has *three* such single family residences.[113]

The only intervenors actually located along the key segments in Routes Z1, Z2, AA1, and AA2 who oppose use of those key segments are:

- The NISD (as to Segment 42a, even though it is in the floodplain area behind the school, not directly on the school property, more than 300 feet from the school buildings, and more than 100 feet and in fact nearly 300 feet from the back edge of the sports field area behind the school).
- Anaqua (as to Segment 36, even though it only goes in front of its subdivision property road entrance and by its one habitable structure within 300 feet of the centerline, which is its road entrance gatehouse, rather than a residence).
- Jauer (as to Segment 36 even though it only goes in front of its property road entrance and not within 300 feet of any Jauer habitable structures).
- Rose Palace (as to Segment 54 which goes along the road by its affiliated ranch but not along the road by the Rose Palace itself).
- Mr. Steven Herrera (as to Segment 54, who, in the entire Scenic Hills subdivision, is the only one with property bordering Toutant Beauregard Road that intervened in this case,

[112] CPS Energy Ex. 15 at Exh. LBM-2R entitled "Amended Fig. 4-1R" (Meaux Reb.).

[113] *See* SHLAA Ex. 8 at Tables 4-21 (Route P), 4-28 (Route W), & 4-31 (Route Z1) (CPS Energy Response to SHLAA's 1st RFI).

as opposed to those interior to that subdivision who seemed more concerned about Segment 17, a segment which is not a part of any of the routes using Toutant Beauregard Road).

As to Mr. Herrera, he (and his other non-intervening neighbors bordering Toutant Beauregard Road) chose to live directly on Toutant Beauregard, a major thoroughfare with road traffic, distributions lines, and other development activities. A transmission line using Routes Z1, Z2, AA1, and AA2 would be on the other side of the road from his property.[114] It would also be 284 feet, or nearly three times the 100 foot distance that CPS Energy by its study says is the EMF exposure distance, from a 138 kV transmission line.[115]

While his concerns are understandable, the SHLAA members share similar concerns as to their properties. Moreover, unlike Mr. Herrera's situation, the routes he favors would result in having the SHLAA neighborhoods and properties bisected by a transmission line, where no major roads or existing distributions lines exist. Indeed, his property is on the other side of the road from a transmission line route along Toutant Beauregard Road, so he will not have any of his private property taken by a new transmission line ROW along that road. And the routes he favors would result in having multiple habitable structures not just within the notice distance of 300 feet from the transmission line centerline but also from one to three single family residences which would be within 100 feet of the transmission line centerline, unlike his.

As SHLAA has indicated, there is no perfect solution for transmission facilities in the largely residential study area in this case.[116] On balance, having the new transmission line run on the other side of the Toutant Beauregard Road and more than a 100 feet from Mr. Herrera's home, instead of bisecting SHLAA properties and neighborhoods and running less than 100 feet of one or more SHLAA home, makes selection of Route Z2, or alternatively Routes Z1, AA1, or AA2, the most reasonable choice amongst the potential options.

VI. Prayer

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[114] CPS Energy Ex. 1, Attachment 6, Sheet 8 (showing Segment 54 and Mr. Herrera's habitable structure # 90); CPS Energy Ex. 18, Inset No. 2 (intervenor map regarding Segment 54); SHLAA Ex. 8 at Table 4-31 (CPS Response to SHLAA's 1st RFI); Tr. at pp. 822-24.

[115] Tr. at p. 824.

[116] *E.g*, SHLAA Ex. 1 at pp. 22-23.

Accordingly, it is respectfully requested that the Proposal for Decision recommend the selection of Route Z2, or alternatively Route Z1, Route AA1, or Route AA2.

Respectfully submitted,

By: */s/Thomas K. Anson*
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ATTORNEY FOR SAVE HUNTRESS LANE AREA ASSOCIATION

CERTIFICATE OF SERVICE

Certificate of Service: I certify service under SOAH Order No. 3 this May 21, 2021.

/s/Thomas K. Anson
Thomas K. Anson