

Control Number: 51023



Item Number: 837

Addendum StartPage: 0

SOAH DOCKET NO. 473-21-0247  
P.U.C. DOCKET NO. 51023

2021 MAY 21 PM 1:58  
STATE OFFICE OF

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

BEFORE THE  
STATE OFFICE OF

ADMINISTRATIVE HEARINGS

POST HEARING BRIEF

MARK A. SIEGEL

PRO SE INTERVENOR

MAY 21, 2021

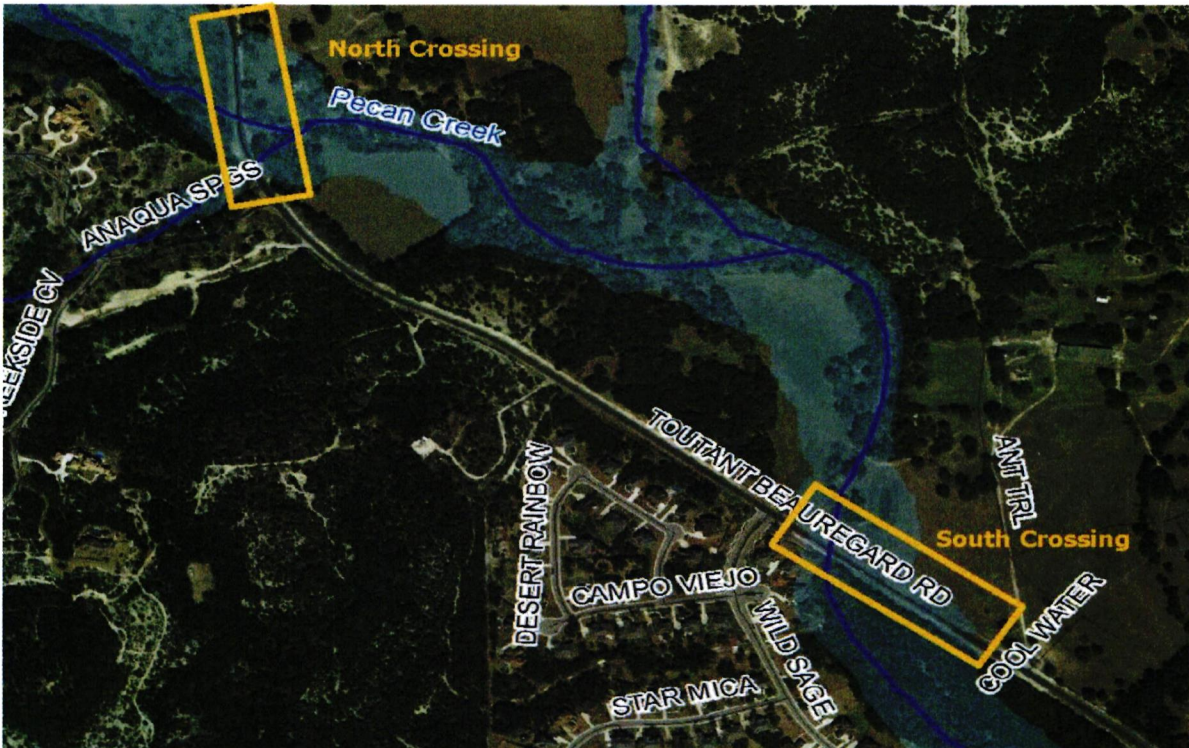
837

This letter is intended to serve as the Post Hearing Brief for Mark A. Siegel, pro se intervenor.

**POSITION RELATIVE TO THE PROJECT:**

I oppose the use of any proposed routes that would use/ run along/ parallel/ or follow Toutant Beauregard Road, namely Segments 14, 54, 20, 36 and 35, as well as Segment 42a, which, like Segment 35, runs in close proximity to McAndrew Elementary School. I also oppose routes using Segments 38, 39 and 43 without modifications to avoid the property lines of the established homes on the southern boundary of Anaqua Springs Ranch. My opposition is based on the following:

1. Toutant Beauregard Road is an historical and scenic two-lane winding country road, lined with numerous homes and the location of Dr. Sarah McAndrew Elementary School. It is a road that is crossed several times by creek waters, most notably Pecan Creek, and is highly prone to heavy flooding. This was confirmed in the testimony of Mr. Tom Dreiss, who developed two subdivisions on Toutant Beauregard Rd. and is very familiar with the hazards along that road. In fact, Bexar County lists Toutant Beauregard Road on their Bexar County Flood Control website as an area of concern for low water crossings and a safety concern for vehicular traffic.



Map of Toutant Beauregard Road LWCs from Bexar.org

The yellow boxes above demonstrate where there are currently flood gauges and flood gates along Toutant Beauregard Road (see Attachment A), as confirmed by Mr. Dreiss in his testimony. The South Crossing is near the entrance to the Sundance Ranch subdivision and the North Crossing is between the entrance to Anaqua Springs Ranch subdivision and McAndrew Elementary School. As an example of the flood hazards discussed with Mr. Dreiss, on the morning of May 19, 2016, a severe thunderstorm happened to hit after children had already arrived at McAndrew Elementary school, stranding them in the school with no access to or from the school along Toutant Beauregard Rd. (See Attachment B).

During the hearing, CPS Staff attempted to downplay the danger of the possibility of a downed power line along Toutant Beauregard Rd. during a severe storm, in spite of the fact that the transmission lines would cross from one side of Toutant Beauregard Rd. to the other several times along Route Z1. And yet, as recently as May 18, 2021, CPS Energy sent out the following email notification to residents of Anaqua Springs Ranch during a power outage caused by a severe thunderstorm, warning them of the dangers of downed power lines and not to drive over a downed line.

## New Outage Information from CPS Energy



Outage Status:  
**New Outage  
Information  
from CPS  
Energy**

Outage Center

Dear CPS Energy Customer,

Our systems indicate there is an outage at [REDACTED] ANAQUA SPRINGS. Restoration time is currently not known. If you are without power, there is no need to report it at this time. We will provide you with updates as they are available.

For more information, please visit our outage map at <https://www.cpsenergy.com>.

Please remember to treat all downed wires as live and dangerous. Downed wires should be reported to [210-353-HELP](tel:210-353-HELP)(4357). Please stay at least 10 feet away and never drive over a downed wire.

We appreciate your patience and understanding. Thank you for being our customer.

Sincerely,  
CPS Energy Customer Service



**Safety is our top priority.**  
**Please stay away from downed power lines. Do NOT attempt to move or drive over the lines.**  
Report downed power lines to [210-353-HELP](tel:210-353-HELP) (4357).

This email was sent to [REDACTED] for CPS Energy account ending with [REDACTED].  
[Log in](#) to update your email address, to view, unsubscribe or update your alert preferences.

This is an automated message. Please do not reply.  
[Click here](#) to UNSUBSCRIBE from this notification.



It makes no sense whatsoever to add 138-KV transmission lines and towers to the existing hazards along Toutant Beauregard Road, when, as testified by CPS Energy, other viable alternate routes exist. Of the proposed routes, Route Z1 and other routes utilizing Toutant Beauregard Rd. are clearly the most dangerous route and should not be considered.

2. Both Segments 35 and 42 run dangerously close to Dr. Sara McAndrew Elementary School and a proposed adjoining middle school under a dual-campus model as testified to by the Northside Independent School District (NISD).

Dr. Laura Pankratz, M.D., a practicing pediatric endocrinologist, provided direct testimony of the danger of high voltage transmission lines to children's health, noting, "Studies suggest long term exposure to electromagnetic fields emitted by high voltage transmission (HVT) lines may negatively impact a child's health. Studies suggest HVT lines may negatively impact neurobehavioral function and increase a child's risk of developing leukemia." She went on to testify, "Studies suggest long term exposure to electromagnetic fields emitted by HVT lines may negatively impact a child's health. The suggestion that a HVT line may affect the health or development of a child should be strongly considered to avoid placing a HVT line near an elementary school, its playground and community garden, athletic facilities, or land that the school district owns that could be used for a future middle school, that would place hundreds of school children at potential risk."

Likewise, Dr. Sanjay Kumar, M.D., a practicing physician, stated in his Statement of Position filed with the PUC, "The proposed route runs along the property of Dr. Sara B. McAndrew Elementary School, which is located at 26615 Toutant Beauregard Road, Boerne TX. As a physician who did his residency in pediatrics, I am concerned about the potential impact of high voltage transmission lines on children who attend this school. High voltage transmission lines emit electromagnetic fields which have been linked to leukemia and negative effects on the neurobehavioral performance in children."

Further, Dr. Sunil Dwivedi, M.D., a practicing physician, opposed Segments 38, 39 and 43, which run near his home, and Segments near McAndrew Elementary School on Toutant Beauregard Rd., stating in his Statement of Position, "As a physician I am concerned about the possible detrimental effects that long-term exposure to electromagnetic fields could have on my children's health living adjacent to these structures 24 hours a day. There are studies that suggest negative impact on neurobehavioral function as well as increased risk for leukemia."

CPS Energy's only defense to running high voltage transmission lines and towers so close to an elementary school and proposed middle school during the hearing was "we've done it before" as if past wrongs somehow make this right. In fact, during the hearing, CPS Energy showed pictures of other schools with power lines that have been run in close proximity to a school. Those pictures were as sad and disturbing as any evidence provided during this hearing. Putting aside the electromagnetic field concerns, those pictures presented schools absolutely weighed down and swallowed up by towering power lines, creating a depressing and claustrophobic environment for the children who attend those schools. And most of those schools were built after the transmission line was already constructed. So, the schools made the choice to be there. One of those schools pictured was not even in NISD. How can a child be creative and excited to attend a school that looks like something out of an old photo album of Eastern Bloc countries? As pointed out by the NISD, this is the first time that CPS has presented an application like this in front of the Public Utility Commission and therefore the first time that the NISD has had a chance to oppose such transmission lines running in close proximity to one of its schools during a hearing. As the NISD stated during the hearing, "just because you have done it before doesn't mean you should." The great State of Texas, through the Public Utility Commission, needs to send a strong message that we put our children's physical health, mental health and safety first in Texas and we don't run high voltage power lines along

our children's schools/playgrounds, particularly when there are other options. Again, Route Z1 and any of the routes that utilize segments near McAndrew Elementary School prove to be the most dangerous and destructive routes.

3. At a time when all Americans are demanding more transparency from their government and public institutions, and when Texans are demanding the same from its utility providers after wither storm Uri, the CPS routing process for this transmission line has been anything but. We found out during the hearing that from Day 1, when CPS was presenting the routes at an Open House to the public, they were negotiating alternate routes with wealthy land developers unbeknownst to that very public. And sure enough, when the application was filed, it no longer looked like the routes presented to the public at the Open House – routes that avoided housing developments had disappeared and new routes in subdivisions had been added. For the routes that disappeared, CPS provided unverified stories about the Army not granting rights to land, claims which had not been followed up on by anyone at CPS or supported.

During the hearing, CPS presented numerous charts and graphs pointing out the cost of each route, yet when pressed to provide more detail on how those costs were derived, they strongly objected and claimed these hearings were not the place to question costs. How can you claim in a hearing that the primary favorable criteria for Route Z1 is low cost, but then turn around and argue that cost is not to be questioned? What we did find out is that Route Z1 is low cost as a result of the land donated and discounted by Mr. Tom Dreiss. Mr. Dreiss testified that he signed an agreement with CPS providing them valuable land in his subdivision development of Pecan Springs for right-of-way at the ridiculously low price of \$0.40 per square foot in exchange for CPS moving the route and eliminating a segment so it would not bisect his housing development. Further, as part of the agreement, Mr. Dreiss was forced by CPS to support segments on his property, which are included in Route Z1, even though Mr. Dreiss testified that from a business perspective, it would be better for his subdivision developments if the Commission selected a route for the Scenic Loop transmission line that does not directly impact properties that he is in the process of developing. So why did Mr. Dreiss donate and deeply discount his valuable land and support a route running through his development that was detrimental to his business? Mr. Dreiss testified that the original Segment 42 as drawn by CPS bisecting his development would have been “disastrous” and lead to his company’s “financial ruin.” What we saw during the hearing was a governmental entity (CPS is part of San Antonio’s municipal government) in the guise of a municipal utility exerting pressure on a citizen to artificially generate a low cost for a route. It became clear that when comparing the cost of routes, the methods used to derive those costs could not stand up to the slightest amount of scrutiny, and CPS aggressively objected during the hearing to any attempt to understand their cost analysis.

After the Open House, the San Antonio Express News ran an article dated October 4, 2019, entitled, *Neighbors uneasy about new power station on San Antonio’s Northwest Side*, with the following quote:

“We don’t have a preferred or a best route. We’ll file a number of alternative routes, and we welcome the input to the utility commission about what the best route is for the community,” said Kirk Rasmussen, an Austin attorney who will represent CPS in securing approval of the project.

And we heard CPS Staff reiterate that same sentiment time and again in their testimony during the hearing. Yet, their actions during this whole process, including the hearings, did not bear out that stated impartiality. We saw them aggressively lobby for Route Z1 and object to anyone who dared question the viability of that route, while remaining silent when alternate routes were challenged. Why was a governmental body that claimed not to have a preferred route fighting so passionately for one particular route? We never got the answer to that.

## CONCLUSION:

Route Z1 and any route that uses Segments 14, 54, 20, 36 or 35 along Toutant Beauregard Road or Segment 42a crossing behind Dr. Sara McAndrew Elementary School should be rejected by the ALJs and the Commission, just as it was rejected by the Commission Staff.

1. Toutant Beauregard Road has been clearly identified as an area prone to flooding and does not meet the criteria established for constructing a high voltage transmission line. During severe thunderstorms, the road is closed as a result of flooding and is not accessible to emergency and utility vehicles, while creating a dangerous situation for motorists who are lined up and stuck on the road behind the closed flood gates. Adding high voltage power lines which cross above Toutant Beauregard Rd. in several places to this mix is a recipe for disaster.
2. Dr. Sara McAndrew Elementary School is situated on Toutant Beauregard Road, with plans to add a middle school as part of NISD's two-campus model. High voltage power lines should not be run in close proximity to our children's schools. Studies suggest long term exposure to electromagnetic fields emitted by HVT lines may negatively impact a child's health and would place hundreds of school children at potential risk. The emotional stress on a child attending a school weighed down by transmission lines looming overhead is not conducive to creativity and learning. Just because it has been done before, doesn't mean we should. Texas needs to do better than that.
3. This process has not put all routes identified by CPS on an equal footing. Costs have been manipulated and agreements made in favor of Route Z1, in spite of it clearly being among the poorest and most dangerous routes. The number of habitable structures affected by Route Z1 and any route using Toutant Beauregard Road does not comply with the Commission's policy on prudent avoidance and should alone remove Route Z1 and any other route using Toutant Beauregard Rd. from consideration.

Respectively submitted,

Mark A. Siegel  
11430 Anaqua Springs  
Boerne, TX 78006

Attachment A



One of four flood gates/warning signals located on Toutant Beauregard Road between Sundance Ranch subdivision and McAndrews Elementary School. This one is located near the entrance to Sundance Ranch subdivision.





Flood gauge on Toutant Beauregard Road near Sundance Ranch subdivision.



One of four flood gates/warning signals located on Toutant Beauregard Road between Sundance Ranch subdivision and McAndrew Elementary School. This one is located across from the entrance to Anaqua Springs Ranch subdivision.



Flood gauge near entrance to Anaqua Springs Ranch subdivision.

## Flood gates leading to NISD school closed, students and staff reported safe

by Sinclair Broadcast Group  
Thursday, May 19th 2016

AA



*Flood gates leading to NISD school closed, students and staff reported safe*

SAN ANTONIO - A road leading to an elementary school in Northwest Bexar County was flooded Thursday morning after the start of the school day.

As a result, the flood gates on Toutant Beauregard were closed, leaving no way to get to McAndrew Elementary School located near Boerne Stage Road and Scenic Loop Road.

A Northside ISD spokesperson said the flooding started after all the students and staff arrived at the school this morning, leaving them stranded inside the school.

NISD says all the children and school workers are safe. The district is working with the Bexar County Sheriff's Office to make sure there is no immediate threat to the children.

This is a developing story. Check back for updates.