



Control Number: 51023



Item Number: 838

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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

TOUTANT RANCH, LTD., ASR PARKS, LLC, PINSON INTERESTS LTD. LLP, AND CRIGHTON DEVELOPMENT CO.'S INITIAL BRIEF

I. INTRODUCTION

Toutant Ranch, Ltd., Pinson Interests Ltd. LLP, ASR Parks, LLC, and Crighton Development Co. (collectively, “Companies”) are in the business of developing large tracts of unimproved ranchland into residential communities. Currently, the Companies are in the process of developing three communities that were along potential paths for CPS Energy’s proposed Scenic Loop transmission line at the time of the Open House meetings. As explained in the Direct Testimony of Tom Dreiss, the presence of multiple potential routes through or around the Companies’ planned developments was preventing them from selling completed home sites and continuing to advance their projects.¹ As a result, the Companies worked with CPS Energy to develop an alternative path along the northern edge of those communities rather than through them.² As Mr. Dreiss made clear at the hearing, “[W]e don’t want the power line more than anybody else, but it’s in our best interest to negotiate the best possible route for the line through our property, and that’s what we did.”³ That alternative path was incorporated into CPS Energy’s amended Application last December.

¹ Dreico Companies’ Exhibit 1, Direct Testimony of Tom Dreiss (Dreiss Dir.) at 5-6.

² *Id.* at 6-7.

³ Tr. at 913:12-15; *see also* Tr. at 968:13-17 (“[W]e don’t want the power line any more than anybody else wants the power line. We just worked with CPS on those particular location so we could continue with the development of the property.”).

In line with the Companies' agreement with CPS Energy, the Companies support the Commission using that negotiated route to cross the Companies' properties. In particular, the Companies support the use of a path that begins at the node that interconnects Segments 41, 42a, 46, and 46a and travels to the west across their properties. The Companies do not take a position with respect to the portions of this transmission line that do not directly impact their properties.⁴ That said, the Companies would not oppose the Commission routing the line along a path that would avoid their properties and ongoing development projects. As Mr. Dreiss explained at the hearing, "[the Companies are] not in the business of selling right-of-way to make money."⁵ While the Companies have undoubtedly benefitted from working with CPS Energy to minimize the number of potential routing options that cross their properties,⁶ there is no doubt that it would be better for the Companies' developments from a business perspective if the transmission line avoided the Companies' properties entirely.⁷

If the Commission adopts a route that crosses the Companies' properties, the Companies would prefer that the Commission use Segment 46 instead of Segment 46a, and believe that selecting Segment 46 would be a better choice with respect to the Commission's routing factors. As explained below, Segment 46 is straighter, shorter, and significantly cheaper than Segment 46a. Additionally, Segment 46 would avoid unnecessarily disrupting completed home sites in the Companies' Pecan Springs Ranches, Unit 3 development. Accordingly, if the Commission selects a route that crosses the Companies' properties, Segment 46 is a clearly superior choice.

⁴ Tr. at 940:22-25.

⁵ Tr. at 960:2-3.

⁶ See Dreico Companies' Exhibit 1, Dreiss Dir. at 5-6.

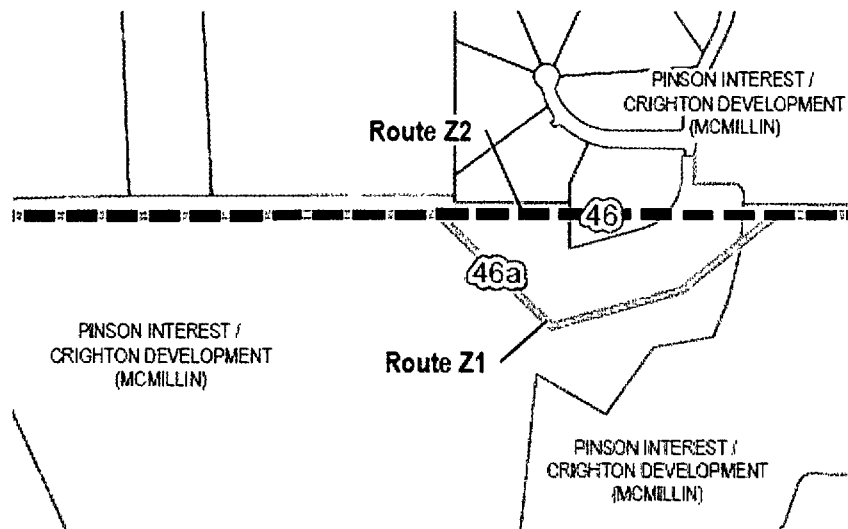
⁷ See *id*

II. ARGUMENT AND AUTHORITIES

A. If the Commission selects a route that crosses the Companies' properties, that route should use Segment 46 rather than Segment 46a.

The Companies believe that Segment 46 is a superior choice to Segment 46a, and urge the Commission to use Segment 46 if it selects a route that crosses the Companies' property. The figure below shows Segment 46 travelling straight east-west and Segment 46a curving to the south:

Figure 1: Comparison of Segment 46 and Segment 46a⁸



i. No party supports selecting Segment 46a over Segment 46.

It is important to note that *no party actively supports Segment 46a over Segment 46*. To understand why that is the case, it is helpful to know why Segment 46a was created. Segment 46 was presented in CPS Energy's original application. During their negotiations, the Companies and CPS Energy developed Segment 46a to offset the impact of removing Segment 49, which would have bisected the Companies' property.⁹ The idea behind Segment 46a was that it would provide a potential alternative path that stays at least 300 feet from the boundary of the small tract located under the number "46" on the figure above. At the time that CPS Energy amended its Application

⁸ CPS Energy Exhibit 16, Box 1.

⁹ See Dreico Companies' Exhibit 1, Dreiss Dir. at 7, Figure 5.

to add Segment 46a, the owner of that tract, Ms. Reyes, was an intervenor in this proceeding,¹⁰ and the Companies wanted to leave no doubt that their agreed modifications did not unduly impact her potential litigation position. However, after CPS Energy amended its Application, Ms. Reyes did not file testimony or a statement of position, and she was subsequently removed as an intervenor.¹¹ As a result, no party in this case has ever supported the selection of Segment 46a over Segment 46.

ii. Segment 46 performs substantially better than Segment 46a under the Commission's routing criteria.

The record demonstrates that Segment 46 performs substantially better than Segment 46a under the Commission's routing criteria. As CPS Energy witness Ms. Meaux acknowledged at the hearing, it is possible to see the difference between Segment 46 and Segment 46a by looking at the statistical differences between Routes Z1 and Z2 because that is the only segment along which those two routes diverge.¹² The pertinent differences are summarized below:

- Segment 46 travels straight, while Segment 46a involves four additional turning structures¹³
- Segment 46 costs *significantly less* than Segment 46a¹⁴
- Segment 46 is 0.07 miles shorter than Segment 46a¹⁵
- Segment 46 parallels property lines and compatible ROW for an additional 0.09 miles¹⁶

¹⁰ Docket No. 51023, Interchange # 286 (available at: https://interchange.puc.texas.gov/Documents/51023_286_1084982.PDF).

¹¹ Docket No. 51023, SOAH Order No. 10 at 4 (available at: https://interchange.puc.texas.gov/Documents/51023_691_1118714.PDF); *see also* Tr. 596:2-19.

¹² Tr. 600:2-5; *see also* CPS Energy Exhibit 17 at 2.

¹³ Tr. 598:17-22

¹⁴ *See* CPS Energy Exhibit 17 at 2 (Row 1) (Segment 46 is estimated to cost approximately \$840,000 less than Segment 46a).

¹⁵ *See id.* (Row 2).

¹⁶ *See id.* (Row 7).

- Segment 46 crosses 2.2 fewer acres of moderate to high quality golden-cheeked warbler habitat¹⁷

These significant advantages of Segment 46 counsel in favor of adopting it instead of Segment 46a in any route that crosses the Companies' properties.

iii. Segment 46a would more negatively impact the Companies' completed home sites in the Pecan Creek Ranches, Unit 3.

In addition to the many advantages of Segment 46 discussed above, it would also avoid unnecessarily compromising finished home sites in the Companies' Pecan Springs Ranches, Unit 3. This is illustrated by the following excerpt from Figure 2 in Mr. Dreiss's direct testimony. The black lines in this figure represent the boundaries of platted home sites:

Figure 2: Impact of Segment 46a on Finished Home Sites¹⁸



As shown above, Segment 46a would bisect three platted home sites in the Companies' completed Pecan Springs Ranches, Unit 3 development. The Commission should avoid these negative impacts by selecting Segment 46 instead of Segment 46a if it adopts a route that crosses the Companies' property.

¹⁷ See *id.* (Row 37).

¹⁸ See Dreico Companies' Exhibit 1, Dreiss Dir. at 3, Figure 2.

III. CONCLUSION

The Companies appreciate the time and effort that CPS Energy put into developing the various modifications that were necessary across the Companies' tracts. The Companies' stand by the resulting Agreement, and support the use of a path that begins at the node that interconnects Segments 41, 42a, 46, and 46a and travels to the west across their properties. The Companies do not take a position with respect to the portions of this transmission line that do not directly impact their properties. However, the Companies would not oppose the Commission routing the line along a path that would avoid their properties and ongoing development projects.

If the Commission selects a route that crosses the Companies' properties, it should select Segment 46 instead of Segment 46a. As discussed above, no party actively supports Segment 46a over Segment 46. Additionally, Segment 46 performs significantly better than Segment 46a under the Commission's routing criteria, and would decrease the cost of the line by **\$840,000**. Finally, Segment 46 would avoid unnecessarily bisecting completed home sites in the Companies' completed Pecan Springs Ranches, Unit 3. Accordingly, the Commission should select Segment 46 over Segment 46a if it adopts a route that crosses the Companies' property.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Michael McMillin, Attorney for Toutant Ranch, Ltd., ASR Parks, LLC, Pinson Interests Ltd. LLP, and Crighton Development Co., hereby certify that a copy of the foregoing document was served on all parties of record in this proceeding on this 21st day of May, 2021 by electronic mail, facsimile and/or First Class, U.S. Mail, Postage Prepaid.

/s/ Michael McMillin

Michael McMillin