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SOAH DOCKET NO. 473-21-0247
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APPLICATION OF THE CITY OF SAN ANTONIO TO AMEND ITS CERTIFICATE OF CONVENIENCE AND NECESSITY FOR THE SCENIC LOOP 138 KV TRANSMISSION LINE IN BEXAR COUNTY	§ § § § § §	BEFORE THE STATE OFFICE OF ADMINISTRATIVE HEARINGS

CPS ENERGY'S
INITIAL POST-HEARING BRIEF

TO THE HONORABLE ADMINISTRATIVE LAW JUDGES:

The City of San Antonio, acting by and through the City Public Service Board (CPS Energy) files this Initial Post-Hearing Brief, respectfully showing as follows:

I. INTRODUCTION AND SUMMARY

On July 22, 2020, CPS Energy filed an Application to Amend its Certificate of Convenience and Necessity (CCN) to build, own, and operate a new double circuit 138 kilovolt (kV) transmission line in Bexar County connecting a new substation to the electric grid (the Project). The Project is a new 138 kV transmission line that will connect a new load-serving electric substation (Scenic Loop Substation) located in the vicinity of the intersection of Scenic Loop Road and Toutant Beauregard Road in northwestern Bexar County to the existing Ranchtown to Menger Creek 138 kV transmission line to the west. The entire project will be approximately 4.5 to 6.9 miles in length, depending on the final route approved. The route alternatives under consideration in this proceeding have an estimated total cost ranging between approximately $37.6 million and approximately $56.1 million for transmission and substation facilities.

CPS Energy proposes to use double circuit 138 kV steel monopole structures for typical tangent, angle, and dead-end structures. The heights of typical structures proposed for the project range from 70 to 130 feet above ground.

CPS Energy initially identified 29 primary alternative routes (Routes A through CC) in its Application. Subsequently, CPS Energy amended its Application, resulting in 31 proposed

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alternative routes being presented.[1] During this proceeding, two additional alternative routes configured from route segments proposed by CPS Energy in the Application, as amended, were determined to be viable and were proposed and supported by some intervening parties. These additional alternative routes are known as Routes Z2 and AA2. The record evidence presented by CPS Energy (in the Application, filed testimony, and exhibits) provides cost estimates and land use and environmental data for all of these 33 alternative routes, each of which satisfies the need for the Project and is viable and constructible.

At the time it filed its Application, and in accordance with the requirement in the Commission's CCN application form, CPS Energy identified Route Z as the route that best addressed the Commission's routing criteria.[2] Subsequently, Route Z has been functionally replaced by Route Z1.[3] Commission Staff presented evidence in support of Route P as the route that best addresses the Commission's routing criteria. The Texas Parks and Wildlife Department (TPWD) supports Route DD, and various intervenors have supported different routes. All routes under consideration that are comprised of segments included in the Application are viable and meet the needs underlying the Project. Commission Staff supports the need for the Project, and no intervening party presented a substantive challenge to the need for the Project.

II. PROCEDURAL HISTORY

CPS Energy initially filed its Application on July 22, 2020. On August 21, 2020, the Commission Administrative Law Judge (ALJ) found the Application to be administratively complete, approved CPS Energy's provision of notice of the Application in this proceeding, and found such notice sufficient.[4] On September 10, 2020, TPWD filed a letter containing its comments and recommendations regarding the Project.[5]

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[1] Unless otherwise noted, the application filed on July 22, 2020, and the amended application filed on December 22, 2020, are collectively referred to simply as the "Application."

[2] CPS Energy Ex. 1 at 29-30; CPS Energy Ex. 9 at 12 (Direct Testimony of Adam Marin).

[3] CPS Energy Ex. 12 at 5 (Rebuttal Testimony of Adam Marin).

[4] Order No. 5 Finding Application and Notice Sufficient and Establishing Procedural Schedule (Aug. 21, 2020) (Interchange Filing No. 65).

[5] Staff Ex. 1, Attachment JP-3 (Direct Testimony of John Poole); *see also* Interchange Filing No. 343.

On September 29, 2020, the Commission referred this case to the State Office of Administrative Hearings (SOAH) and identified a number of issues to be addressed.[6] On October 22, 2020, SOAH ALJs convened a prehearing conference in this docket via Zoom. After the prehearing conference, the parties agreed upon a procedural schedule for the case, and the SOAH ALJs later issued an order memorializing that procedural schedule.[7] Consistent with that schedule, on November 6, 2020, CPS Energy filed the direct testimonies of Mr. Adam Marin, Mr. George Tamez, Ms. Lisa Meaux, and Mr. Scott Lyssy in support of the Application.

On December 10, 2020, the SOAH ALJs convened a route adequacy hearing. On December 11, 2020, the SOAH ALJs issued an order finding that CPS Energy had provided in the Application an adequate number of reasonably differentiated routes in order for the SOAH ALJs and the Commission to conduct a proper evaluation.[8] However, the SOAH ALJs ordered CPS Energy to amend its Application by December 23, 2020, to include modifications sought by a landowner, as well as changes necessary due to a home being constructed in the right-of-way of a segment, an issue discussed during the route adequacy hearing.[9] Accordingly, on December 22, 2020, CPS Energy filed an amendment to the Application and proposed a revised procedural schedule,[10] which was later approved by the SOAH ALJs.[11] This procedural schedule was subsequently modified as a result of historic weather events occurring in February 2021.[12]

More than 150 parties were granted intervention in this docket. More than 100 intervenor direct testimonies or statements of position were filed on or before the revised final deadline of March 1, 2021.[13] Of the parties initially granted intervention, 101 were dismissed from this docket for failure to file testimony or statements of position in accordance with the requirements of SOAH

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6 Order of Referral and Preliminary Order (Sep. 29, 2020) (Preliminary Order) (Interchange Filing No. 355).

7 SOAH Order No. 2 (Nov. 23, 2020) (Interchange Filing No. 389).

8 SOAH Order No. 5 (Dec. 11, 2020) (Interchange Filing No. 425).

9 *See* SOAH Order Nos. 4 (Dec. 4, 2020) and 5 (Dec. 11, 2020) (Interchange Filing Nos. 401 and 425).

10 See Interchange Filing No. 438.

11 SOAH Order No. 6 (Jan. 6, 2021) (Interchange Filing No. 445).

12 SOAH Order No. 8 (Mar. 1, 2021) (Interchange Filing No. 605).

13 The deadline was February 26, 2021, except as to one intervenor who was granted until March 1, 2021, to file direct testimony. In some instances, testimony was filed on behalf of numerous parties.

Order No. 8.[14] Commission Staff filed the direct testimony of its witness, Mr. John Poole, on March 22, 2021.[15] Cross-rebuttal testimony was filed that same date on behalf of different intervenors or intervenor groups. Thereafter, on April 7, 2021, CPS Energy filed rebuttal testimony from each of its four witnesses.

A hearing on the merits convened before SOAH ALJs Holly Vandrovec and Pratibha Shenoy on May 3, 2021, and concluded on May 7, 2021. The following parties made appearances, either personally or through their representatives, and participated in the hearing on the merits: CPS Energy; Lisa and Clinton R. Chandler; Chip and Pamela Putnam; the Charlene Jean Alvarado Living Trust; Maria Conception Uriarte-Azcue; Roy Barrera, III; Roy Barrera, Jr.; Roy R. Barrera, Sr.; Robert Barrera; the Save Huntress Lane Area Association; Jay and Amy Gutierrez; the Gutierrez Management Trust; Primarily Primates, Inc.; Bexar Ranch, LP; Guajalote Ranch, Inc.; the Clearwater Ranch Property Owners Association group;[16] Patrick Cleveland; Northside Independent School District; the San Antonio Rose Palace, Inc.; Strait Promotions, Inc.; Anaqua Springs Homeowners Association; BVJ Properties, LLC; Brad Jauer; Steven and Cathy Cichowski; Robert and Leslie Bernsen; Laura Biemer; James Brigham; Paul Craig; Peter Eick; Raul Figueroa; Steven Herrera; John Huber and Joan Arbuckle; Betsy Omeis; Yvette Reyna; Paul Rockwood; Stephen Rockwood; Mark Siegel; Brittany Sykes; Toutant Ranch, ASR Parks, LLC, Pinson Interest Limited, LLP, and Crighton Development Company (collectively the "Dreiss Interests"); Melissa Rosales; Ronald Schappaugh; Kristina Stroud; and Commission Staff.[17]

The evidentiary record closed on May 7, 2021, and the hearing record will close on May 28, 2021, after closing arguments and proposed fact findings and conclusions of law are filed.

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[14] *See* SOAH Order No. 10 (Mar. 26, 2021) (Interchange Filing No. 691) (dismissing 67 intervenors as parties) and SOAH Order No. 14 (May 4, 2021) (Interchange Filing No. 818) (dismissing another 34 intervenors as parties).

[15] Interchange Filing No. 665.

[16] This group consists of the following individual intervenors: Casey and Molly Keck; Francis and Mariana VanWisse; Michael and Shawn Stevens; Kurt and Adrianna Rohlmeier; Samer and Elizabeth Ibrahim; Max and Meg Garoutte; Byron and Gina Eckhart; Kurt and Brenda Ohrmundt; Gume Garza; Russell and Brook Harris; Alejandro Medina; Paolo Salvatore on behalf of Clear Run, LLC; Joe Acuna on behalf of Villa Strangianto, LLC; Robert and Sofia Garza for Laredo Sol Investments, LLC; Carlos and Christina Garcia; Michael and Rosalinda Sivilli; Sven and Sofia Kuestermann; L.W Arbuthnot; Greg Hamon; Jeff Audley; and Darrell Cooper.

[17] Robert and Rachel Freeman pre-filed testimony but did not appear at the hearing or otherwise offer their testimony. Such pre-filed testimony was not admitted at the hearing and is not in the evidentiary record for consideration in this proceeding.

III. JURISDICTION

The Commission has jurisdiction over CPS Energy's Application under Public Utility Regulatory Act[18] (PURA) §§ 14.001, 32.001, 37.051, 37.053, 37.054, and 37.056. SOAH has jurisdiction to conduct a hearing and render a proposal for decision on the Application under PURA § 14.053 and Texas Government Code § 2003.049.

IV. NOTICE

CPS Energy complied with the notice requirements of 16 Tex. Admin. Code (TAC) § 22.52(a)(1)-(4) and this docket was processed in accordance with PURA § 37.054. Order No. 5, issued in this docket on August 21, 2020, approved CPS Energy's provision of notice and the language of the notice.[19] No party challenged the sufficiency of CPS Energy's notice or asserted that a directly affected landowner had not been properly noticed in this proceeding. The record evidence establishes that CPS Energy's notice is adequate:

- On July 28, 2020, CPS Energy published public notice of the Application in the *San Antonio Express News*, a newspaper of general circulation in Bexar County, Texas.[20] A Publishers' Affidavit was filed with the Commission on August 11, 2020, showing proof of this publication of notice.[21]

- CPS Energy mailed by first class mail or hand-delivered written notice of the filing of the Application to each owner of land directly affected by the construction of the Project, as determined by review of the Appraisal District tax data for Bexar County.[22]

- CPS Energy mailed by first class mail or hand-delivered direct written notice of the Application to the county government of Bexar County, as well as the city governments for San Antonio, Fair Oaks Ranch, Grey Forest, and Helotes.[23]

- CPS Energy mailed by first class mail or hand-delivered direct written notice of the Application to the following neighboring utilities providing electric utility service

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18 TEX. UTIL. CODE ANN. §§ 11.001-66.017 (PURA).

19 Order No. 5 Finding Application and Notice Sufficient and Establishing Procedural Schedule (Aug. 21, 2020) (Interchange Filing No. 65).

20 CPS Energy Ex. 9 at 8; *see also* CPS Energy's Publishers' Affidavit (Interchange Filing No. 25).

21 CPS Energy's Publishers' Affidavit (Interchange Filing No. 25).

22 CPS Energy Ex. 9 at 7; *see also* CPS Energy's Affidavit of Notice (Interchange Filing No. 24).

23 CPS Energy Ex. 9 at 8; *see also* CPS Energy's Affidavit of Notice (Interchange Filing No. 24)

within five miles of the requested facilities: Pedernales Electric Cooperative (PEC) and Bandera Electric Cooperative (BEC). CPS Energy also sent notice of the Application to LCRA Transmission Services Corporation (LCRA TSC).[24]

- CPS Energy mailed by first class mail or hand-delivered written notice of the Application to other interested entities, including the Northside Independent School District, the Office of Public Utility Counsel, the Texas Department of Transportation, and the United States Department of Defense Siting Clearinghouse (DOD), and provided a copy of the Application via FedEx to TPWD.[25]

- CPS Energy provided notice of the public open house meeting as required under 16 TAC § 22.52(a)(4).[26]

V. PRELIMINARY ORDER ISSUES

A. Preliminary Order Issue No. 1

Is CPS Energy's application to amend its CCN adequate? Does the application contain an adequate number of reasonably differentiated alternative routes to conduct a proper evaluation? In answering this question, consideration must be given to the number of proposed alternatives, the locations of the proposed transmission line, and any associated proposed facilities that influence the location of the line. Consideration may also be given to the facts and circumstances specific to the geographic area under consideration, and to any analysis and reasoned justification presented for a limited number of alternative routes. A limited number of alternative routes is not in itself a sufficient basis for finding an application inadequate when the facts and circumstances or a reasoned justification demonstrates a reasonable basis for presenting a limited number of alternatives. If an adequate number of routes is not presented in the application, the ALJ must allow CPS Energy to amend the application and to provide proper notice to affected landowners; if CPS Energy chooses not to amend the application, the ALJ may dismiss the case without prejudice.

Order No. 5 deemed CPS Energy's Application sufficient and materially complete.[27] No party challenged the sufficiency of CPS Energy's Application. The record evidence establishes that CPS Energy's Application is adequate.[28]

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[24] CPS Energy Ex. 9 at 8; *see also* CPS Energy's Affidavit of Notice (Interchange Filing No. 24)

[25] CPS Energy Ex. 9 at 8; see also CPS Energy's Affidavit of Notice (Interchange Filing No. 24).

[26] CPS Energy Ex. 1 at 30; CPS Energy Ex. 9 at 9.

[27] Order No. 5 Finding Application and Notice Sufficient and Establishing Procedural Schedule (Aug. 21, 2020) (Interchange Filing No. 65).

[28] CPS Energy Ex. 1; *see also* 16 TAC § 22.75(d)(2) (deeming application sufficient if no written order finding a material deficiency is issued within 35 days after filing of the application).

CPS Energy witnesses Mr. Marin and Ms. Meaux testified regarding the adequacy of the routes proposed by CPS Energy.[29] Together with its routing consultant, POWER Engineers (POWER), CPS Energy initially developed and evaluated 29 geographically diverse alternative routes in the Application, and subsequently amended the Application to include a total of 31 geographically diverse alternative routes. The following additional routes, comprised of combinations of alternative route segments presented in the Application, have been proposed by parties and are viable for meeting the need for the Project: Route Z2 and Route AA2.

A route adequacy hearing was conducted by the SOAH ALJs, after which they explicitly determined that CPS Energy had provided in the Application an adequate number of reasonably differentiated alternative routes in order for the SOAH ALJs and the Commission to conduct a proper evaluation.[30] The record evidence supports a finding that the Application is sufficient and contains an adequate number of reasonably differentiated alternative routes for the Commission to conduct a proper evaluation.

B. Preliminary Order Issue No. 2

Are the proposed facilities necessary for the service, accommodation, convenience, or safety of the public within the meaning of PURA § 37.056(a) taking into account the factors set out in PURA § 37.056(c)? In addition,

a) How does the proposed facility support the reliability and adequacy of the interconnected transmission system?

b) Does the proposed facility facilitate robust wholesale competition?

c) What recommendation, if any, has an independent organization, as defined in PURA § 39.151, made regarding the proposed facility?

d) Is the proposed facility needed to interconnect a new transmission service customer?

The unchallenged record evidence establishes the Project is necessary for the service, accommodation, convenience, and safety of the public. The Project is needed to meet the existing and forecasted retail electric service demand of customers in northwest Bexar County and to improve reliability in the area.

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29 CPS Energy Ex. 2 at 20 (Direct Testimony of Lisa Meaux); CPS Energy Ex. 9 at 11.

30 SOAH Order No. 5 (Dec. 11, 2020) (Interchange Filing No. 425).

The new transmission line will connect the existing Ranchtown to Menger Creek 138 kV transmission line to the proposed Scenic Loop Substation in the area of the intersection of Scenic Loop Road and Toutant Beauregard Road. The area of the Project is located in the northwest quadrant of Bexar County, Texas, outside of the municipal boundaries of the City of San Antonio (City). Limitations on the existing CPS Energy electrical infrastructure in the northwest area of Bexar County will be challenged by increasing load along the IH-10 corridor north of Loop 1604, including La Cantera, Camp Bullis, and the Rim multiuse shopping development area.[31] Future load from the University of Texas at San Antonio (UTSA) associated with its Main Campus Master Plan (presented in February 2020) will significantly increase the current UTSA load.[32] In addition, the larger geographic area of the City that includes the UTSA campus (described in the City's SA Tomorrow Comprehensive Plan (Comprehensive Plan) as the "UTSA Area") is targeted as a regional development center and is one of the fastest growing areas of the City.[33]

As a result of the development in the area, CPS Energy is experiencing significant load growth in the northwest region of Bexar County, in some areas as high as 4-7 percent annually.[34] The load in the northwest region of Bexar County at issue in this Application is currently served by the existing La Sierra and Fair Oaks Ranch substations. The forecasted load growth for the La Sierra and Fair Oaks Ranch substations will soon exceed the current ability of distribution circuits to support load; specifically, the demand on the current system is expected to exceed the planning capacity for the area by 2025.[35]

In conjunction with the load growth CPS Energy is experiencing in the northwest Bexar County area, the existing distribution circuits within the La Sierra Substation and some of the circuits originating at the Fair Oaks Ranch Substation are very long (up to eight times longer than the average distribution circuit within CPS Energy's system) and serve thousands of customers.[36] These long, heavily loaded circuits have resulted in significant reliability concerns for the area.

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31 CPS Energy Ex. 1 at 11.

32 CPS Energy Ex. 1 at 11.

33 CPS Energy Ex. 1 at 11.

34 CPS Energy Ex. 1 at 11.

35 CPS Energy Ex. 1 at 13.

36 CPS Energy Ex. 1 at 14.

Even with system reconfiguration improvements on the existing distribution facilities immediately prior to the filing of this Application, without a new substation in northwest Bexar County, the CPS Energy customers served from the La Sierra and Fair Oaks Ranch substations will continue to experience lower reliability than CPS Energy's system averages.[37]

The reliability statistics on the La Sierra and Fair Oaks Ranch circuits from 2013 through 2019 indicate that the customer minutes of interruption from these circuits have accounted on average for approximately 11.2 percent of CPS Energy's total minutes of interruptions (as high as 20 percent in 2017), even though these circuits serve only approximately three percent of CPS Energy's entire load.[38] This indicates a lower reliability for the loads served by these substations.

The average length of the eight distribution circuits primarily serving the Scenic Loop area from the La Sierra and Fair Oaks Ranch substations is approximately 36.13 miles.[39] When two very short circuits (U111 and U113) are removed from the average, the remaining six circuits average 47.48 miles in length, with the longest circuit (R014) at 97.13 miles in length.[40] For comparison, the average circuit length of the 34.5 kV circuits in the CPS Energy system is approximately 20 miles in length.[41] The length and loading on these La Sierra and Fair Oaks Ranch circuits have equated to lower reliability to the customers served by these circuits.[42] Following the construction of the proposed Scenic Loop Substation, the length of the circuits connected to La Sierra, Fair Oaks Ranch, and Scenic Loop will decrease to an average of about 24 miles.[43]

An independent need analysis for the Project was prepared for CPS Energy by Burns & McDonnell Engineering Company, Inc. (Burns McDonnell).[44] The Scenic Loop Substation Analysis Report, dated July 14 , 2020 (the "Burns McDonnell Analysis Report"), is attached to the Application as Attachment 13. The analysis and findings contained in the Burns McDonnell

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37 CPS Energy Ex. 1 at 14.

38 CPS Energy Ex. 1 at 15.

39 CPS Energy Ex. 1 at 14.

40 CPS Energy Ex. 1 at 14.

41 CPS Energy Ex. 10 (Direct Testimony of George Tamez) at 6.

42 CPS Energy Ex. 1 at 14.

43 CPS Energy Ex. 1 at 14.

44 CPS Energy Ex. 1, Attachment 13.

Analysis Report demonstrate that the Project is needed. Further, Commission Staff agrees the Project is needed.[45] No parties have presented testimony demonstrating a lack of need for the Project. Ultimately, the record evidence conclusively demonstrates the Project's need.

1. How does the proposed facility support the reliability and adequacy of the interconnected transmission system?

As noted above, CPS Energy has experienced reliability concerns in the area of the Project. Between 2010 and 2019, one or more of the La Sierra and Fair Oaks Ranch circuits were on CPS Energy's poor performing circuits (PPC) list for six different years, and six of the 11 circuits have been on the list since 2010 (see Table 14-5 in the Application).[46] Additionally, five circuits from La Sierra and Fair Oaks Ranch were on the PPC list in 2018, which was the most of any year within the past ten years.[47] Without the Project, there is a likelihood of future violations of distribution and transmission planning criteria from load growth in the area.[48]

Construction of the proposed Scenic Loop Substation will provide CPS Energy with a load serving substation geographically intermediate to the Fair Oaks Ranch and La Sierra substations in a manner that will cut the average length and loading of distribution circuits serving end-use customers by 50 percent or more.[49] The Scenic Loop Substation will significantly improve the reliability in the northwest area of Bexar County and provide CPS Energy with the electric system capacity needed to serve this growing area for many years into the future.[50]

The Project is a Tier 4 Neutral project pursuant to the classifications established by the Electric Reliability Council of Texas (ERCOT).[51] Therefore, the Project is not required to be, and was not, submitted to the ERCOT Regional Planning Group for review and comment.[52] Notably,

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45 Staff Ex. 1 at 12, 18-20.

46 CPS Energy Ex. 10 at 8 (Direct Testimony of George Tamez).

47 CPS Energy Ex. 10 at 8.

48 CPS Energy Ex. 1 at 13.

49 CPS Energy Ex. 10 at 8.

50 CPS Energy Ex. 10 at 8.

51 CPS Energy Ex. 10 at 8.

52 CPS Energy Ex. 10 at 8.

however, CPS Energy has concluded that the Project will not result in any violation of North American Electric Reliability Corporation (NERC) or ERCOT performance requirements.[53]

2. Does the proposed facility facilitate robust wholesale competition?

The Project is needed to address local reliability needs of existing and future end-use consumers based on actual and forecasted electric load and identified system limitations in meeting this electric load. It is not intended for the purpose of facilitating wholesale competition.

3. What recommendation, if any, has an independent organization, as defined in PURA § 39.151, made regarding the proposed facility?

As noted above, CPS Energy has not presented the Project for review by ERCOT or any other independent organization. Accordingly, no recommendations regarding the Project have been made by any independent organization. However, CPS Energy has determined that the Project meets the criteria of a Tier 4 Neutral project and has determined it will not result in any violations of NERC or ERCOT performance requirements.[54]

4. Is the proposed facility needed to interconnect a new transmission service customer?

As noted above, the Project is needed to address local reliability needs of existing and future end-use consumers based on actual and forecasted electric load and identified system limitations in meeting this electric load. The Project is not specifically needed or intended to interconnect a new transmission service customer.

C. Preliminary Order Issue No. 3

Is the transmission project the better option to meet this need when compared to employing distribution facilities? If CPS Energy is not subject to the unbundling requirements of PURA § 39.051, is the project the better option to meet the need when compared to a combination of distributed generation and energy efficiency?

CPS Energy considered six options to meet the need for the Project: (1) Option A involves shifting load from existing circuits identified as overloaded; (2) Option B involves the construction of a new Scenic Loop Substation (the option selected and presented in the Application); (3) Option C involves adding a distributed generation power source as a non-wire solution for the area;

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53 CPS Energy Ex. 10 at 8-9.

54 CPS Energy Ex. 10 at 8-9.

(4) Option D describes an alternative with inclusion of a simple cycle gas generating station within the footprint to relieve loadings on the transformers; (5) Option E involves adding new circuits into the Fair Oaks Ranch Substation to pick up additional loads in the Scenic Loop region; and (6) Option F describes rebuilding existing low reliable circuits as underground circuits.[55] These six options were considered and analyzed fully. Of these six options, three are distribution-only alternatives: Options A, E, and F. As discussed below, the evidence establishes that distribution alternatives are not adequate to resolve the need for the Project identified by CPS Energy.

1. Distribution-Only Alternatives

The first distribution-only alternative, Option A, involves designing tie points and shifting load from the La Sierra Substation to surrounding available circuits to create greater capacity on the La Sierra circuits to pick up growing loads in the Scenic Loop area.[56] Because of the geographic relief and the existing CPS Energy service territory boundary, the Fair Oaks Ranch circuits can shift load only with La Sierra circuits, which would not enhance the capacity in the Scenic Loop area. Option A would involve shifting approximately 14.24 MW of load from La Sierra circuit Ul14 and Fair Oaks Ranch circuit R034 onto Fair Oaks Ranch circuit R014 to provide loading relief on those circuits.[57] This would result in 13.22 MW of additional capacity on circuits Ul14 and R034.[58] Of this additional capacity that is available, only 2.7 MW can be useful for planning purposes in accordance with the CPS Energy Distribution Planning Manual criteria of maintaining circuit loadings under 80 percent of their nominal rating.[59] After the potential load shifts, circuit R014 would have a loading of 62 percent and can additionally accommodate 4 MW to keep the circuit loading under 80 percent.[60] Thus, Option A would result in approximately 6.7 MW of additional capacity available for future load growth in the Scenic Loop area. Based on current load forecasts, Option A would provide sufficient capacity for the area only through approximately 2021, and would not provide the needed capacity to meet the load forecast beyond this year.[61]

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55 CPS Energy Ex. 1 at 19-20.

56 CPS Energy Ex. 1 at 20.

57 CPS Energy Ex. 1 at 20.

58 CPS Energy Ex. 1 at 20.

59 CPS Energy Ex. 1 at 20.

60 CPS Energy Ex. 1 at 20.

61 CPS Energy Ex. 1 at 20.

Moreover, Option A would not significantly improve the reliability issues experienced in the Scenic Loop area over the longer planning horizon. Under the Option A scenario, the circuit lengths originating from the La Sierra and Fair Oaks Ranch substations will be the same or, in some cases, lengthened based on load shifts chosen.[62] The La Sierra circuits currently serving the Scenic Loop area loads (the U114 circuit is an example) are already extremely long and heavily loaded. The length and loading configuration of these circuits have resulted in decreasing reliability performance. Option A would only temporarily decrease some of the circuit loading in the area and would not notably reduce circuit line length.[63] Within a short period of time, Option A would exacerbate the poor reliability performance of the CPS Energy distribution system in the Scenic Loop area and would not be able to accommodate load growth beyond the next year or two. Option A is not a viable alternative to address the significant reliability and capacity problems CPS Energy is experiencing in northwest Bexar County.[64]

The second distribution-only alternative, Option E, would involve upgrading the existing transformers at the Fair Oaks Ranch Substation for 100 MVA operation and constructing two new distribution circuits from that substation. Consideration was also given to potential upgrade of the transformation at the Ranchtown Substation, but because of its further location from the Scenic Loop area through difficult terrain to the west, the better alternative for consideration was a transformation upgrade at the Fair Oaks Ranch Substation. The Fair Oaks Ranch Substation is located on the east side of I-10 with more than a mile of underground conduit to terminate cables into the station. The distribution corridor in the Scenic Loop area is very limited and an upgrade would require converting the existing single circuit structures to double circuit structures and terminating the new circuits into Fair Oaks Ranch with additional undergrounding and utilizing existing trenching. The length of a new circuit would be anticipated to be 30 miles long to pick up portions of the Scenic Loop area load.[65]

Expansion of the capacity of the Fair Oaks Ranch Substation would provide some additional capacity for the distribution system in the Scenic Loop area. However, expansion of

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62 CPS Energy Ex. 1 at 20.

63 CPS Energy Ex. 1 at 20.

64 CPS Energy Ex. 1 at 20.

65 CPS Energy Ex. 1 at 21.

transformation capacity at Fair Oaks Ranch would still leave the Scenic Loop area served by long distribution circuits several miles from the Fair Oaks Ranch and La Sierra substations.[66] While there would be some benefit in the short term to reliability and capacity from upgrading the Fair Oaks Ranch transformers, the reliability to the Scenic Loop area would continue to deteriorate due to the distance from a strong substation in the vicinity.[67] Further, Option E has a total estimated cost of $45M (based on the construction of two distribution circuits with transformer and station upgrades),[68] which is as costly as the Scenic Loop Substation alternative with significantly less improvement to the reliability and capacity flexibility for the area.

The third distribution-only alternative, Option F, would involve relocating existing poor performing circuits from overhead to underground. While undergrounding distribution circuits can significantly improve reliability, the cost to underground an entire circuit is typically 8-10 times more expensive than overhead circuits.[69] At least two of the existing circuits from the La Sierra and Fair Oaks Ranch substations (U114 and R034) would need to be relocated underground to achieve the reliability benefits anticipated from construction of the proposed Scenic Loop Substation. An estimated cost of such undergrounding is estimated to be approximately $80 million, which far exceeds the anticipated cost of the Project.[70]

In addition, the engineering and maintenance for underground distribution circuits is more complex and expensive and would take many years to complete (resulting in further decreasing reliability in the interim of the conversion).[71] Also, the expanded capacity on the new underground distribution circuits would result in further needed upgrades to equipment at the Fair Oaks Ranch and La Sierra substations, resulting in additional costs for this alternative.[72] In order to achieve the same reliability and capacity benefits of the Scenic Loop Substation alternative, the undergrounding alternative would likely cost more than double the cost of a new substation and

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66 CPS Energy Ex. 1 at 21.

67 CPS Energy Ex. 1 at 21.

68 CPS Energy Ex. 1 at 21.

69 CPS Energy Ex. 1 at 21.

70 CPS Energy Ex. 1 at 21.

71 CPS Energy Ex. 1 at 21-22.

72 CPS Energy Ex. 1 at 22.

would not provide the same operational flexibility as a third substation (Scenic Loop) would for the region.[73]

A distribution-only alternative would only delay the need for the Project by a few years at most or would cost significantly more than the Project. Also, other than the very expensive option of undergrounding, a distribution-only alternative would not address the reliability concerns of the very lengthy circuits currently existing in the area because of the lack of a substation in the vicinity. No party has argued that a distribution alternative would resolve the need for the Project, and Commission Staff agrees the Project is the best option for meeting the needs in the project area.[74]

2. Distributed Generation

CPS Energy also considered and evaluated two distributed generation options, Options C and D, and both were found to be inadequate for meeting the need for the Project.

Option C would involve non-wire alternatives to traditional transmission and distribution facility investments. CPS considered solar photovoltaic (Solar PV) generation operated in conjunction with battery storage (BESS) in comparison to the CPS Energy La Sierra substation facilities as a potential solution to reduce peak loading and relieve capacity on circuits. CPS Energy conducted an analysis involving the August 2019 peak day demand of a transformer at the La Sierra substation and one of the circuits (Ul14) to determine the benefits and costs associated with using Solar PV and BESS as potential means to reduce circuit loadings.[75] CPS Energy's analysis demonstrated the output of a 6.64 MW solar site and how including a 40 MWh BESS on one of the circuits could reduce peak load on the transformer and provide adequate demand reduction.[76]

In the analysis, Solar PV provided 40 MWh of energy during the day to reduce the demand on the station.[77] The estimated cost for single axis tracking solar panels with the inverters necessary to produce 40 MWh on a sunny day is approximately $7.5 million.[78] However, to reliably replace

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73 CPS Energy Ex. 1 at 22.

74 Staff Ex. 1 at 12, 20-21.

75 CPS Energy Ex. 1 at 25-26.

76 CPS Energy Ex. 1 at 26.

77 CPS Energy Ex. 1 at 26.

78 CPS Energy Ex. 1 at 26.

the 20-25 MW initial capacity of the Scenic Loop Substation would cost approximately three times that amount (to account for fluctuations in sunlight availability).[79] In addition, using a conservative estimate of 2.5 acres per MW for solar, such a facility would require approximately 50-60 acres of available property for operation of the Solar PV facility.[80] Thus, the total cost of the installation of a 25 MW Solar PV resource would be approximately $25 million to $30 million and would require at least ten times the acreage of the proposed substation.[81]

Because Solar PV generates energy in the afternoon rather than at evening peak, energy storage—BESS—is required to shift the power to the evening when demand is the highest.[82] CPS Energy's analysis demonstrated that the BESS cost of providing a demand reduction of 8.3 MW is $15.2 million.[83] As noted, the Scenic Loop Substation is anticipated to provide a system capacity benefit of 20 to 25 MW initially. Thus, the cost of BESS to provide a similar benefit of 25 MW would be approximately $45 million.[84] In addition, the typical functional lifespan of BESS is currently limited to about 15 years (compared to the much longer lifespan of a substation and associated transmission facilities).[85]

Therefore, considering the use of Solar PV with BESS as a distributed generation option would result in a total cost of $65 to $75 million, which far exceeds the anticipated costs for the Project. Further, this option would require additional station costs to interconnect the Solar PV and BESS resources to the distribution system. This option also would not alleviate existing reliability issues that are directly associated with the extended circuit lengths, as this option does not change those circuit lengths.

The other distributed generation option considered, Option D, involves construction and operation of gas-fired generation within the project area to replace the capacity of the proposed

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79 CPS Energy Ex. 1 at 26.

80 CPS Energy Ex. 1 at 26.

81 CPS Energy Ex. 1 at 26.

82 CPS Energy Ex. 1 at 26.

83 CPS Energy Ex. 1 at 26.

84 CPS Energy Ex. 1 at 26.

85 CPS Energy Ex. 1 at 26.

Scenic Loop Substation.[86] The nearest available gas pipeline to the Scenic Loop area capable of serving a gas-fired generating station is approximately five miles away.[87] In addition, any new fossil-fueled generation would require significant water usage and environmental permits.[88] Based on the review of the load growth in the region, a new substation is needed in the Scenic Loop area by 2025. It is highly unlikely that any new fossil-fueled generation could be permitted and constructed in order to address the need for the area within this time frame.[89]

Also, adding a generation resource to the existing circuits will still require additional switchgear and transformers (in addition to the cost of the generation facility itself), similar to the cost of developing a new Scenic Loop Substation.[90] The cost to develop a new approximately 50 MW peaking plant (aeroderivative engine) would be approximately $60 million, without considering the costs to construct approximately five miles of natural gas pipeline to the plant and the costs to mitigate other constraints to make this option a viable alternative to the Scenic Loop Substation.[91] In addition to the approximately $60 million to construct the generation facility, plus the additional cost to construct the pipeline and the interconnection to the distribution system, it is also important to note that this solution would not fully alleviate existing reliability issues directly associated with distribution circuit line length and overhead line length through significant terrain and vegetation since the existing distribution circuits would remain significantly unchanged.[92]

The distributed generation options are far more expensive than the project and do not provide the same level of benefits the Project does. Accordingly, distributed generation options are not an appropriate alternative for addressing the need for the Project. Commission Staff agrees with this conclusion.[93]

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86 CPS Energy Ex. 1 at 27.

87 CPS Energy Ex. 1 at 27.

88 CPS Energy Ex. 1 at 27.

89 CPS Energy Ex. 1 at 27.

90 CPS Energy Ex. 1 at 27.

91 CPS Energy Ex. 1 at 27.

92 CPS Energy Ex. 1 at 27.

93 Staff Ex. 1 at 12, 20-21.

D. Preliminary Order Issue No. 4

Which proposed transmission line route is the best alternative weighing the factors set forth in PURA § 37.056(c) and 16 Tex. Admin. Code (TAC) § 25.101(b)(3)(B)?

CPS Energy retained POWER to perform and prepare an Environmental Assessment (EA) and routing study for the Project.[94] The POWER project team included professionals with expertise in different environmental and land use disciplines (geology/soils, hydrology/water quality, terrestrial ecology, wetland ecology, land use/aesthetics, and cultural resources) who were involved in data acquisition, routing analysis, and environmental assessment for the Project.[95] To identify preliminary alternative route segments for the Project, POWER delineated a study area, sought public official and agency input, gathered data regarding the study area, performed constraints mapping, identified preliminary alternative route segments and alternative substation sites, and reviewed and adjusted the preliminary alternative route segments and alternative substation sites following field reconnaissance and an open house meeting.[96]

Based on feedback from the public, government agencies, and public officials, and evaluation of all of the preliminary alternative route segments, POWER worked with CPS Energy to identify 48 primary alternative route segments to connect seven proposed Scenic Loop Substation sites to the existing Ranchtown to Menger Creek transmission line.[97] The locations of the primary alternative route segments presented in the Application filed on July 22, 2020, are shown in Appendices D and E of the EA. From the preliminary alternative route segments, POWER and CPS Energy initially identified 29 primary alternative routes.[98]

POWER considered a variety of information, including input from the public and public officials, geographic diversity within the study area, and an inventory and tabulation of a number of environmental and land use criteria.[99] CPS Energy reviewed the primary alternative routes with regard to cost, construction, engineering, and right-of-way (ROW) maintenance issues and

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94 CPS Energy Ex. 2 at 5 (Direct Testimony of Lisa Meaux).

95 CPS Energy Ex. 2 at 5.

96 CPS Energy Ex. 2 at 7.

97 CPS Energy Ex. 2 at 10.

98 CPS Energy Ex. 1 at 29.

99 CPS Energy Ex. 2 at 13.

constraints, and conducted field reviews.[100] The route development process produced an acceptable number of alternatives, all of which comply with the routing requirements of PURA § 37.056(c) and 16 TAC § 25.101(b)(3)(B), including the Commission's policy of prudent avoidance.[101] At the time it filed its Application, and in accordance with the requirement in the Commission's CCN application form, CPS Energy identified Route Z as the route that best addressed the Commission's routing criteria for the reasons included in response to Question 17 of the Application.[102]

Subsequently, after the route adequacy hearing, the ALJs ordered CPS Energy to amend its Application to include changes to routing on Segments 42, 46, 48, and 49 that occurred entirely on property owned by directly affected landowners—the Dreiss Interests—at their request. At that time, no parties challenged or protested the Dreiss Interests' route change request. CPS Energy filed the amended Application on December 22, 2020. Specifically, the amendment included the following changes:

- The northern portion of Segment 42 was modified by shifting it to the north at the request of the Dreiss Interests. To distinguish this segment from the original alignment of Segment 42 it was renamed as Segment 42a.[103]

- The eastern portion of Segment 46 was modified by shifting it to the south to better avoid a habitable structure and at the request of the Dreiss Interests. To distinguish this segment from the original alignment of Segment 46 it was renamed as Segment 46a.[104]

- The eastern half of Segment 49 was modified by shifting it to the north at the request of the Dreiss Interests. As a result of shifting Segments 49 and 42, the node between Segments 42, 48, and 49 was moved to the northwest, eliminating the need for Segment 48. To distinguish this segment from the original alignment of Segment 49 it was renamed as Segment 49a. Moving the node to the west also split Segment 46 causing the western portion of the segment to be relabeled as Segment 46b.[105]

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100 CPS Energy Ex. 2 at 11.

101 CPS Energy Ex. 2 at 8-9, 21.

102 CPS Energy Ex. 1 at 29; CPS Energy Ex. 9 at 12.

103 CPS Energy Ex. 6, at Figure 6-20 in Attachment 2; Attachment 4; and Sheet 3 Amended in Attachment 5.

104 CPS Energy Ex. 6, at Figure 6-20 in Attachment 2; Attachment 4; and Sheet 3 Amended in Attachment 5.

105 CPS Energy Ex. 6, at Figure 6-20 in Attachment 2; Attachment 4; and Sheet 2 Amended, Sheet 3 Amended, Sheet 5 Amended, and Sheet 6 Amended in Attachment 5.

In addition to the changes above requested by the Dreiss Interests, CPS Energy also modified the western portion of Segment 26 (creating Segment 26a) by shifting it to the east on the other side of the property line in order to avoid a habitable structure that was recently constructed in the direct path of the original alignment of Segment 26. As a result of shifting Segment 26, the node between Segments 26, 37, and 38 was moved to the northeast, decreasing the length of Segment 37 and increasing the length of Segment 38.[106]

The amendment resulted in 49 primary alternative route segments and 31 alternative routes, all of which are viable and comply with the routing requirements of PURA § 37.056(c) and 16 TAC § 25.101(b)(3)(B), including the Commission's policy of prudent avoidance.[107] During this proceeding, two additional viable routes utilizing existing route segments presented in the Application were identified: Route Z2 and Route AA2. This brings the total number of potential viable alternative routes identified in this proceeding to 33. All 31 routes proposed by CPS Energy in its Application, as well as the two additional alternative routes identified after the amended Application was filed, are viable and constructible route alternatives that address the purpose and need for the Project. All 33 routes can be feasibly constructed, operated, and maintained by CPS Energy. All 33 routes under consideration, including the 31 presented in the Application and the additional two alternative routes identified after the amended Application was filed, comply with the routing requirements of PURA § 37.056(c)(4) and 16 TAC § 25.101.[108] Based on the modifications, Route Z originally included in the Application was functionally replaced with Route Z1.[109]

Commission Staff, TPWD, and many of the intervenors who actively participated in this proceeding identified different routes they support. All routes comprised of segments contained in the Application, as amended, meet the needs of the Project and are acceptable alternatives.[110]

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106 CPS Energy Ex. 6, at Figure 6-21 in Attachment 2 and Sheet 11 Amended in Attachment 5.

107 CPS Energy Ex. 7 at 5-7.

108 CPS Energy Ex. 7 at 5-7; Tr. Vol. 2 at 161:5-20 and 199:9-14.

109 CPS Energy Ex. 12 at 5 (Rebuttal Testimony of Adam Marin).

110 Tr. Vol. 2 at 161:8-20; CPS Energy Ex. 13 at 4 (Tamez Rebuttal Testimony); Bexar Ranch Ex. 11 at 3.

1. Effect of Granting Certificate on CPS Energy and Any Electric Utility Serving the Proximate Area

Because the Project taps into an existing CPS Energy transmission line and is proposed to provide service wholly within CPS Energy's existing service territory, the Project will not have a negative effect on other utilities in the area. Electric utilities serving the proximate area of the Project include PEC, BEC, and LCRA TSC.[111] Specifically, LCRA TSC owns the northern portion of the existing Ranchtown to Menger Creek 138 kV transmission line that will be tapped by the Project.[112] LCRA TSC is aware of the interconnection of the Project to that line, has coordinated with CPS Energy on the Project, and has not raised any concerns with the Project other than identifying protective relay setting changes at the Menger Creek Substation.[113] In addition, BEC and PEC own facilities in the vicinity of the Project that will not be adversely affected by the Project and, although both utilities received notice of the Project, neither has intervened or otherwise expressed any concerns or opposition to the Project.[114]

2. Community Values

PURA § 37.056(c)(4)(A) requires consideration of impacts of proposed transmission facilities on community values. While "community values" is not formally defined in statute or rule, the Commission has previously described community values as "a shared appreciation of an area or other mutual resource by a national, regional, or local community."[115] In considering the potential impacts of the Project on the community within the study area, CPS Energy made reasonable choices to identify alternative routes, segments, and potential routing modifications to account for and address community values, along with other statutory and regulatory criteria.

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111 CPS Energy Ex. 1 at 9.

112 CPS Energy Ex. 1 at 9.

113 CPS Energy Ex. 10 at 12-13; CPS Energy Ex. 1 at 9.

114 CPS Energy Ex. 1 at 9; CPS Energy Ex. 9 at 8.

115 *Joint Application of Electric Transmission Texas, LLC and Sharyland Utilities to Amend Their Certificates of Convenience and Necessity for the North Edinburg to Loma Alta Double-Circuit 345-kV Transmission Line in Hidalgo and Cameron Counties, Texas*, Docket No. 41606, Order at 8-9, Finding of Fact No. 51 (Apr. 11, 2014).

a. Public Feedback

To identify community values in the area of the Project, CPS Energy gathered information in a variety of ways. As discussed in Sections 2.4 and 5.0 of the EA, POWER and CPS Energy solicited information and received and considered comments from a variety of state and federal agencies, as well as local elected and appointed officials.[116] POWER also assisted CPS Energy personnel in hosting a public open house meeting to identify and collect information regarding community values and community resources.[117]

The public open house meeting for the Project was held on October 3, 2019, at Cross Mountain Church, 24891 Boerne Stage Road in San Antonio, Texas.[118] Invitation letters were sent to landowners who owned property within 300 feet from a preliminary alternative route segment.[119] CPS Energy mailed 592 invitation letters to landowners, and each landowner that received an invitation letter also received a map of the study area depicting the preliminary alternative route segments as well as a map showing the location of the public meeting.[120] An advertisement for the open house was also published in the *San Antonio Express News* on September 22 and 29, 2019.[121] A total of 172 individuals signed in as attendees at the public meeting.[122] Attendees were provided questionnaires, and CPS Energy received a total of 146 submitted questionnaire responses at or shortly after the public meeting.[123] In addition to the questionnaires received at or shortly after the open house meeting, 40 additional questionnaires, as well as letters and e-mails, were received from individuals sometime later.[124] A total of 186 questionnaires were received by CPS Energy as of April 1, 2020.[125]

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116 CPS Energy Ex. 2 at 9; CPS Energy Ex. 1, EA at 2-5 and 5-1 to 5-4.

117 CPS Energy Ex. 1, EA at 3-43.

118 CPS Energy Ex. 1, EA at 6-1.

119 CPS Energy Ex. 1, EA at 6-1.

120 CPS Energy Ex. 1, EA at 6-1.

121 CPS Energy Ex. 1, EA at 6-1.

122 CPS Energy Ex. 1, EA at 6-2.

123 CPS Energy Ex. 1, EA at 6-2.

124 CPS Energy Ex. 1, EA at 6-2.

125 CPS Energy Ex. 1, EA at 6-2.

The purpose of the open house meeting was to solicit input from landowners, public officials, and other interested persons about the Project, the preliminary alternative route segments, and the alternative substation sites. Further, the open house meeting was designed to promote a better understanding of the Project, including the purpose, need, potential benefits and impacts, and Commission certification process; inform the public with regard to the routing procedure, schedule, and route approval process; and gather and understand the values and concerns of the public and community leaders.[126]

b. Response to Public Feedback

The common concerns of attendees at the open house meetings (and afterward) included distance to homes, the proposed substation site locations, health impacts, property values, aesthetics, and impact to the history of the area.[127] The public feedback was evaluated and considered by CPS Energy in determining the routes to be included in the Application. Based on input, comments, information received at and following the open house meeting, and additional analysis conducted by CPS Energy and POWER, several preliminary route segments were added, modified, or removed. Section 6.1 of the EA describes the route segment additions, removals, and modifications that were implemented following the open house meeting.[128]

A significant change occurring after the open house meeting was that Segment 12 presented at the open house was removed from consideration. Segment 12 was identified across property that is subject to a conservation easement in which the United States Army (Army) holds an undeniable third-party interest. The conservation easement was funded by the Army and therefore, provides the Army with certain third-party contingent rights.[129] Most notably, with regard to condemnation, the conservation easement specifies that "Due to the Army's interest in this Conservation Easement, this Conservation Easement cannot be subject to a condemnation action without the Army's prior consent."[130] Further, the conservation easement also provides that the Army has enforcement rights over the conservation easement and that any amendment to the

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126 CPS Energy Ex. 1, EA at 6-1.

127 CPS Energy Ex. 1, EA at 6-4.

128 CPS Energy Ex. 2 at 12; CPS Energy Ex. 1, EA at 6-5 through 6-46; CPS Energy Ex. 6.

129 CPS Energy Ex. 3 at 3.

130 CPS Energy Ex. 3 at 17.

conservation easement requires written consent of the grantor, grantee, and the Army.[131] Without the consent of the Army, CPS Energy cannot construct, own, or operate any portion of the proposed transmission line across the conservation easement. CPS Energy attempted to obtain consent from the Army but was unable to do so.[132] Therefore, Segment 12 was not included in the Application.

c. DOD Input

POWER and CPS Energy also provided written information to the DOD about the study area and the nature of the Project. On September 11, 2019, the DOD responded with a letter stating that the Project would have minimal impact on military operations conducted in the area.[133]

d. Habitable Structures

As noted, one of the more common concerns expressed was in regard to the construction and operation of the Project in residential areas and/or in proximity to habitable structures. The study area is primarily suburban, with some rural areas.[134] The predominant land use within the study area is residential.[135] The majority of the study area has been impacted by land improvements associated with residential structures, commercial and industrial activities, local roadways, and various utility corridors. Overall, the study area viewscape consists of medium and low intensity development.[136]

CPS Energy and POWER developed alternative routes that, to the extent reasonable, minimized the number of habitable structures located in close proximity to the routes.[137] Due to the nature of the study area, all of the alternative routes have habitable structures located within 300 feet of their centerlines. The number of habitable structures within 300 feet of the centerline of each of the routes proposed for consideration is presented in CPS Energy Ex. 17. General descriptions of the habitable structures that are within 300 feet of the centerline of each route and

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131 CPS Energy Ex. 3 at 15 and 17.

132 CPS Energy Ex. 4.

133 CPS Energy Ex. 1, EA at 5-3, and Appendix A (bates-stamp page 000261).

134 CPS Energy Ex. 1, EA at 3-43.

135 CPS Energy Ex. 1, EA at 3-43.

136 CPS Energy Ex. 1, EA at 3-43.

137 *See, e.g.*, Staff Ex. 1 at 42.

their distances from the centerlines are provided in the amendments to the EA, at Tables 4-6 through 4-36 in Appendix C.[138] The habitable structures located within 300 feet of the routes are shown on Figure 4-1R.[139]

Alternative Routes U1 and Q1 have the least number of habitable structures located within 300 feet of their centerline at 12 each.[140] Alternative Route A has the most habitable structures located within 300 feet of its centerline at 72.[141] By attempting to minimize the number of habitable structures in close proximity to any route, seeking and obtaining significant community feedback, and making modifications based on that feedback, CPS Energy properly took into consideration community values in identifying all alternative routes.

3. Recreational and Park Areas

Although much of the land in the study area is used by property owners for recreational activities, there are no park and recreational areas in the study area that POWER determined qualified for identification pursuant to the definition within the Commission's Standard Application for a CCN.[142] Additional information about park and recreational areas within the study area is found in Sections 3.3 and 4.3 of the EA.[143]

CPS Energy and POWER acknowledge that many landowners use their private property for a variety of recreational uses. One intervenor, the High Country Ranch (HCR), has requested that a "common area" portion of its property be designated a park and recreational area. CPS Energy and POWER understand that the HCR "common recreation area" is private and only available to the 15 individual lot owners of HCR.[144] Accordingly, it was not formally designated as a park and recreational area.[145] Regardless of the formal or informal recognition of the HCR property as a park or recreational area, the evidence demonstrates that the presence of a

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138 *See* CPS Energy Ex. 6; also Bexar Ranch Ex. 13.

139 Bexar Ranch Ex. 72; also CPS Energy Ex. 15, attached Ex. LBM-1R.

140 CPS Energy Ex. 17.

141 CPS Energy Ex. 17.

142 CPS Energy Ex. 1 at 39; CPS Energy Ex. 2 at 15-16; CPS Energy Ex. 15 at 16.

143 CPS Energy Ex. 1 at 40; EA at 3-42 to 3-43, and 4-23.

144 CPS Energy Ex. 15 at 16.

145 CPS Energy Ex. 15 at 16.

transmission line will not interfere with the identified uses of the HCR property.[146] Moreover, even if the HCR property was considered a park and recreational area, numerous transmission lines are located in and near park and recreational areas throughout the state of Texas.[147] In many instances trails and recreation areas are designed to take advantage of and maximize the use of the undeveloped land in the right of way of transmission lines.[148] Thus, the evidence indicates that the residences of HCR will still be able to use the common recreation area if the Project is approved on a route across that property.

4. Cultural, Aesthetic, and Historical Values

CPS Energy identified the number of known or recorded historic or prehistoric archaeological sites and cemeteries crossed by the right of way or within 1,000 feet of the centerline of each proposed route, and these are summarized in CPS Energy Exhibit 17.[149] Five known archaeological sites are crossed by alternative route ROW.[150] The minimum number of known archaeological sites crossed by any route is zero, while the maximum is two.[151] The minimum number of additional known archaeological sites within 1,000 feet of the centerline of any route is zero, while the maximum is twelve.[152] Construction of the Project is not expected to adversely affect archaeological or historical resources.

Some parties have contended that the impacts to the Heidemann Ranch Historic District (Heidemann Ranch) have been understated. However, the Heidemann Ranch is not crossed by any of the segments.[153] The only impact would be in regard to aesthetics, in that a transmission line using Segment 36 along Toutant Beauregard Road would likely be seen from the Heidemann Ranch. However, there is an existing distribution line on the west side of Toutant Beauregard Road

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146 CPS Energy Ex. 15 at 16.

147 CPS Energy Ex. 15 at 16.

148 CPS Energy Ex. 15 at 16.

149 CPS Energy Ex. 1, EA at 3-53 to 3-55, Tables 3-12 and 3-13; CPS Energy Exs. 6 and 8; CPS Energy Ex. 17.

150 CPS Energy Ex. 6, EA at 4-29.

151 CPS Energy Ex. 1, EA at 4-25 to 4-29, as amended by CPS Energy Exs. 6 and 8; CPS Energy Ex. 17.

152 CPS Energy Ex. 1, EA at 4-25 to 4-29, as amended by CPS Energy Exs. 6 and 8; CPS Energy Ex. 17.

153 CPS Energy Ex. 15 at 14.

across from the Heidemann Ranch that can be seen from the property.[154] Moreover, existing trees on the Heidemann Ranch will likely shield or limit the aesthetic impact from Segment 36 as proposed.[155] There are many features along Toutant Beauregard Road, including multiple contemporary yard art pieces present along the entire east side of Toutant Beauregard Road on the Heidemann Ranch, that detract from the "rural landscape" and the overall setting and feel of the Historic District. [156] CPS Energy has accurately provided information about the Heidemann Ranch and the ALJs and Commission can consider the impact, if any, of that property on the route selection in this case.

One measure of aesthetic values is the length of ROW that is within the foreground visual zone of U.S. and State highways, FM roads, and parks and recreational areas. CPS Energy and POWER calculated and presented the lengths of each primary alternative route segment and primary alternative route within the foreground visual zone of U.S. and State highways, FM roads, and parks and recreational areas in CPS Ex. 17 and the attached exhibits to Ms. Meaux's rebuttal testimony.[157] Ultimately, none of the routes or segments were found to have any portion within the foreground visual zone of U.S. and State highways, FM roads, or parks or recreational areas.[158]

5. Environmental Integrity

The anticipated impacts from the Project on environmental integrity are summarized in Section 4.1 of the EA. Correspondence with Texas Natural Diversity Database (TXNDD), TPWD, and U.S. Fish and Wildlife Service (USFWS) provides information on the special status animal species and unique vegetation communities in the study area, and this information is contained and discussed in Section 3.1.11 of the EA.[159] None of the primary alternative routes has any length of ROW across known habitat of federally listed endangered or threatened species.[160]

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154 CPS Energy Ex. 15 at 14.

155 CPS Energy Ex. 15 at 14.

156 CPS Energy Ex. 15 at 14, and attached Ex. LBM-4R.

157 *See* CPS Energy Ex. 15.

158 CPS Energy Ex. 15, attached Ex. LBM-1R; CPS Energy Ex. 17.

159 CPS Energy Ex. 1, EA at 3-20 through 3-34.

160 CPS Energy Ex. 2 at 18.

The Project is anticipated to have short-term minimal impacts to soil, water, and ecological resources. If necessary, prior to construction, a field survey will be completed on the Commission-approved route to determine if suitable habitat is present for any of the federally listed species.[161] Notwithstanding the existence of threatened or endangered species and modeled habitat in the study area, the Project is not anticipated to significantly adversely impact populations of any federally listed endangered or threatened species, including the Golden-cheeked Warbler (GCW).[162] Although no formal designated habitat is present in the study area for any endangered species, CPS Energy recognizes that there are areas of high probability of GCW habitat presence throughout the Study Area. All of the routes have some area of potential GCW habitat. The estimated habitat for each potential route is identified in CPS Energy Ex. 17.

No significant impacts to wetland resources, ecological resources, endangered and threatened species, or land use are anticipated as a result of the construction of the Project.[163] No part of any primary alternative route is located within the Coastal Management Program boundary, as defined in 31 TAC § 503.1.[164] CPS Energy will comply with applicable laws, including the Migratory Bird Treaty Act and the Endangered Species Act, as well as the Commission's ordering language, including appropriate consultation with TPWD and the USFWS.

6. Engineering Constraints

There are no significant engineering constraints along any of the alternative routes. However, the topography and other unique attributes along the chosen route will require engineering consideration. Any foreseeable engineering constraints are not severe or uncommon and can be adequately addressed by utilizing design and construction practices and techniques usual and customary in the electric utility industry.[165]

CPS Energy will design the Project to meet or exceed industry-accepted standards and specifications for operating the transmission facilities in a safe and reliable manner, including the

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161 CPS Energy Ex. 2 at 18.

162 CPS Energy Ex. 2 at 18.

163 CPS Energy Ex. 2 at 18.

164 CPS Energy Ex. 2 at 15.

165 CPS Energy Ex. 11 at 8 (Direct Testimony of Scott Lyssy); Staff Ex. 1 at 33.

National Electrical Safety Code.[166] The Project will be constructed in a manner that complies with all state and federal statutes and regulations applicable to transmission line construction and operation.[167]

Upon Commission approval, engineers for CPS Energy will begin detailed design of the Project and develop a final alignment based on the approved route. This will involve gathering detailed survey information, including locations of above-ground, at-grade, and subsurface constraints and precise property line locations, as well as any locations of environmental and cultural resources.[168]

7. Costs

CPS Energy has prepared cost estimates for all alternative routes under consideration in this proceeding.[169] These routes range from approximately $37.6 million to approximately $56.1 million in total cost for transmission and substation facilities. Route Z2 is estimated to be the lowest cost route, with an estimated cost of $37.6 million, which includes the cost of the new Scenic Loop Substation. Route O is estimated to be the highest cost route, with an estimated cost of $56.1 million, which includes the cost of the new Scenic Loop Substation.[170]

Of particular note, the cost estimates are based generally upon an expectation that 100 feet of easement rights will be acquired on private property for the necessary clearances to safely operate the proposed transmission line facilities. However, CPS Energy anticipates that it can, adjacent to roadways, utilize the roadway for some clearance purposes and can thereby acquire less than 100 feet of easement rights on private property (minimizing the impact on the landowner on whose property the line will be located).[171] Because CPS Energy anticipates in most instances it will be reasonable and acceptable to reduce the easement requirements adjacent to roadways, the cost estimates included in the Application are based on the cost to acquire 75 feet of easement on

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166 CPS Energy Ex. 11 at 7.

167 CPS Energy Ex. 11 at 7

168 CPS Energy Ex. 11 at 7-8.

169 CPS Energy Ex. 11 at 9-11; CPS Energy Ex. 17; CPS Energy Ex. 1, Attachment 3; CPS Energy Ex. 6, Attachment 3 Amended; Bexar Ranch Exs. 12 and 14.

170 CPS Energy Ex. 17; also Bexar Ranch Ex. 12.

171 CPS Energy Ex. 11 at 9-10.

private property adjacent to roadways, rather than 100 feet.[172] In such instances, roadway right of way will make up any remaining necessary clearance for the transmission line.

8. Use of Existing Corridors

The use and paralleling of existing compatible right of way (existing transmission lines, roadways, railroads, and telephone utilities), apparent property boundaries, and natural or cultural features was taken into account in developing the primary alternative routes. Where feasible, the alternative routes and route segments included in the Application utilize compatible corridors and routing features and parallel existing compatible right of way, property lines, and other natural or cultural features. CPS Energy reasonably routed the Project to moderate the impact on the affected community and directly affected landowners by paralleling other existing compatible ROW, property lines, and other natural or cultural features where reasonable and practical.

The proposed routes utilize or parallel public roads and highways, property lines, or other natural or cultural features anywhere from 2.59 to 5.50 miles.[173] The highest percentage of paralleling of compatible right of way, property boundaries, and other natural or cultural features is on Route A, at 83 percent.[174] The lowest percentage of paralleling of compatible right of way, property boundaries, and other natural or cultural features is on Route S, at 49 percent.[175]

9. Prudent Avoidance

The Commission's substantive rules define "prudent avoidance" as "the limiting of exposures to electric and magnetic fields that can be avoided with reasonable investments of money and effort."[176] All routes presented in the Application conform to the policy of prudent avoidance in that they reflect reasonable investments of money and effort in order to limit exposure to electric and magnetic fields.[177] Commission Staff has recognized that CPS Energy has complied with the Commission's prudent avoidance policy and that CPS Energy's proposed alternative

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172 CPS Energy Ex. 11 at 9-10.

173 CPS Energy Ex. 17.

174 CPS Energy Ex. 17.

175 CPS Energy Ex. 17.

176 16 TAC § 25.101(a)(6).

177 CPS Energy Ex. 2 at 21; CPS Energy Ex. 7 at 7.

routes are all viable and constructible, after evaluating them in light of the factors of PURA, the Commission's substantive rules, and the Preliminary Order.[178] The record evidence conclusively demonstrates that CPS Energy has complied with the Commission's policy of prudent avoidance.[179]

10. Additional Routing Concerns

No known AM radio transmitters were identified within the study area or within 10,000 feet of the primary alternative routes.[180] The number of FM radio transmitters, microwave towers, and other electronic communication towers located within 2,000 feet of any of the primary alternative routes ranges from zero for numerous routes to one for multiple other routes.[181] A listing, description, and approximate distance of electronic installations from the centerline of each of the alternative routes are presented in the following portions of the EA, as amended:[182] Table 4-3 and Appendix C, Tables 4-6 through 4-36. The locations of these electronic installations are shown on Figures 2-4 (Appendix D) and 4-1 (Appendix E) of the EA, as amended.[183] No routes or segments in this case are expected to create any concerns related to communications towers, including access to such, and no communications facilities present any concerns related to any routes or segments in this case.[184]

There is one FAA registered public or military airport with a runway longer than 3,200 feet within 20,000 feet of the routes (the Boerne Stage Field Airport) located north of the study area.[185] No private airstrips were identified within 10,000 feet of the centerline of any of the alternative routes.[186] There are no FAA registered heliports located within 5,000 feet of the centerline of any of the alternative routes, and no FAA registered public or military airports with runways shorter

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178 Staff Ex. 1 at 10 and 40-42; Tr. Vol. 4 at 796:3-11 and 802:22-24.

179 CPS Energy Ex. 15 at 4:10-24.

180 CPS Energy Ex. 17.

181 CPS Energy Ex. 17.

182 *See* CPS Energy Exs. 6 and 8 for amendments to the EA. See also Bexar Ranch Ex. 13.

183 CPS Energy Ex. 6.

184 CPS Energy Ex. 12 at 8.

185 CPS Energy Ex. 1, EA at 3-38; CPS Energy Ex. 17.

186 CPS Energy Ex. 1, EA at 3-38; CPS Energy Ex. 17.

than 3,200 feet within 10,000 feet of the routes.[187] No private heliports were identified within 5,000 feet of the centerline of any of the alternative routes.[188] CPS Energy has identified the approximate distance from the centerline of each of the primary alternative routes to the Boerne Stage Field Airport in the following portions of the EA, as amended: Appendix C, Tables 4-6 through 4-36, and Figures 2-4 (Appendix D) and 4-1 (Appendix E).[189] None of the routes presented in this proceeding cross land irrigated by traveling irrigation systems.[190]

E. Preliminary Order Issue No. 5

Are there alternative routes or facilities configurations that would have a less negative impact on landowners? What would be the incremental cost of those routes?

In addition to the 49 segments and 31 primary alternative routes proposed in the Application, as amended, additional alternative routes comprised of segments in the Application have been proposed by intervenors and are available for consideration in this proceeding. Specifically, Routes Z2 and AA2 have been identified by intervenors and reviewed by CPS Energy. These two additional alternative routes are comprised of segments in the Application and both are acceptable to CPS Energy and are feasible and constructible.[191] As shown on Bexar Ranch Exhibits 12 and 14, Route Z2 has an estimated total cost of $37,638,580 and Route AA2 has an estimated total cost of $39,048,155. The environmental data for these two additional routes are included on CPS Energy Exhibit 17.

F. Preliminary Order Issue No. 6

If alternative routes or facility configurations are considered due to individual landowner preference:

a) Have the affected landowners made adequate contributions to offset any additional costs associated with the accommodations?

b) Have the accommodations to landowners diminished the electric efficiency of the line or reliability?

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187 CPS Energy Ex. 1, EA at 3-38; CPS Energy Ex. 17.

188 CPS Energy Ex. 1, EA at 3-38; CPS Energy Ex. 17.

189 *See* CPS Energy Ex. 6.

190 CPS Energy Ex. 17.

191 Tr. Vol. 2 at 161:5-20 and 199:9-14.

On November 24, 2020, the Dreiss Interests filed a pleading entitled *Statement on Route Adequacy and Request for Approval of Proposed Agreed Amendments to CPS Energy's Application*, in which they requested certain modifications to segments and routes contained in the Application. Only the Dreiss Interests were directly impacted by the proposed modifications, which were proposed entirely on land owned by them and were far enough away from any other landowner such that CPS Energy was not required to issue additional notice for the changes requested. The Dreiss Interests agreed to donate sufficient right of way to offset any incremental costs associated with the new routing options and agreed to ensure that the cost differential between routes using Segments 46 and 49 remained the same, so as to not prejudice any other party's position in this case. Further, the Dreiss Interests agreed to accept the transmission line on their property and to provide any necessary easement rights to CPS Energy across such property at an agreed price. The modifications requested by the Dreiss Interests were reviewed by CPS Energy and found to not diminish the electric efficiency of the line or reliability. On December 4, 2020, the ALJs issued SOAH Order No. 4 requiring CPS Energy to make the amendments requested by the Dreiss Interests. As a result of that order, modified by SOAH Order No. 5, CPS Energy amended the Application on December 22, 2020.

Two additional routes—comprised of existing segments without additional modification—have been proposed by intervenors in this proceeding since the filing of the amended Application. Those routes (Routes Z2 and AA2) do not result in any additional costs associated with accommodations for landowner preferences. Further, the new proposed routes do not result in any modifications that would diminish the electric efficiency of the line or reliability.

G. Preliminary Order Issue No. 7

On or after September 1, 2009, did the TPWD provide any recommendations or informational comments regarding this application pursuant to Section 12.0011(b) of the Texas Parks and Wildlife Code? If so, please address the following issues:

a) What modifications, if any, should be made to the proposed project as a result of any recommendations or comments?

b) What conditions or limitations, if any, should be included in the final order in this docket as a result of any recommendations or comments?

c) What other disposition, if any, should be made of any recommendations or comments?

d) If any recommendation or comment should not be incorporated in this project or the final order, or should not be acted upon, or is otherwise inappropriate or incorrect in light of the specific facts and circumstances presented by this application or the law applicable to contested cases, please explain why that is the case.

TPWD provided information and recommendations regarding the preliminary study area for the Project to POWER on August 1, 2019.[192] On September 16, 2020, TPWD filed a letter containing its comments and recommendations regarding the Project.[193] Subsequently, on March 1, 2021, after CPS Energy amended the Application, TPWD filed a second letter containing updated comments and recommendations regarding the Project.[194]

In its updated comments, TPWD recommended Route DD for the Project. In making this recommendation, TPWD noted that Route DD had the following features:

- It was the second shortest route of the 31 alternative routes in the amended Application, at 4.64 miles;
- It is the shortest route across upland woodlands/bushlands, at 3.12 miles, which equates to 37.84 acres of woodland impact;
- It has the ninth-largest percentage of ROW parallel to other existing ROW at 40 percent;
- It has the eighth least amount of area of ROW across golden-cheeked warbler modeled habitat designated as 3-Moderate High and 4-High Quality, at 10.74 acres;
- It is located entirely in Karst Zone 5, defined as cavernous and non-cavernous areas that do not contain endangered karst invertebrate species. Approximately 650 feet of the west end of Alternative Route AA1 occurs in Karst Zone 3, defined as areas that probably do not contain endangered karst species.[195]

In its two letters, TPWD included comments and recommendations regarding the Project and potential impacts on sensitive fish/wildlife resources, habitats or other sensitive natural resources. The information included typical concerns, comments, and recommendations that are

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192 CPS Energy Ex. 1, EA, Appendix A (at bates-stamped pages 000264-000278) .

193 Staff Ex. 1, Attachment JP-3; *see also* Interchange Filing No. 343.

194 Staff Ex. 1, Attachment JP-4; *see also* Interchange Filing No. 598.

195 Staff Ex. 1, Attachment JP-4; *see also* Interchange Filing No. 598.

often provided by TPWD with regard to proposed transmission line projects. POWER and CPS Energy have already taken into consideration several of the recommendations offered by TPWD.[196]

Regarding the various concerns and recommendations noted in TPWD's letter, Commission Staff identified mitigation measures sufficient to address TPWD's mitigation recommendations.[197] These measures are reflected in the Commission's standard ordering language related to those matters. Therefore, CPS Energy proposes that the Commission's standard ordering language, which will be submitted by CPS Energy along with proposed findings of fact and conclusions of law in this docket, is sufficient to address TPWD's recommendations.

H. Preliminary Order Issue No. 8

Are the circumstances for this line such that the seven-year limit discussed in section III of this order should be changed?

CPS Energy has not requested that the seven-year limit identified by the Commission in its Preliminary Order be changed, nor presented evidence meriting any change to that time limit.[198]

VI. CONCLUSION

CPS Energy presented significant uncontroverted evidence regarding the need for the Project, which was supported by Staff and not controverted by any parties.[199] No party has challenged the need for the Project. In total, 33 alternative routes have been identified for possible consideration in this proceeding. These 33 routes connect the existing Ranchtown to Menger Creek 138 kV transmission line with alternative site options for a new substation to be built (the new Scenic Loop Substation).

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196 CPS Energy Ex. 15 at 11-12.

197 Staff Ex. 1 at 12-15.

198 Staff Ex. 1 at 33.

199 The testimony of some expert witnesses proffered by intervenors also recognizes that the need for the Project has been shown. *See, e.g.*, SHLAA Ex. 2 at 7 (Direct Testimony of Harold Hughes, P.E.) ("SHLAA members understand and appreciate the need for the proposed line and CPSB's efforts to improve the quality of service to their area."); Bexar Ranch Ex. 1 at 9 (Direct Testimony of Mark Turnbough, Ph.D.)(Acknowledging that he evaluated routes to see how well each "would serve the established need supporting development of the transmission line.")(emphasis added).

All 33 routes address the need for the Project and are viable and constructible. All 33 routes comply with PURA § 37.056 and 16 TAC § 25.101(b)(3)(B), including the Commission's policy of prudent avoidance. Accordingly, CPS Energy's Application to amend its CCN to construct the Project should be approved.

Respectfully submitted,

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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/Craig R. Bennett
Craig R. Bennett