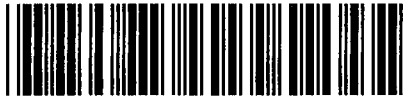




Control Number: 51023



Item Number: 842

Addendum StartPage: 0

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

BEXAR RANCH, L.P. AND GUAJALOTE RANCH, INC.’S INITIAL BRIEF

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

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

BEXAR RANCH, L.P. AND GUAJALOTE RANCH, INC.’S INITIAL BRIEF

NOW COME BEXAR RANCH, L.P. and GUAJALOTE RANCH, INC., Intervenors, and together file this, their Initial Brief. BEXAR RANCH and GUAJALOTE RANCH respectfully support use of **Routes Z2 or Z1** for this project. These two routes most closely match, yet improve upon, CPS Energy’s initial best meets route (Route Z).

The record evidence provides a substantial basis to select Routes Z2 or Z1 along Toutant Beauregard Road. Both routes fare exceedingly well on the applicable routing factors and offer important ways to moderate the impact to affected landowners in ways not offered by alternative routes urged by other parties.

III. INTRODUCTION.

Bexar Ranch and Guajalote Ranch are very large, scenic, undeveloped tracts, that by their nature, do not burden any electrical grid *per se*, but that stand to receive devastating easements. The segments that affect them (43, 44, 45 and 27) are unlike any in the study area – they are extremely long, winding, and jagged. Their prominent path on this Hill Country topography ensures they will be very visible. And because Bexar Ranch already has an existing 138-kV line running north-to-south along its three-mile-long western border, new segments ***bisecting horizontally*** would mean nearly five miles of public infrastructure on this one property. Of course, no one participating in these proceedings wants a powerline – but the Bitter Family doesn’t want a second one, especially one as sweeping and uncompromising as proposed here. Fortunately, there are Routes Z2 and Z1.

IV. BEXAR RANCH.

Bexar Ranch, which spans nearly 3,200 acres, was originally part of the now-historically-designated R.L. White Ranch, a property that itself once spanned some 10,000 acres.¹ R.L. White, who put the property together in the 1920s, is great-grandfather to Michael and Sarah Bitter who each provided testimony in these proceedings. Michael, Sarah, their eleven siblings, and their parents, Joseph and Mary Ann Bitter, are Bexar Ranch's caretakers. Michael and Sarah's testimony describes a property for which time has seemingly stood still – one that is quiet and open, with scenery that is breathtaking.



¹ BR Ex. 2 at 10:3 (picture) and 5 (acreage); BR Ex. 8 at 6:16-18.

While there is no singular reason to explain the Bitter Family's love for Bexar Ranch and their commitment to preserving it as they have, their goal is to continue to hold the property, which has been in their family for nearly 100 years and maintain it as a working ranch.²

Described as having all of the allure of the Texas Hill Country with some of the most beautiful hills anywhere in the region, Bexar Ranch also has some of the roughest and tallest hills in the region, including some of the highest points in Bexar County.³ The entire property is covered with these hills which sit alongside corresponding ridges, valleys, ravines and creeks.⁴

Bexar Ranch's hilltop views "go for miles."⁵ As Sarah Bitter testified, "with high hilltops and vast valleys ... [Bexar Ranch's] flat plateaus...offer expansive vistas of the surrounding hill country as well as the San Antonio skyline.... Steep bluffs and cliffs overlook deep canyons, small dammed lakes, and valleys below."⁶ Favorite spots to take in the sweeping vistas include "Airplane Hill," "Jimmy's Hill," "the North-Eastern Plateau," "the Saddle," Morales Springs and the Los Reyes Creek area.⁷

Bexar Ranch has several creeks and two known natural artesian springs that flow most of the year. It is a proverbial wildlife sanctuary,⁸ heavily wooded,⁹ including an abundance of heritage trees, and it is mostly green year-round with beautiful, bright colors in the fall. It is particularly beautiful on a sunny, fall day when the leaves on the hardwoods are shades of red, yellow and orange.¹⁰

² B.R. Ex. 3 at 13:6-7.

³ BR Ex. 2 at 9:1-3.

⁴ BR Ex. 2 at 9:5-7.

⁵ BR Ex. 2 at 13:6-7.

⁶ BR Ex. 3 at 16:6-8.

⁷ BR Ex. 3 at 15:14-16.

⁸ Bexar Ranch is home to whitetail deer, wild turkeys, wild boar, aoudad, jack rabbits and cotton tailed, coyotes, raccoons, porcupine, ringtail cats, mountain lions, and a variety of birds, including birds of prey. See BR Ex. 2 at 9:11-13; BR Ex. 3 at 12:8-10.

⁹ Trees include a wide variety of oaks, elms, walnuts, pecans, a few rare madrones, and ash juniper (cedar), as well as lots of mountain laurel, agarita, native grass fields and cactus. BR Ex. 2 at 9:14-17.

¹⁰ BR Ex. 3 at 16:3-4.

Michael Bitter describes Bexar Ranch as a true escape from the city.¹¹ Although a true working ranch, the Bitter family enjoys recreational activities on the property like hiking, mountain biking, hunting, fishing, fossil-hunting, water activities, and sightseeing on the property.¹² It is the perfect property to see by horseback or by foot, “depending on your level of adventure.”¹³

And, Bexar Ranch documents this family’s history. As Sarah Bitter testified, she has fond memories of time on this scenic ranch with her entire family, especially with her father, who himself told stories about his life on this ranch as a young boy.

With each generation, memories that last a lifetime are formed, shared and passed down, fostering an appreciation of and reverence toward ranching life and the Texas Hill Country. My 81-year-old father will tell you this ranch shaped him immeasurably as a boy. Having heard stories for my whole life of his roaming, camping, horseback riding, hunting and fishing, working cattle, and shearing sheep and Angora goats for their wool with foreman Milton Williams as a child, it is easy to understand why he is so fiercely protective of it. I have my own cherished memories, such as harvesting agarita berries with my dad to make agarita jelly; learning how to ride a horse; family “rodeo” nights and campfire concerts; helping my dad, a veterinarian tend to the cattle and horses; long hikes on fall days just to get a glimpse of the canyon below glistening in shades of yellow, orange and red; the awe and thrill of seeing water gushing down Chimenea Creek Valley. And so it is with each generation, indelible childhood experiences create a profound fondness for this idyllic Texas ranch of ours and spark a deeper appreciation of its storied history and strong desire for its continued preservation just as it has been preserved by those that came before.¹⁴

The Bitter Family’s commitment to the preservation of Bexar Ranch allows it to be in a position to do something important for the community: protect the Edwards Aquifer – San Antonio’s principal source of water.¹⁵ Bexar Ranch’s intricate web of springs, streams, creeks and creek beds carry incredible amounts of water after hard rains.¹⁶ Aside from the obvious aesthetics it plays, the topography of Bexar Ranch helps manage this water.¹⁷ Consistent with their desire to protect the environmental integrity of the Edwards Aquifer, the Bitter Family is working to place Bexar Ranch’s

¹¹ BR Ex. 2 at 10:5-10.

¹² BR Ex. 2 at 10:8-10.

¹³ BR Ex. 3 at 10:19-21.

¹⁴ BR Ex. 3 at 5:9-6:4.

¹⁵ BR Ex. 25:5-16.

¹⁶ BR Ex. 3 at 10:11-13.

¹⁷ BR Ex. 3 25:1-5; BR Ex. 2 at 25:5-10.

3,200 acres of undeveloped land into a conservation easement with the City of San Antonio's Aquifer Protection Program.¹⁸ The purpose of the APP is to prevent the development of properties like Bexar Ranch that are still in pristine condition.¹⁹ Bexar Ranch is identified as the top property in San Antonio under consideration by APP.²⁰

The Bitter Family has also supported and accommodated the community in other important ways that speak to why *this time* they should be spared. As explained during the Hearing on the Merits, Bexar Ranch is already burdened by a very long 138 kV transmission line on its entire western flank.²¹ Michael Bitter witnessed the upgrade of this transmission line firsthand and knows all too well how Bexar Ranch cannot easily handle the mobilization of construction vehicles and electrical infrastructure.²² In addition, Bexar Ranch has, for years, been forced to provide access to the Kendall-Cagnon line on the R.L. White Ranch next door, which is also very difficult to access.²³

Given the foregoing, it is an understatement to say that CPS Energy's proposed Segments 43, 44 and 45 on Bexar Ranch are devastating and demoralizing to the Bitter Family. Each Segment is so absolute – running east-to-west for approximately two miles each, meeting perpendicularly with another public project, the Ranchtown-Menger line.²⁴ Without question, no other property in the CPS Energy study area stands to experience the sheer breadth of such a take, much less *in addition to* an existing, non-parallel encumbrance like the Ranchtown-Menger line.

¹⁸ BR Ex. 7 at MB-5 Rebuttal at 74.

¹⁹ BR Ex. 7 at 7:4-10 and MB-5 Rebuttal at 74.

²⁰ BR Ex. 7 at 7:4-10 and MB-5 Rebuttal at 74.

²¹ Transcript at 734:17 to 735:5

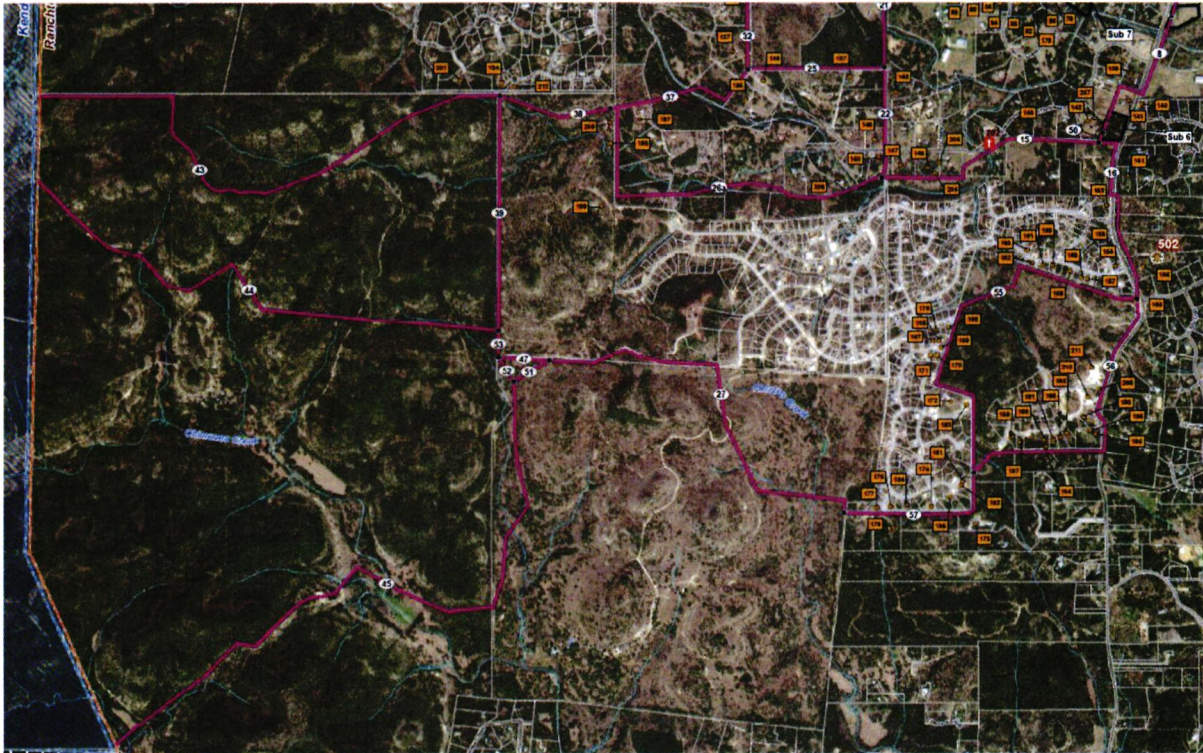
²² Transcript at 734:17 to 735:5

²³ Transcript at 734:17 to 735:5

²⁴ CPS Energy Ex. 16.

III. GUAJALOTE RANCH.

Guajalote Ranch is largely crossed by Segment 27 and 45, and at a corner spoke of segments, CPS Energy’s transmission line would either veer north to Segment 39 into the SHLAA neighborhood, west to Segment 44 onto Bexar Ranch, or south to Segment 45. As shown, Segment 27 crosses Guajalote Ranch’s winding interior road several times and otherwise bisects its northeast corner. Segment 45 runs south in a jagged manner, some distance from the property’s western property line creating a “wrap-around effect” on the property (and a similar effect on Bexar Ranch).²⁵



²⁵ CPS Energy Ex. 15 at LBM-2R Amended, Figure 4-1R, at 027.

IV. THE FOCUS ROUTES AND THEIR SUBSTATIONS.

The parties have focused on a subset of routes in these proceedings, although there are 39 routes for which tabulated information exists for study.

CPS Energy initially identified Route Z as the route it believes best addresses the requirements of PURA and the PUC's Substantive Rules.²⁶ Due to an application amendment involving, in part, the donation of right of way (Segment 42a), Route Z was "functionally replaced by Route Z1."²⁷ The general attributes regarding Route Z remain relatively consistent for Route Z1.²⁸ After this amendment, Route AA2 was assembled and tabulated from available segments. Then, six routes, known as the "Dreico Routes" were assembled and tabulated, also from available segments. Finally, Route Z2, which differs in composition from Route Z1 with respect to one segment, was assembled from available segments, bringing the total number of alternative routes to 39.²⁹

Of the 39 alternative routes available for consideration, Z2 is the shortest (at 4.46 miles) and the least costly route (at \$37,638,580) of the 39 routes. Route Z2 is \$836,191.00 less costly than Route Z1 (which is the second shortest and third least costly of the 39 routes) and \$652,992.00 less costly than Route AA1 (the second least costly route).

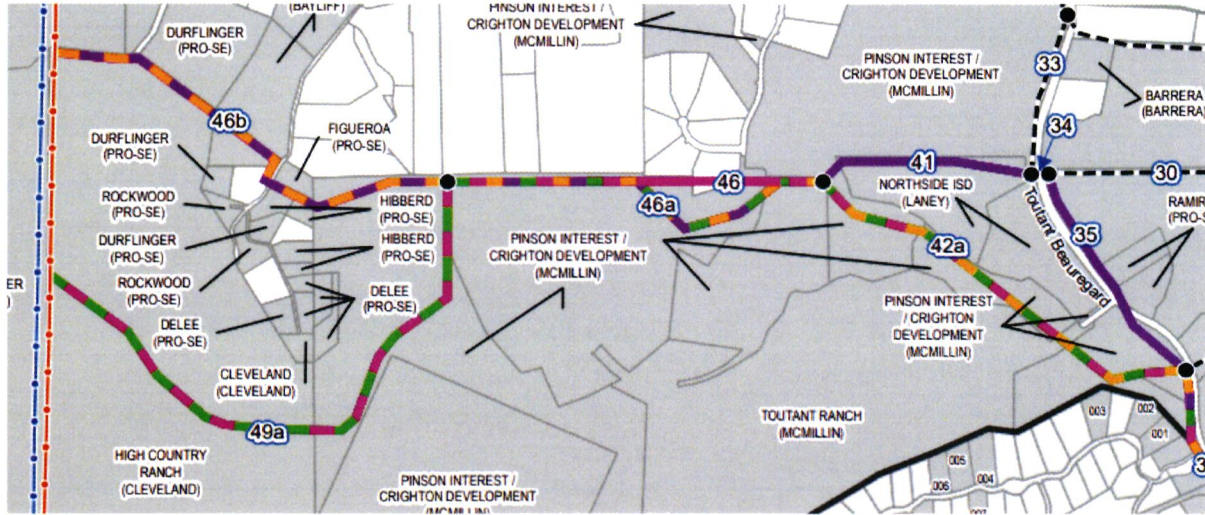
While Bexar Ranch and Guajalote Ranch advocate for selection of Route Z2 and Route Z1 (the functional equivalent of CPS Energy's Route Z), Routes AA1 and AA2 are also very good routes worthy of consideration.

²⁶ CPS Energy Ex. 9, Direct Testimony of Adam Marin, at 12:21-23.

²⁷ CPS Energy Ex. 12, Rebuttal Testimony of Adam Marin, at 5:7-11.

²⁸ CPS Energy Ex. 12, Rebuttal Testimony of Adam Marin, at 5:7-11. Mr. Marin, on behalf of CPS Energy, testified that Route Z1 is CPS Energy's best-meets route because it functionally replaced Route Z. Transcript at 813:10-12.

²⁹ BR Ex. 11, 16; CPS Energy Ex. 17; Dreico Companies Ex. 2; CPS Energy Ex. 14 (Lyssy Rebuttal), at 018. Z2 is similar to Z1. Transcript at 152:20-24.



A. Strengths of Route Z2.³⁰

Route Z2 is an improvement over CPS Energy’s initial best meets route (Route Z) and its functional equivalent (Route Z1). Route Z2 is the best-meets route in these proceedings. Route Z2 is shown in part above in multicolor, following the 42a--46--46b path.

Specifically:

- Z2 has the lowest estimated cost of any of the 39 alternative routes at \$37,638,580 which is \$652,992.00 less than any other route, a significant consideration for the Texas ratepayer.
- Z2 is the shortest of any of the 39 alternative routes at 4.46 miles in length.
- Z2 has a relatively high percentage of paralleling existing ROW and property lines at 71 percent (which is within 12 percent of the highest percentage for any route at 83 percent).
- Z2 utilizes Substation Site 7, which will allow for greater shielding of the substation from public roadways and is preferred by the members of SHLAA who abut both substations 6 and 7 associated with the focus routes.³¹
- Z2 avoids use of Substation Site 6 which is highly visible and has no documented shielding opportunities.³²

³⁰ CPS Energy Ex. 17; Dreico Companies Ex. 2; CPS Energy Ex. 14 (Lyssy Rebuttal) at 018 (unless otherwise noted). Z2 is a viable and constructible route. Transcript at 199:9-14.

³¹ BR Ex. 6 at 11:17-12:2; SHLAA Ex. 1 at 12-13; SHLAA Ex. 2 at 14-15; SHLAA Ex. 3 at 8, 9 and 34; SHLAA Ex. 4 at 11:2-11. See also BR Ex. 26 (CPS Response to Jauer RFI 2-10); BR Ex. 27 (CPS Response to Jauer RFI 2-13). Substation Site 6 does not have the space, shape, natural foliage and tree cover to provide the same visual shielding as does Substation Site 7. BR Ex. 7 at 25:3-7 (referring to MB-17 Rebuttal); BR Ex. 6 at 17:5-6.

³² BR Ex. 6 at 12:1-2 and 17:5-6; BR Ex. 7 at 25:3-7; Transcript at 741:15-22.

- Z2 has the fourth shortest length across upland woodland/brushland at 3.53 acres (compared to 3.05 acres for the lowest (Dreico 6)).
- Z2 has the fourth lowest acreage of ROW across combined golden-cheeked warbler modeled habitat.
- Z2 has the eighth lowest acreage of ROW across golden checked warbler modeled habitat for 3-Moderate High and 4-High Quality at 8.92 acres.
- Z2 has the eighth lowest acreage of ROW across golden checked warbler modeled habitat for 1-Low and 2-Moderate Low Quality at 11.78 acres.
- Z2 crosses zero National Register of Historic Places (NRHP) listed properties, while Routes P, Q1, R1 and W each cross one.³³
- Z2 Has a moderate number of habitable structures within 300 feet of the route centerline at 32, which is below the average of 37.
- Z2 uses Segment 42a, which has approximately 2,059 feet of donated ROW, another significant benefit to the Texas ratepayer.³⁴
- Z2 uses Segment 42a which avoids crossing Northside Independent School District's as it avoids using Segments 35 and 41 which would run in front of or on the northern boundary of NISD's property, respectively.
- Z2 crosses zero recorded cultural resource sites, while Routes Q1 and R1 each cross two, and Routes P and W each cross one.³⁵

B. Drawbacks of The Neighborhood Routes: Routes P, Q1, R1 and W.

Some parties have advocated for Routes P, Q1, R1 or W.³⁶ However, beyond being unreasonably more costly, these routes impact the *interior* of several neighborhoods, and for that further reason, are not appropriate choices.

For context, Intervenor SHLAA includes 31 individual landowners, the Canyons Property Owners Association (with over 700 individual landowners), and the Altair Subdivision (with 14 individual landowners).³⁷ Clearwater Ranch is a large-acre neighborhood with several individual

³³ See CPS Energy Ex. 17.

³⁴ BR Ex. 1 at 17:19-21.

³⁵ See CPS Energy Ex. 17.

³⁶ CPS Energy Ex. 16 (Focus Routes).

³⁷ SHLAA Ex. 1 at p. 1.

residents, many of whom testified at the hearing on the merits.³⁸ Members of SHLAA and Clearwater Ranch own properties that would be crossed by or are adjacent to numerous segments included in these four Focus Routes.³⁹

Many of these crossings are bisects.⁴⁰ For example, Segment 38 bisects SHLAA property and then proceeds to sweep through either SHLAA or Clear Water Ranch depending on whether Segment 37 or 26a is chosen, bisecting properties along the way, leading to Segment 15, the segment that is common to Routes P, Q1 and R1.⁴¹

These neighborhood routes are unreasonable, and paying extra for them is even more unreasonable. Routes P and R1 rank 14th and 15th in terms of cost and are \$5,770,162 and \$5,884,278 more costly than Route Z2, respectively.⁴² Route Q1 ranks 22nd in terms of cost and is \$8,252,334.00 more costly than Route Z2.⁴³ Route W is \$52,869,828.00, which is **\$15,231,248.00** more costly than Route Z2; given this cost, is even more unreasonable to consider.⁴⁴

The residents of SHLAA and Clearwater are not unlike other residents in the study area who do not want to have transmission lines near their homes. However, Route Z2 offers what Routes P, Q1, R1 and W simply cannot – a chance to moderate the total impact on residential communities while also moderating the impact to the Texas Ratepayer.⁴⁵

³⁸ Clearwater Ranch Ex. 1-23, including Exhibit A to each.

³⁹ CPS Energy Ex. 15 at LBM-2R Amended, Figure 4-1R, at 027; CPS Energy Ex. 16; CPS Energy Ex. 18. Several intervenors testified on behalf of the SHLAA and Clearwater Ranch neighborhoods. They uniformly and equally oppose all segments that enter their subdivisions and otherwise make up Routes P, Q1, R1 and W. Transcript at 679:23 (Rumpf); 683:9 (Clark); 685:8-9 (Grimes); 708:20-709:3; 710:10; 710:17; 759:1-782:2 (Clearwater Ranch).

⁴⁰ CPS Energy Ex. 15 at LBM-2R Amended, Figure 4-1R, at 027; CPS Energy Ex. 16; CPS Energy Ex. 18; Clearwater Ranch Ex. 1-23, including Exhibit A to each.

⁴¹ CPS Energy Ex. 1, at Attachment 6, Sheet 13; CPS Energy Ex. 16 (Focus Routes Map); CPS Energy 18; Transcript at 184-87; 701.

⁴² CPS Energy Ex. 17; Dreico Companies Ex. 2; CPS Energy Ex. 14 (Lyssy Rebuttal) at 018.

⁴³ CPS Energy Ex. 17; Dreico Companies Ex. 2; CPS Energy Ex. 14 (Lyssy Rebuttal) at 018.

⁴⁴ CPS Energy Ex. 17; Dreico Companies Ex. 2; CPS Energy Ex. 14 (Lyssy Rebuttal) at 018.

⁴⁵ See *infra* (Section VIII).

C. Substation Site 7 is Preferable to Substation Site 6.

Size and the ability to shield the substation from view make Substation Site 7 the better choice. Because Substation Site 7 is approximately seven acres in size, CPS Energy will have enough area within the property to construct, operate, and maintain the necessary substation facilities without having to clear cut the remaining 4.5 acres.⁴⁶ Being able to leave trees on the property creates an important visual buffer. Shown below, CPS Energy’s Exhibit SDL-1R provides sufficient basis to confirm this “visual buffer.” Mr. Lyssy, a professional engineer, testified on behalf of CPS Energy that Substation Site 7 is viable for a substation and CPS can build on it.⁴⁷



CPS has not yet stated that Substation Site 6, which is two acres smaller than Substation Site 7, offers this shielding opportunity. However, given its 5-acre size, rectangular shape characterized by having its longer side on Scenic Loop, the absence of trees along its frontage, and given its

⁴⁶ CPS Energy Ex. 14 (Rebuttal Testimony of Scott Lyssy, P.E.) at Exhibit SDL-1R (with highlight added for demonstrative purposes to show Toutant Beauregard Road).

⁴⁷ Transcript at 196:10-197:4; 624:17-20.

location on Scenic Loop, Substation Site 6 will be more visible.⁴⁸ The residents of SHLAA own properties that abut Substation Sites 6 and 7, and their preference is to use Substation Site 7, for varying reasons including the fact that Substation Site 7 has more shielding capability, is located on high ground some 45 feet above its back neighbor, and contrary to concerns by some, has not flooded in the 38 years that the present owners have owned it.⁴⁹ Finally, CPS Energy testified that the ideal substation site would be at the intersection of Toutant Beauregard Road and Scenic Loop.⁵⁰ Substation Site 7 is closer to this intersection than Substation Site 6.⁵¹



MB-17 REBUTTAL - PROPOSED SUBSTATION SITE 6 - SCENIC LOOP (5 acres)

⁴⁸ BR. Ex. 6 at 11:17 -12:2; SHLAA Ex. 1 at 12-13; SHLAA Ex. 2 at 14; SHLAA Ex. 3 at 15-16, 34; SHLAA Ex. 4 at 11-12. Substation Site 6 does not have the space, shape, natural foliage and tree cover to provide the same visual shielding as does Substation Site 7. MB Ex. 7 at 3-7 (also referring to MB-17 Rebuttal); BR Ex. 6 at 17:5-6.

⁴⁹ CPS Energy Ex. 18; SHLAA Ex. 2 at 14-15; SHLAA Ex. 3 at 8, 9, 34; SHLAA Ex. 4 at 11; CPS Energy Ex. 14 at p. 13 and at Ex. SDL-1R. CPS Energy's Mr. Lyssy (a Professional Engineer with hydrology engineering training and experience) testified Substation Site 7 is viable and does not have concerns about flooding. Transcript at 624, 626, 650-52, 654, 657-58, 689-90. Ms. Grimes explained that the dry creek behind Substation 7 is much higher than the property behind it, some 40 to 45 feet higher, and that the owner of the house behind Substation 7 said the dry creek bed hadn't flooded in a long time. Transcript at 690:4-8.

⁵⁰ CPS Ex. 1 at 0084 (Figure 2-1).

⁵¹ CPS Ex. 1 at 0092 (Figure 2-3); BR Ex. 6 at MB-17 Rebuttal.

V. ROUTE Z2 IS THE BEST-MEETS ROUTE.

Route Z2 best meets the applicable routing criteria set forth in PURA § 37.056(c) and P.U.C. SUBST. R. 25.101(b)(3)(B).⁵² Route Z2 is the “best-meets” route.⁵³

A. Community Values.

Before it filed its CCN application, CPS Energy collected data from the public in various ways, including open house meetings, questionnaires, and reconnaissance of the study area, to assess and determine community values.⁵⁴ The preliminary segments presented at the open house meeting (CPS Energy Figure 2-2) did not have a “Segment 54” along Toutant Beauregard as it does now, but it had a “Segment 14” in the same location.⁵⁵ Initially there was no Substation Site 6 or 7, but Substation 5 was a few parcels to the north of present-day Substation 6.⁵⁶

a. Negative Comments.

Questionnaire data collected by CPS Energy shows the community provided the fewest number of positive comments and the greatest number of negative comments about Segments 26, 15 and 16.⁵⁷ Segment 15 received the most negative comments (50), followed by Segments 26 (41) and 16 (34).⁵⁸ Substation Site 5 received the most negative comments (22).⁵⁹ Segments 15 and 26 are components of Routes P, Q1 and R1, and Segment 16 is a component of Route W.⁶⁰ These are the

⁵² Bexar Ranch and Guajalote Ranch fully support Route Z2 as the best meets route. This is not to say that Routes Z1, AA1 and AA2 are not also very good choices. They are, as they strongly comply with PURA § 37.056(c) and P.U.C. SUBST. R. 25.101(b)(3)(B). In addition to Route Z2, Bexar Ranch and Guajalote Ranch would support Routes Z1, AA1 and AA2 if chosen. However, Bexar Ranch and Guajalote Ranch oppose all routes that use Segments 43, 44 and 45.

⁵³ Dr. Mark Turnbough provided direct and rebuttal written testimony opining that Route Z1 was the best meets route. BR Ex. 1 at 13:21-22; 16:28-18:2; 25:14-18; BR Ex. 6 at 3:17-4:7; 10:7-12:16; 21:9-22:7. At the time Dr. Turnbough provided his opinion that Route Z1 was the best meets route, CPS had not provided information regarding the estimated cost and Table 4-1 data regarding Route Z2. Transcript at 748:9-21. During the Hearing on the Merits Dr. Turnbough confirmed that Route Z2 performed even stronger than Route Z1 with respect to many of the pertinent routing factors. Transcript at 745:33-748:8. *See also* CPS Ex. 17 (comparing Route Z1 to Route Z2).

⁵⁴ CPS Energy Ex. 1 at 000137.

⁵⁵ CPS Energy Ex. 1 at 000200.

⁵⁶ CPS Energy Ex. 1 at 000192; CPS Energy Ex. 15 (Meaux Rebuttal) at 020.

⁵⁷ CPS Energy Ex. 1, at 000190; Table 6-2 summarizes the preliminary alternative route segments and substation site that received the most responses to this question, both positive and negative.

⁵⁸ CPS Energy Ex. 1, at 000190.

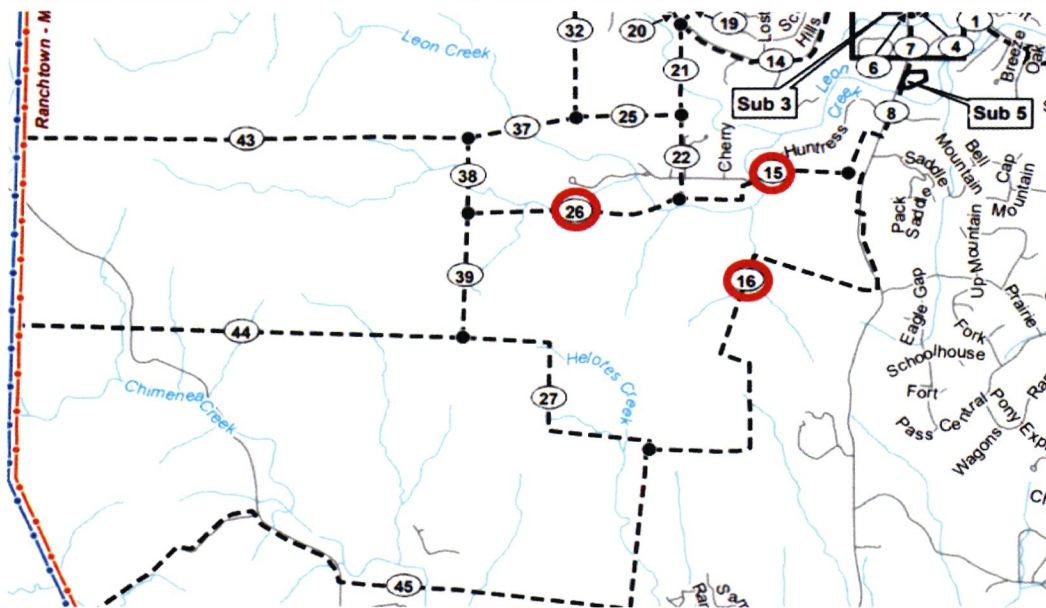
⁵⁹ CPS Energy Ex. 1, at 000190.

⁶⁰ CPS Energy Ex. 16 (inset); CPS Energy Ex. 18 (inset).

four Focus Route and Segments that run through the heart of the SHLAA and Clearwater Ranch neighborhoods.⁶¹ As shown below, Substation Site 5 was, at the time, the closest site to SHLAA and Clearwater Ranch.⁶²

TABLE 6-2 SCENIC LOOP SEGMENT/SUBSTATION SITE COMMENTS

SEGMENT/SUBSTATION	12	23	40	15	26	16	SUB 1	SUB 2	SUB 3	SUB 4	SUB 5
Positive Comments	28	28	27	3	3	4	47	6	7	5	10
Negative Concerns	0	0	17	50	41	34	7	17	13	15	22



After the community meetings, CPS Energy removed some segments, but, despite the high opposition to Segments 26, 15 and 16, they remained, in modified form, with new bisects to residential tracts.⁶³ Segment 26, now “semi-curved” entered further into the interior of the Davila Trust property where they have a home.⁶⁴ Segment 15 moved further into the interior of the Cohen

⁶¹ CPS Energy Ex. 15 at LBM-2R Amended, Figure 4-1R, at 027; CPS Energy Ex. 16; CPS Ex. 18.

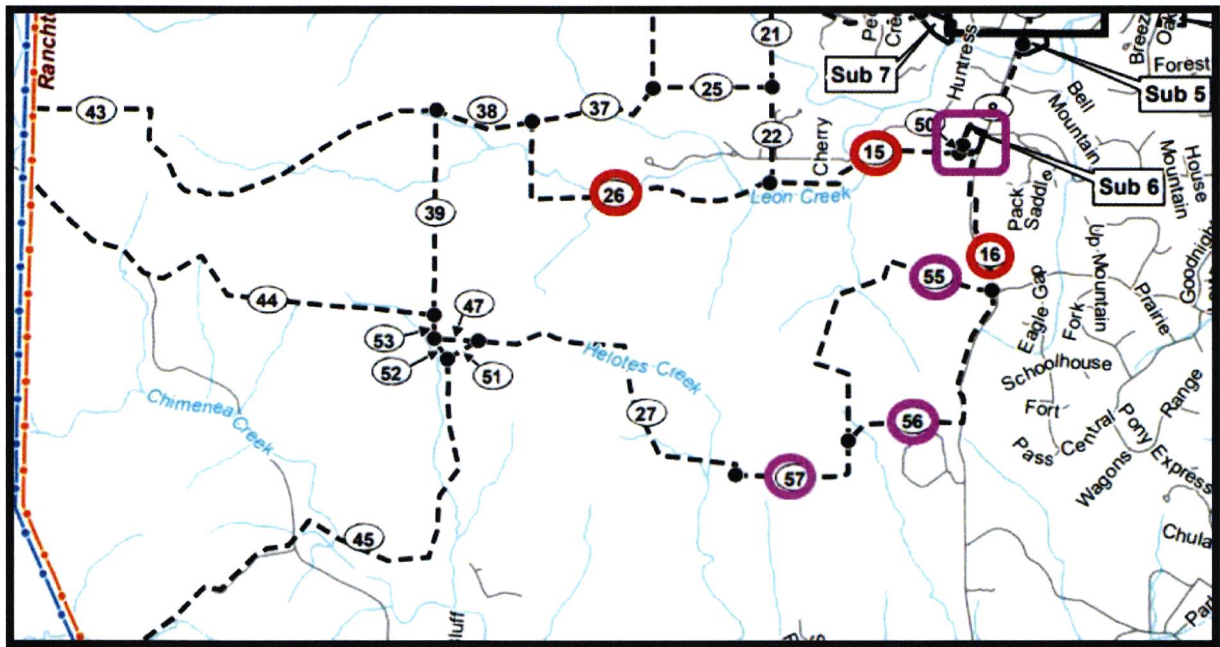
⁶² See CPS Energy Ex. 1, at Figure 6-2 and Page 2-7 (Figure 2-2) (emphasis added); see also CPS Energy Ex. 18.

⁶³ See CPS Energy Ex. 1, at Figure 6-2 and Page 2-11 (Figure 2-3) (emphasis added); see also CPS Energy Ex. 18.

⁶⁴ CPS Energy Ex. 1 at Figure 6-7; CPS Energy Ex. 1 at 208 (Figure 6-7); CPS Energy Ex. 1 at Attachment 7 (Landowner Notice List); Transcript at 683:18 – 684:5. Segment 26 was modified and is no longer routed along the property boundaries of a pipe-shaped property and instead routed “sort of in a semi-curved fashion through the stem of the pipe.” Transcript at 187:10-23.

Trust property where they have a home.⁶⁵ The new Segment 16 forked, leading to three new Segments that reconvened with Segment 27 in the same place as Segments 16 and 27 met before.⁶⁶ Segments 43 on Bexar Ranch changed dramatically, exhibiting far worse fragmentation and moving some distance from Bexar Ranch’s northern property line.⁶⁷

In other words, things worsened for those impacted by Routes P, Q1, R1, and W, despite the community’s preferences to avoid component Segments 26, 15 and 16.



b. Schools.

Data collected from the open house questionnaires also revealed that only 2% of the respondents indicated that proximity to schools, places of worship and cemeteries was a top concern.⁶⁸ At that time, Segments 35 (across the street from the school) and Segment 41 (on the

⁶⁵ CPS Energy Ex. 1 at 204 (Figure 6-5); CPS Energy Ex. 1 at Attachment 7; Transcript at 184:14 – 186:9. Segment 15 was modified from its original configuration and now running “partially on the interior” of property owned by the Cohen Living Trust. Transcript at 184:14 – 186:10.

⁶⁶ See CPS Energy Ex. 1, at Figure 6-2 and Page 2-11 (Figure 2-3) (emphasis added); see also CPS Energy Ex. 16.

⁶⁷ Compare See CPS Energy Ex. 1, at Figure 6-2 and Page 2-7 (Figure 2-2) with See CPS Energy Ex. 1, at Figure 6-2 and Page 2-11 (Figure 2-3).

⁶⁸ CPS Energy Ex. 1 at 000189.

NISD property) were in the same configuration as they are now.⁶⁹ In other words, Segments 35 and 41 did not rise to the top as segments of concern.

Segment 42a (which includes the donation) is a component of both Routes Z2 and Z1 and is not located on property owned by NISD.⁷⁰ Even if it was on the NISD property, which it is not, ample evidence is in the record to support the compatibility of transmission lines and schools as well as the regularity of this occurrence.⁷¹ Moreover, the record shows intervenors whose children attend Sara McAndrews Elementary School also support Routes Z2 and Z1.⁷² Part of this rationale ties to the fact that children who attend this school also live in the SHLAA and Clearwater Ranch subdivisions.⁷³ In response to Mr. Cichowski's concerns about powerlines near the school, Mr. Bitter questioned how routing the powerline into neighborhoods like the Canyons, Clearwater Ranch, or Altair, where children and families live 24-7 would be a safer choice.⁷⁴

⁶⁹ See CPS Energy Ex. 1 at 000196 (Figure 6-1 showing unchanged Segments 35 and 41) but revising Segment 42.

⁷⁰ BR Ex. 1 at 17:19-21; CPS Energy Ex. 16; CPS Energy Ex. 18.

⁷¹ Mr. Marin of CPS Energy testified that CPS Energy owns and safely operates a number of transmission facilities that are on or in close proximity to school properties, including several campuses operated by the Northside Independent School District. Mr. Marin also testified indicated that he is personally aware of numerous other instances throughout the CPS Energy service territory of both public and private school campuses located adjacent to and even operating facilities (such as parking areas, driveways, athletic fields, and running tracks) within CPS Energy transmission line rights of way. Mr. Marin noted that in his experience, "school districts regularly locate and develop school properties adjacent or in close proximity to existing transmission facilities. In many cases, the areas along the perimeter of a school property, in which transmission facilities are located, are used by the school for recreational areas, parking, drainage, utilities, and driveways, all of which are land uses highly compatible with transmission lines. According to Dr. Turnbough, the McAndrews school is not atypical of tracts dedicated or donated to governmental entities in which new housing subdivisions are being developed, and in this instance, the school is adjacent to a drainage easement, a wastewater treatment plant and a floodplain. BR Ex. 6 at 13:15-19. The McAndrews school's playground is fenced, has layers of perimeter fencing to include barbed wire, and there is a thicket of trees, a bus loop, and a sizable drainage ditch between the school and Segment 42a. BR Ex. 7 at 25:18-26:1. There are two very large drainage easements on the campus, both very close to the school, along with a water treatment facility. BR Ex. 7 at 26:1-2. Mr. Bitter and Dr. Turnbough provided photographs of 8 NISD elementary schools with electric transmission lines on or near the school property, and one school was next door to a substation. Ex. 7 at 26:6-13 and MB-18 (photographs of schools). Ex. 6 at 13:20-14:13; Exhibit Rebuttal MT-1 (schools).

⁷² Transcript at 763:17-764:1 (Ms. Keck explained the basis for her support of segment 42a, which "does not cross the entrance/exit, is behind the school, and away from where the children play" stating, "It's along the border of the property, but it doesn't cross. ... I mean we go to the school all the time, but it still is not across the property.")

⁷³ SHLAA Ex. 3 at 11-12 and 24-25.

⁷⁴ BR Ex. 7 at 26:14 - 27:1.

c. Conclusion on Community Values.

Route Z2 does not use unfavored Segments 26, 15 or 16 that would run through the SHLAA and Clearwater Ranch neighborhoods, and it does not use Segments 35 or 41 that would cross in front of or on the school or on the NISD property.⁷⁵ Therefore, Route Z2 adequately considers the community values in these proceedings.

B. Recreational and Park Areas.

No significant impacts to the use or enjoyment of parks and recreation facilities are anticipated from any of the primary alternative routes.⁷⁶ None of the alternative routes cross or are located within 1,000 feet of any parks and recreation facilities.⁷⁷ Accordingly, this factor is neutral.

C. Cultural (Historical) Values.

A review of the Focus Routes indicates the following:

- Routes Z2, Z1, AA1 and AA2 cross zero recorded cultural resource sites, while Routes Q1 and R1 each cross two and Routes P and W each cross one.⁷⁸
- Routes Z2, Z1, AA1 and AA2 cross zero National Register of Historic Places listed properties, while Routes P, Q1, R1 and W each cross one.⁷⁹
- Routes P, Q1 and R1 have 10-12 additional recorded cultural resource sites within 1000 feet of centerline ROW, as compared to only 2 for Routes Z2, Z1, AA1 and AA2.⁸⁰

PUC Staff's witness testified that all of the routes are acceptable from a cultural and historical standpoint.⁸¹ Jason Buntz focused his testimony on the alleged historical features in the

⁷⁵ Routes Z1, AA1, AA2 also do not use Segments 26, 15, 16, 35 and 41. CPS Energy Ex. 15 at LBM-2R Amended, Figure 4-1R, at 027; CPS Energy Ex. 16.

⁷⁶ CPS Energy Ex. 1 at 000176.

⁷⁷ CPS Energy Ex. 1 at 000176; CPS Energy Ex. 15, LBM Amended Table 4-2R at 024-026.

⁷⁸ See CPS Energy Ex. 17.

⁷⁹ See CPS Energy Ex. 17.

⁸⁰ See CPS Energy Ex. 17.

⁸¹ Transcript at 794:13-16.

area like those on Heidemann Ranch.⁸² However, Routes Z2 and Z1 do not cross Heidemann Ranch, which incidentally displays multiple, very large outdoor contemporary art pieces on its frontage along Toutant Beauregard Road.⁸³ The record also amply shows a variety of other infrastructure along Toutant Beauregard that takes away from any historic qualities including: distribution lines, pipelines, traffic crossing systems,⁸⁴ and an FCC-registered communications tower.⁸⁵ Ultimately, Mr. Buntz does not go so far as to state that any alleged historic features on Toutant Beauregard Road are constraints which prevent the construction of a transmission line on Routes Z1 or AA1.⁸⁶

Sarah Bitter responded Mr. Buntz's testimony regarding historical import. Sarah described the original relationship between the historically-designated R.L. White Ranch and Bexar Ranch, which were one-and-the same up until the late 1970s.⁸⁷ She detailed the willingness of the Bitter Family to "preserve an era and area of historical significance."⁸⁸ Sarah described the interconnectedness of the properties – linking the historic stagecoach inn on the west of the White Ranch (i.e., Thompson Property) to the historic early Texas settler homestead, ranching facilities and cemetery dating back to the 1800s on the east of the White Ranch (i.e., Bexar Ranch).⁸⁹ It is difficult to imagine that the historic significance of the White Ranch stops at the border of the White and Bexar ranches.⁹⁰

⁸² Rose Palace Ex. 1. Mr. Buntz testified on behalf of Straight Promotions/Rose Palace.

⁸³ CPS Energy Ex. 15 (LBM-4R) at 30-35; CPS Energy Ex. 16; CPS Energy Ex. 18.

⁸⁴ Hearing Transcript at 921:4-10.

⁸⁵ CPS Energy Ex. 15, Rebuttal Testimony of Lisa B. Meaux, at 13:8-15; 14:24-28; 19:25-29.

⁸⁶ Routes Z2 is very similar to Routes Z1 and was not tabulated by CPS at the time of Mr. Buntz's testimony.

⁸⁷ BR Ex. 8 at 9:1-3.

⁸⁸ BR Ex. 8 at 9:7-9.

⁸⁹ BR Ex. 8 at 9:1-17.

⁹⁰ BR Ex. 6 at 19:16-17.

D. Aesthetics.

a. The Study Area.

In terms of aesthetics, and for the purposes of this project, POWER defined aesthetics to accommodate the subjective perception of natural beauty in a landscape and measure an area's scenic qualities.⁹¹ Here, the study area is located within the Texas Hill Country, which is known to be a scenic area of Texas.⁹² The study area is primarily suburban⁹³ – along Toutant Beauregard Road for example, with some rural areas – Bexar Ranch being the largest by far.

Toutant Beauregard Road has already been impacted by distribution lines, pipelines, traffic crossing systems, contemporary yard art pieces, and an FCC-registered communications tower.⁹⁴ According to Mark D. Anderson, who testified on behalf of Anaqua Springs HOA and Brad Jauer/BVJ Properties, LLC, Toutant Beauregard is a highly “congested” roadway that already hosts within its right of way natural gas and water pipelines and electric distribution lines, and a recently added microwave transmission corridor.⁹⁵ These features distract from the aesthetic of this area.

In contrast to the Toutant Beauregard Routes like Z2 and Z1 that predominantly follow this road, the Neighborhood Routes of P, Q1, R1 and W run through the heart of each of the following properties in varying, but still significant degree: Bexar Ranch, Guajalote Ranch, Clearwater Ranch Subdivision, and the SHLAA Subdivisions. These larger properties and the neighborhoods' individual tracts still maintain the rural feel of the Texas Hill Country due to (1) intentional non-development or (2) a desire for scenic country living.⁹⁶ These properties are naturally scenic and intentionally preserved that way.

⁹¹ CPS Energy Ex. 1 at 138.

⁹² CPS Energy Ex. 1 at 138.

⁹³ CPS Energy Ex. 1 at 138-139.

⁹⁴ CPS Energy Ex. 15, Rebuttal Testimony of Lisa B. Meaux, at 13:8-15; 14:24-28; 19:25-29.

⁹⁵ AS Jauer Ex. 1, Direct Testimony of Mark D. Anderson, at 8:1-3.

⁹⁶ *See e.g.*, Clearwater Ranch Ex. 1-23; *see also* Transcript at 766-782 (various property owners describing concerns regarding habitat fragmentation, changes to the vistas on morning jogs, effects on wildlife and trees, and detailing how the community is “a neighborhood where everybody gets out and about ... [e]veryone's outdoors quite a bit.”

b. Bexar Ranch.

Bexar Ranch “retains the beauty it possessed a hundred years ago.”⁹⁷ “[N]o transformation has occurred on Bexar Ranch ...we have served as caretakers, preserving Bexar Ranch in its natural state.”⁹⁸ Bexar Ranch is the “notable exception” when it comes to land use in the area – it is an unfragmented, large, forested area covered in Ash Juniper and deciduous trees.⁹⁹

Each of the three proposed segments – 43, 44 and 45 – bisect the property, “with each crossing over, through or near some of the most beautiful and /or sensitive areas.”¹⁰⁰ Along with the existing transmission line on the west, Bexar Ranch will not only be boxed in by transmission lines, but it will also be cut in two.¹⁰¹



MB-2 Rebuttal (Segment 43)

⁹⁷ BR Ex. 8 at 10:3-4.

⁹⁸ BR Ex. 8 at 9:15-17.

⁹⁹ BR Ex. 1 at 15:4-6.

¹⁰⁰ BR Ex. 2 at 17:4-8; see also BR Ex. 7 at 5:11 (showing MB-2 Rebuttal (Segment 43)).

¹⁰¹ BR Ex. 3 at 17:20-21.

Segment 43. Segment 43 follows “the path of a sightseer trying to take in as many of the most spectacular natural features and scenic views as possible” including two of Michael Bitter’s favorite spots – “the saddle” between the twin peaks and “the ridge” where Michael’s sister was proposed to by her husband Vince.¹⁰² Segment 43 crosses some of the highest points on the property.¹⁰³ Segment 43 departs from the northern property line and runs east/west in a “V” shaped pattern diagonally across / sub-parallel to a scenic valley and then climbs to some of the highest wooded outcrops on the property.¹⁰⁴ Segment 43 will be on full display.

Segment 44. Segment 44 cuts through a very large and completely undeveloped, heavily wooded, open space.¹⁰⁵ It bends sharply over multiple times, forming an upside-down “V” shaped pattern.¹⁰⁶ As Segment 44 crosses through the middle of the property, it also crosses some of the highest points – and, it will be visible from the entire ranch.¹⁰⁷ In fragmenting the property so severely, Segment 44 offers a panoramic view of the transmission line from all angles, including the family headquarters.¹⁰⁸ Headquarters is located in the valley corridors, such as the Chimenea Creek Valley, to offer sweeping views.¹⁰⁹ Segment 44 is unforgiving.

Segment 45. Segment 45 runs across and sub-parallel to scenic bottom lands, draws and creeks.¹¹⁰ It crosses or is in the vicinity of significant water habitat, including the Morales Springs area, the spring-fed Morales Lake, Los Reyes Creek, Chimenea Creek, and all of their offshoots.¹¹¹ Segment 45 travels immediately adjacent or over two reservoirs that dependably hold water.¹¹² Segment 45 crosses or runs near Los Reyes Creek to one of the few large open areas on the far

¹⁰² BR Ex. 2 at 17:10-15.

¹⁰³ BR Ex. 2 at 19:1-2. BR Ex. 3 at 21:8-9.

¹⁰⁴ BR Ex. 1 at 22:21-23.

¹⁰⁵ BR Ex. 6 at 16:1-9.

¹⁰⁶ CPS Energy Ex. 16.

¹⁰⁷ BR Ex. 2 at 19: 1-5.

¹⁰⁸ BR Ex. 1 at 22:17-19; BR Ex. 3 at 15-17.

¹⁰⁹ BR Ex. 3 at 17:2-3.

¹¹⁰ BR Ex. 1 at 23:1-2.

¹¹¹ BR Ex. 3 at 19:21-20:4.

¹¹² BR Ex. 2 at 19:8-9.

southwest corner.¹¹³ Segment 45 crosses a web of springs, creeks, creek beds and small, tucked away pastures.¹¹⁴ It also runs along a canyon and the Cliff dam area.¹¹⁵ Segment 45 is a gut punch.



*c. Guajalote Ranch.*¹¹⁶

Guajalote Ranch is located in the southeast corner of the study area. CPS Energy’s mapping shows another example of significant fragmentation. The evidence shows that Segment 27 bisects Guajalote Ranch’s northeast entire quadrant with a wide L-shaped cut across an interior road and Helotes Creek. Should that segment be part of a route chosen, this interior road would be crossed multiple times with a large electric transmission line as it winds up the high point on which the line will be placed. Given the higher elevation on this part of Guajalote Ranch, it is not difficult to

¹¹³ BR Ex. 2 at 19:18-20.

¹¹⁴ BR Ex. 3 at 15:20-22.

¹¹⁵ BR Ex. 3 at 16:5-6; BR Ex. 2 at 15 (photograph).

¹¹⁶ CPS Energy Ex. 1 at 000440 and at Figure 2-4 Primary Alt. Routing Segments with Environmental and Land Use Constraints; CPS Energy Ex. 15 at LBM-2R Amended Figure 4-1R at 027; CPS Energy Ex. 16; CPS Energy Ex. 18.

imagine the visual impact that Segment 27 will have on this undeveloped property. Furthermore, Segment 45 runs back into Guajalote Ranch, after crossing SHLAA for a stretch, not quite following property lines – creating another, larger L-shaped option that will certainly change the vistas on this property.

d. Opportunities to Moderate Aesthetic Impact.

There are no good choices on Bexar Ranch or on Guajalote Ranch.

However, CPS Energy has testified to several accommodations it can make to moderate the impact to affected landowners on Routes along Toutant Beauregard. CPS can “span” several areas, including the entrance to Anaqua Springs subdivision and locations along Segment 54.¹¹⁷ This means there will be fewer poles to see and less intrusion. Due to the proximity to the public road, CPS Energy can utilize a narrower right of way.¹¹⁸ CPS has also moderated the impact to the Dreico Companies’ properties by routing the segments on their properties in line with their consent.¹¹⁹ Taken together, this means that the incremental visual impacts on Routes Z2 and Z1 that use Toutant Beauregard Road are less, and that they are different, than those impacts are on routes and properties not located on Toutant Beauregard Road.

In contrast, the negative aesthetic impact that would be experienced if routes including Bexar Ranch were ordered is evident. Any option including Bexar Ranch in its mix leads to fragmentation of a large, undeveloped property or intrusion into the neighborhoods of Clearwater Ranch and SHLAA. Given this option, and then considering the existing electric and transportation corridor already located on Toutant Beauregard Road, and the opportunities to better moderate aesthetic impact there, Routes Z2 and Z1 have the least aesthetic impact, respectively.

¹¹⁷ Mr. Marin, on behalf of CPS Energy, testified that CPS Energy will work with the landowner, here Anaqua Springs, to span the property and minimize the impacts to the entrance, which would include attempting to span the entrance, which was possible from an engineering perspective. Transcript at 834:6-13. Mr. Lyssy, on behalf of CPS Energy, testified that CPS Energy will do “everything in our power” to span the Anaqua Springs entrance adding “we’re more than capable to. So I don’t envision right now any reason we couldn’t.” Transcript at 834:22-25.

¹¹⁸ Mr. Lyssy, on behalf of CPS, testified that in most instances it would be reasonable and acceptable to reduce the right-of-way adjacent to roadways and to use the roadway for clearance purposes. Transcript at 861:24-862:9.

¹¹⁹ Transcript at 880:21-881:1 and 944:6-15; Dreico Companies Ex. 1 at 8:11-15.

E. Environmental Integrity.

Environmental integrity and aesthetics go hand-in-hand when it comes to Bexar Ranch. The Bitter Family has worked for generations to preserve Bexar Ranch in its natural state which has, in turn, allowed trees to grow, wildlife to thrive, and waterways to flourish.¹²⁰ This commitment has preserved the property's natural beauty, no doubt, and it has also protected the overall environmental integrity of the property.

Flora. Bexar Ranch is a rich green – unless it's a sunny, fall day when the leaves on the hardwoods are shades of red, yellow and orange.¹²¹ Its trees include a wide variety of oaks, elms, walnuts, pecans, a few rare madrones, ash juniper, mountain laurel, and agarita.¹²² CPS Energy identified 94% of Segment 43, and 100% of Segments 44 and 45, as “upland woodlands/brushlands.”¹²³ This translates to 1.93 miles (Segment 43), 1.98 miles (Segment 44) and 2.59 miles (Segment 45) of trees in these segments. In terms of percentage of length of upland woodlands/brushlands to total route length, Segments P (90%), Q1 (95%), R1 (91%), W (96%) are more densely covered with trees than are Segments Z1, Z2, AA1 and AA1 (each 79%).¹²⁴

Fauna. Bexar Ranch is home to whitetail deer, wild turkeys, wild boar, aoudad, jack rabbits and cotton tails, coyotes, raccoons, porcupine, ringtail cats, mountain lions, and a variety of birds, including birds of prey.¹²⁵ In 2008, CPS Energy's contractor performed a Golden Cheeked Warbler Study on Bexar Ranch and reported several detections and encounters, leading the Bitter Family to believe Bexar Ranch is also home to Golden Cheeked Warbler (GCW).¹²⁶ The 2010 Diamond Report relied upon by CPS Energy to predict GCW habitat in the current study area

¹²⁰ BR Ex. 2 at 8:6-11.

¹²¹ BR Ex. 3 at 16:3-4.

¹²² BR Ex. 2 at 9:14-17.

¹²³ CPS Energy Ex. 15 at Ex. LBM 1R, Amended Table 4-2R (Segment Data).

¹²⁴ CPS Energy Ex. 17.

¹²⁵ See BR Ex. 2 at 9:11-13; BR Ex. 3 at 12:8-10.

¹²⁶ Michael Bitter testified that CPS Energy's 2008 Golden Cheeked Warbler study leads his family to believe the property has significant warbler due to documented sightings in that report, and that since the date of the 2010 Diamond Report, the vegetation on Bexar Ranch has only proliferated and become denser. BR x. 7 at 5:3-4 and Ex. MB-1A Rebuttal.

supports this belief. Put in context, the acreage of “Moderate/High” GCW on Segment 43 alone (14.89 acres) exceeds this value for *all of Route Z2* (8.92 acres).¹²⁷

Water.¹²⁸ Bexar Ranch contains an intricate web of springs, streams and creeks – and names like Chimenea Creek, Los Reyes Creek and Morales Spring come to mind.¹²⁹ And here, the entire study area is included in the Edwards Aquifer Contributing Zone.¹³⁰ And, since 2000, San Antonio ratepayers have voted four times to support measures to preserve exceedingly sensitive and irreplaceable lands that lie over the Edwards Aquifer recharge and contributing zone.¹³¹ Consistent with their desire to protect the environmental integrity of the Edwards Aquifer, the Bitter Family is working to place Bexar Ranch into a conservation easement with the City of San Antonio’s Aquifer Protection Program.¹³² Bexar Ranch is identified as the top property in San Antonio under consideration by APP.¹³³ The purpose of the APP is to prevent the development of properties like Bexar Ranch that are still in pristine condition.¹³⁴ Building an electric transmission line on Bexar Ranch would not be consistent with the purpose of the APP.

Soil. Bexar Ranch has concerns about erosion that will follow a transmission line project.¹³⁵ While CPS will be responsible for maintaining its right of way, rain and the topography of the property will promote erosion, no matter how much CPS does not want that to be the case.¹³⁶ It is

¹²⁷ CPS Ex. 15 at Ex. LBM 1R – Amended Table 4-2R; CPS Ex. 17. Dr. Turnbough commented that with respect to the Diamond Study used by CPS Energy to predict Golden Cheeked Warbler habitat, Bexar Ranch appeared to fall into the two strongly supported hypotheses, namely, larger patch sizes of Moderate to High Quality is better than a smaller patch size and less fragmentation of that habitat the better the sustained habitat, and that in Bexar Ranch’s case, it would be important to avoid fragmentation of Bexar Ranch’s significant coverage and density of Moderate to High GCW Habitat. BR Ex. 1 at 23:20 – 24:5. In terms of other endangered species, Route AA1 (and by extension, Route Z2 and Z1) is located almost completely within Karst Zone 5 which is defined as cavernous and non-cavernous areas that do not contain endangered Karst invertebrate species. BR Ex. 1 at 19-1-3.

¹²⁸ CPS Energy’s data table shows that the three top segments for river stream and river crossings are: Segment 26a (within Clearwater and SHLAA subdivisions) at 5; Segment 27 (Guajalote Ranch) at 4; and Segment 45 (Bexar Ranch) at 4. See CPS Ex. 15 at Ex. LBM 1R at Amended Table 4-2R at 024.-025.

¹²⁹ BR Ex. 3 at 3:10-11; 16:1; 19:21-22.

¹³⁰ CPS Energy Ex. 17.

¹³¹ BR Ex. 3 at 24:14-19.

¹³² BR Ex. 7 at 7:4-10 and MB-5 Rebuttal at 74.

¹³³ BR Ex. 7 at MB-5 Rebuttal at 74.

¹³⁴ BR Ex. 7 at MB-5 Rebuttal at 74.

¹³⁵ BR Ex. 2 at 19:11-12.

¹³⁶ BR Ex. 2 at 20:6-9.

common to hear that the applicant will apply mitigation measures to mitigate the environmental impact of its project. And while Bexar Ranch does not dispute CPS Energy’s sincere desire to do so, the Bitter Family’s knowledge of the property and experience with the transmission line on its western boundary leads them to reasonably believe that the construction of an electric transmission line will take a toll on the property. This environmental toll is anticipated in large part due to Bexar Ranch’s terrain being so “difficult” that it is in many ways inaccessible – likely requiring additional burdens like off-easement access roads.¹³⁷ These additional burdens are not a given -- of course, but they are more likely on “remote” and “hilly” properties like Bexar Ranch than on property that is located off of a public roadway like Toutant Beauregard Road.¹³⁸

Conclusion on Environmental Integrity. Paralleling Toutant Beauregard Road, which has already fragmented wildlife habitat, potentially reduces new fragmentation of wildlife habitat and destruction of mature trees on other routes.¹³⁹ Overall, Route Z2 would have less impact on natural resources compared to the other routes. Overall, Route Z2 is a strong choice with respect to environmental integrity.

¹³⁷ Transcript at 734:17 to 735:5 (describing additional easements needed on Bexar Ranch for other powerline project to access towers due to “terrain being so difficult”).

¹³⁸ Mr. Lyssy, on behalf of CPS Energy, testified that in some areas CPS Energy would need access easements to reach its transmission line, agreed that if the terrain is hilly there is a possibility that CPS would have to use a different route to get to its structures, and agreed that if a line is paralleling a public roadway, access would be right from the roadway to the structure. Transcript at 244:4-13; 245:4-22.; *see also* Transcript at 965:10-18 (Tom Dreiss, who is familiar with the area referenced as he shares a border with Bexar Ranch near the White Ranch, called the area “remote” and stated, “there’s not any access to that area other than through the individual ranches.”).

¹³⁹ Mr. Lyssy, on behalf of CPS Energy, testified that “in areas where we are along the road we probably won’t even clear a path between the structures. We’ll access the poles from the right-of way, from the roadway. So in in this area [along Toutant Beauregard Road] the – I don’t foresee us clearing a whole lot of trees.” Transcript at 476:2-5.

F. Engineering Constraints.

Described as “steep and rough with drop offs” and “treacherous in many areas, with high climbs and steep drops throughout,” it is evident that the same hills that make Bexar Ranch beautiful make it “challenging” to maneuver.¹⁴⁰ The Bitter Family has experience with how Bexar Ranch fares in the electric transmission line construction context, given they have witnessed the upgrade of the 138 kV line running north/south on Bexar Ranch, and given their experience with the construction of the CPS powerline on the R.L. White Ranch next door. As Michael Bitter testified regarding construction he’s witnessed:

Well, there's been a whole series of easements, to be -- to be clear. You know, that's just the actual transmission line for access, because --which, you know, it's necessary, because they can't access all the poles directly along the line. And so there's other easements. Some have come and gone, because they were not all permanent. They actually re-condemned us when they did the adjoining line for the 345 that was mentioned, because they needed to be able to access some of the 345 through our property, so they used the 138 easement and some additional ingress-egress easements for towers that they can't otherwise access because of the terrain being so difficult.¹⁴¹

In contrast, routes like Route Z2 along the flat Toutant Beauregard Road has many advantages from an engineering perspective – it doesn’t have the same topography as Bexar Ranch, and it provides easier and less expensive long-term access to the transmission line.¹⁴² CPS Energy’s witnesses also testified to the benefits of constructing along a public road.¹⁴³

¹⁴⁰ When asked how CPS Energy would reach each proposed segment, Michael, who has witnessed an upgrade of the western transmission line, stated, “This is unknown but it could be particularly challenging” describing the property as “steep and rough with drop offs.” BR Ex. 2 at 21:6, 9-10; *see also* BR Ex. 3 at 14:5-6.

¹⁴¹ Transcript at 734:17 to 735:5 (describing additional easements needed on Bexar Ranch to access towers due to “terrain being so difficult”).

¹⁴²BR Ex. 2 at 23:5-10 and at 24 (photographs of Toutant Beauregard Road). Mr. Lyssy, on behalf of CPS Energy, confirmed that Routes Z2, Z1, AA1 and AA2 all have the benefit of the donated land, public road sharing, and less habitat fragmentation. Transcript at 195:10-196:8.

¹⁴³Mr. Lyssy, on behalf of CPS Energy, testified that “in areas where we are along the road we probably won’t even clear a path between the structures. We’ll access the poles from the right-of way, from the roadway. Transcript at 476:2-5. Mr. Lyssy also testified that if a line is paralleling a public roadway, access would be right from the roadway to the structure. Transcript at 244:4-13; 245:4-22

G. Costs.

CPS Energy's cost estimates included use of appraisals, varied according to property type and size, and accounted for variables typical of projects such as this one.¹⁴⁴ Scott D. Lyssy, P.E., prepared CPS Energy's cost estimates and testified as to their reasonableness and reliability, verifying they are both.¹⁴⁵ CPS Energy's total estimated costs ranged from a low of \$37,638,580 for Route Z2 to a high of \$56,194,703 for Route O.¹⁴⁶

According to CPS Energy's total estimated costs, the top 10 least costly routes (from least costly to most) are routes that utilize Toutant Beauregard Road and line up as follows:

- Z2,
- AA1,
- Z1,
- Dreico 6,
- DD,
- AA2,
- EE,
- Dreico 5,
- Dreico 4 and
- Y.¹⁴⁷

In addition to being the least costly route, Route Z2 is the shortest route.¹⁴⁸ Route Z1 is the third least costly route and the second shortest route.¹⁴⁹

¹⁴⁴ Scott D. Lyssy, P.E., prepared CPS Energy's cost estimates. Currently the Manger of Civil Engineering for CPS Energy, Mr. Lyssy's resume indicates he has been preparing engineering-related cost estimates since 2007, and since 2012 for CPS Energy. CPS Energy Ex. 11 at Ex. SDJ-1. CPS Energy's cost estimates were prepared using input from a variety of sources, including segment data from the EA and geographic information system analysis, preliminary designs, estimated per-acre land acquisition costs, and estimated unit costs for labor, material, and construction based on recent CPS Energy project experience. CPS Energy Ex. 11 at 10: 8-11. Mr. Lyssy involved and relied on CPS Energy staff and outside experts with expertise in different disciplines, including real estate, environmental, and construction. Mr. Lyssy testified that the estimated cost estimates for the various routes were, reasonable and consistent with engineering practices and market conditions in effect on the filing date. He testified that these estimates may be relied on by the Commission as a basis to compare the costs of routes. CPS Energy Ex. 11 at 11:12-17.

¹⁴⁵ *Id.*

¹⁴⁶ CPS Energy Ex. 17.

¹⁴⁷ CPS Energy Ex. 17; Dreico Companies Ex. 2; CPS Energy Ex. 14 (Lyssy Rebuttal) at 018.

The incremental cost to use Routes P, R1, Q1 and W are shown below, ranging from an incremental \$5,770,162.00 to \$15,231,248.00 expenditure for these routes as compared to Route Z2.¹⁵⁰ This amounts to a 15.33%, 15.63%, 21.93% and 40.47% increase above Z2 for Routes P, R1, Q1 and W, respectively.

	Rank	Total Estimated Cost	Difference above Route Z2 ¹⁵¹
Route P	12 th	\$43,408,742.00	\$5,770,162.00
Route R1	13 th	\$43,522,858.00	\$5,884,278.00
Route Q1	21 st	\$45,890,914.00	\$8,252,334.00
Route W	32 nd	\$52,869,828.00	\$15,231,248.00

Given the array of 39 available routes and their corresponding cost data, Routes Z2 and Z1 are exceptional choices.¹⁵² Moreover, there are at least 13 less costly routes than Routes P, R1, Q1 and W from which to choose.¹⁵³ Given the foregoing, there is sufficient basis to select Route Z2 or Z1 with respect to cost.

H. PUC Subst. Rule 25.101 – Paralleling.

The significant fragmenting of Bexar Ranch that will occur if routes using Segments 43, 44 or 45 are chosen is a strong reason to avoid these routes.

a. Route Z2 Satisfies Rule 25.101.

The data summary table for the 39 primary alternative routes indicates a range of paralleling from a stated low of 53% for Route G1 and AA2 to a high of 83% for Route A.¹⁵⁴ Routes Z2 and Z1 parallel existing ROW (roadways, railways, canals, etc.) and property lines for 71% and 68%,

¹⁴⁸ CPS Energy Ex. 17.

¹⁴⁹ CPS Energy Ex. 17; Dreico Companies Ex. 2; CPS Energy Ex. 14 (Lyssy Rebuttal) at 018.

¹⁵⁰ BR Ex. 12.

¹⁵¹ BR Ex. 12.

¹⁵² Mr. Lyssy, on behalf of CPS Energy, confirmed that Routes Z2, Z1, AA1 and AA2 all have the benefit of the donated land, public road sharing, and less habitat fragmentation. Transcript at 195:10-196:8. Due to the donation agreement included in Toutant Ranch Exhibit 1, Routes Z2, Z1, AA1 and AA2, in part, have a cost-neutral feature with respect to land acquisition. Transcript at 259:25-260:2; 261:8-16. CPS Energy's witness testified that the use of donated land in this project is beneficial to the ratepayers because it can lower the costs of the projects. Transcript at 518:13-19.

¹⁵³ CPS Energy Ex. 17; Dreico Companies Ex. 2; CPS Energy Ex. 14 (Lyssy Rebuttal) at 018.

¹⁵⁴ CPS Energy Ex. 17; Dreico Companies Ex. 2.

respectively, of their length.¹⁵⁵ With important exceptions discussed below, increased paralleling percentages results in increased length of the total alternative route. For example, Route A has the highest paralleling percentage at 83%, but is also the 4th longest.¹⁵⁶ Put in context, Route A's paralleling length exceeds the *total length* of 21 of the 39 routes.¹⁵⁷ In important contrast, Route Z2 is the shortest of all of the 39 routes and offers significant paralleling without a corresponding increase in total length of the route.¹⁵⁸

b. Segments 43, 44 and 45 Do Not Parallel “Existing ROW” as Alleged and Tabulated.

Segment 43 is located on the northern 1/3 of Bexar Ranch and spans approximately 2.05 miles.¹⁵⁹ Although no surveys or site visits have been performed by CPS Energy to support same, CPS claims that 0.85 miles of Segment 43 parallels existing ROW (roadways, railways, canals, etc.).¹⁶⁰ Segment 44 spans 1.98 miles, and CPS Energy claims 1.39 miles of this parallels existing ROW.¹⁶¹ Segment 45 spans 2.59 miles, and CPS Energy claims that 1.20 miles of it parallels existing ROW.¹⁶²

With the exception of approximately 30 percent of Segment 43 that runs parallel to its northern property line, Bexar Ranch fully disputes that there is any existing ROW near Segment 43 to parallel, and Bexar Ranch fully disputes the magnitude of the ROW allegedly paralleled by Segments 44 and 45.¹⁶³ As to Segment 43, CPS claims it is paralleling in part a “two-track dirt road.”¹⁶⁴

¹⁵⁵ CPS Energy Ex. 17; Dreico Companies Ex. 2.

¹⁵⁶ CPS Energy Ex. 17; Dreico Companies Ex. 2.

¹⁵⁷ CPS Energy Ex. 17; Dreico Companies Ex. 2.

¹⁵⁸ CPS Energy Ex. 17; Dreico Companies Ex. 2.

¹⁵⁹ CPS Energy Ex. 17. Segment 43 is 46% of the entire length of Z2. Transcript at 205:25-206:10.

¹⁶⁰ CPS Energy Ex. 15, LBM Amended Table 4-2R at 024-026. Ms. Meaux, on behalf of CPS Energy, testified that she has not been on the property and agreed that there is a disagreement as to CPS Energy's assertion that Segment 43 paralleled a two-track dirt road on the property for approximately 0.85 miles. Transcript at 238:24-239:12.

¹⁶¹ CPS Energy Ex. 15, LBM Amended Table 4-2R at 024-026.

¹⁶² CPS Energy Ex. 15, LBM Amended Table 4-2R at 024-026.

¹⁶³ BR Ex. 1 at 21:6-22:87. Transcript at 238:24-239:12.

¹⁶⁴ BR Ex. 28 (CPS Response to Bexar Ranch RFI 2-15).

As Dr. Mark Turnbough testified, “Based on a reconnaissance of the Ranch, proposed changes to those values for Criterion Number 7 [paralleling existing ROW] are suggested in the following: Segment 43 should have a length of approximately 0.65 miles as opposed to 1.50 miles. The only compatible ROW for Segment 43 is 0.65 miles where it parallels the north property line.”¹⁶⁵ Dr. Turnbough further testified, “with the exception of the [property line paralleling] of Segment 43 noted above, none of the remaining [length] of 43 ... follow[s] any defensible compatible ROW.”¹⁶⁶

With respect to Segments 44, Dr. Turnbough testified, “Segment 44 should have a length of 0 miles as opposed to 1.39 miles [under the category of paralleling existing ROW]. There is no compatible ROW parallel or adjacent to the entire length of Segment 44.”¹⁶⁷

With respect to Segment 45, Dr. Turnbough stated, “Segment 45 has a length of 1.20 miles. It is unlikely that Segment 45 has a Criterion Number 7 [paralleling existing ROW] combined length of 1.20 miles. None of it is evident on the portion that crosses the Bexar Ranch. Because only 0.90 miles of Segment 45 is located outside of the Ranch property, it is unlikely that it could have a combined length of 1.20 miles.”¹⁶⁸

As explained by Dr. Turnbough, the limited two-track roads apparently relied upon by CPS are not compatible ROW.¹⁶⁹ Although CPS Energy’s Lisa B. Meaux acknowledged that, POWER did not intend “to equate paralleling a major public roadway with the paralleling of a dirt two track private road,” Here the concern is not whether the “dirt road” or “two-track road” is labeled as an “existing ROW” or “a natural cultural feature” but rather that the “two-track road” does not exist in

¹⁶⁵ BR Ex. 1 at 21:22-22:2 (emphasis added).

¹⁶⁶ BR Ex. 1 at 21:11-13.

¹⁶⁷ BR Ex. 1 at 22:2-3.

¹⁶⁸ BR Ex. 1 at 22:4-8.

¹⁶⁹ BR Ex. 1 at 22:10-14; Dr. Turnbough described his visit to Bexar Ranch where he was able to look at the areas that have potential segments. Despite his reconnaissance of the area, he was not able to determine compatible right of way that Segment 43 was following other than the northern property boundary. He found no compatible right of way being paralleled for Segments 44 and 45. Dr. Turnbough confirmed that he while he drove a “fairly burly vehicle that’s well prepared to travel this kind of terrain” he was unable to continue in several locations and had to walk, and that walk was all uphill. Transcript at 751:9-752:21. Dr. Turnbough testified, “I could not identify any cultural feature that would qualify as compatible right-of-way. The closest thing to a cultural feature on the ranch in that area [Segment 44] that – and north of there – that qualifies as a compatible right-of-way is an apparent property line on the northern boundary of the ranch.” Transcript at 753:15-754:2.

the magnitude and location assumed by CPS Energy – nor is the terrain necessarily “compatible” because it has “natural” features that may appear on a map. It appears manifestly unfair to penalize Bexar Ranch (and all routes using Segments 43, 44 and 45) on this factor. While the testimony of Michael and Sarah Bitter referred to the existence of two-track roads on the property, the discussions in their testimony centered around the concerns the Bitters have with respect to damaging these roads and the property by extension, using these roads safely, and changing the aesthetic views from these roads. They do not establish “existing ROW” in the vicinity of Segments 43, 44 and 45 to parallel. Nor has any testimony by any party suggested that the areas along Segments 43 and 44 are in anyway “not flat.” Rather, the testimony is that these areas are treacherous, rugged, steep and rough.¹⁷⁰

c. Segments 43, 44 and 45 Skew the Paralleling Values.

The characterization of Segments 43, 44 and 45 as paralleling “existing ROW” is significant. Focus Route P is tabulated at 71% paralleling “existing ROW” and property lines.¹⁷¹ A closer look at the components of the data reveals that 0.85 miles of Route P’s paralleling “existing ROW” is the disputed 0.85 miles on Segment 43.¹⁷² If this data point had been tabulated appropriately, with the understanding that there is no two-track road running for 0.85 miles on Bexar Ranch near and Segment 43, then the percentage paralleling for Route P would decrease to 53.6%. Making this same adjustment for Route R1 brings its percentage of paralleling down to 46.4% from 64%. And, making the 1.39-mile adjustment to Segment 44 would bring the percentage of paralleling for Routes Q1 and W down to 43.9% and 35.8%, respectively.¹⁷³ Put in perspective, Segment 43 is 46% of the entire length of Z2, and Segment 44 is 44% of the entire length of Z2.¹⁷⁴

¹⁷⁰ Dr. Turnbough described the property as having a deep drops, as being “some of the steepest, roughest country I’ve tried to drive across” and “at the top” of any ranking with respect to its status as rugged and undeveloped. Transcript at 753:6-14; 754:13-18. BR Ex. 2 at 21:6, 9-10; *see also* BR Ex. 3 at 14:5-6. “The [Segment 43] path is treacherous, steep and winding, which makes its use more confounding.” BR Ex. 2 at 17:17-18.

¹⁷¹ CPS Energy Ex. 17.

¹⁷² CPS Energy Ex. 15 at Ex. LBM 1R at 024-026; CPS Energy Ex. 17.

¹⁷³ CPS Energy Ex. 15 at Ex. LBM 1R at 024-026; CPS Energy Ex. 17.

¹⁷⁴ Transcript at 205:25-206:10; CPS Energy Ex. 15 at Ex. LBM 1R at 024-026; CPS Energy Ex. 17.

d. Avoiding Habitat Fragmentation is a Goal of Rule 25.101.

PUC Substantive Rule 25.101 considers paralleling of compatible right of way in the routing analysis. Ms. Meaux, on behalf of CPS Energy, testified that one reason for paralleling compatible right-of-way is to minimize habitat and *private property* fragmentation.¹⁷⁵ Mr. Lyssy, on behalf of CPS Energy, also testified that another reason for paralleling *roadways* is to share the public right-of-way to the extent possible, thereby reducing the acquisition costs and habitat fragmentation.¹⁷⁶ There is ample evidence in the record to show that reducing fragmentation of property is an important value of Bexar Ranch and to the residents of SHLAA and Clearwater Ranch.¹⁷⁷ Taken together, the opportunity to parallel Toutant Beauregard Road makes Routes like Z2, Z1, AA1 and AA2 strong routes.

I. Conformance with the Commission’s Policy of Prudent Avoidance.

Prudent avoidance is defined as the “limiting of exposures to electric and magnetic fields that can be avoided with reasonable investments of money and effort.”¹⁷⁸ As CPS Energy’s expert witness, Lisa Meaux, explained, the policy of prudent avoidance “does not mean that a proposed transmission line must avoid habitable structures at all costs”¹⁷⁹ Adam Marin of CPS further explained: “Prudent avoidance has been demonstrated by CPS Energy in many ways in this proceeding In some areas, segments were delineated that cross from one side of a roadway to another to maximize distances from habitable structures.”¹⁸⁰ CPS Energy’s expert witnesses and PUC Staff’s expert witness all concluded that all routes and all segments comply with the Commission’s policy of prudent avoidance.¹⁸¹

¹⁷⁵ Transcript at 182:23-183:1 (emphasis added).

¹⁷⁶ Transcript at 193:1-194:14 (emphasis added).

¹⁷⁷ Transcript at 681:22-682:10; 759:1-782:2; Clearwater Ranch Ex. 1-23; SHLAA Ex. 1 at 17; BR Ex. 2, 3, 7, 8.

¹⁷⁸ 16 TAC §. 25.101(a)(6).

¹⁷⁹ CPS Energy Ex. 2 (Meaux Direct Testimony) Pg. 20, Ln. 27-29.

¹⁸⁰ CPS Energy Ex. 12 (Marin Rebuttal Testimony) Pg. 13, Ln. 8-22.

¹⁸¹ CPS Energy Ex. 2 (Meaux Direct Testimony) Pg. 21, Ln. 1-7; CPS Ex. 9 (Marin Direct Testimony) Pg. 10, Ln. 22-27; CPS Energy Ex. 12 (Marin Rebuttal Testimony), Pg. 12, Ln. 27-28; and PUC Staff Ex. 1, Pg. 42, Ln. 13-16.

Here, the range of habitable structures within 300 feet of the route centerline across all of the potential routes is 12 to 72, and the average number of habitable structures for all of the potential routes is 37 habitable structures within 300 feet of the route centerline.¹⁸² The number of habitable structures within 300 feet of the centerline for routes Z2 and Z1 are 32 and 31, respectively.¹⁸³ The number of habitable structures for AA1 and AA2 are 31 and 30 respectively.¹⁸⁴ Thus, Routes Z2, Z1, AA1 and AA2 all have less habitable structures within 300 feet of the centerline than the average for all routes.

Furthermore, 21 of the habitable structures within 300 feet of the centerline of Routes Z2, Z1, AA1 and AA2 would be across Toutant Beauregard Road from CPS' proposed transmission line, and thus exemplify compliance with the policy of prudent avoidance.¹⁸⁵ In comparison, with respect to the 29 habitable structures within 300 feet of the centerline of Route W, the route recommended by Anaqua Springs HOA's expert, only 6 of the 29 habitable structures would be located on the other side of Scenic Loop Road from the proposed transmission line.¹⁸⁶ As to Routes P and R1, neither of those routes parallel a major roadway like Toutant Beauregard or Scenic Loop Road, and thus, none of the habitable structures identified within 300 feet of those routes would have a major roadway between the homes and proposed transmission line.¹⁸⁷

More importantly, CPS' witnesses explained during the Hearing on the Merits that the 300 foot to centerline distance referenced above is simply a notice requirement distance.¹⁸⁸ The policy of prudent avoidance concerns exposure to EMF, not notice. CPS performed an EMF analysis in this case and concluded that the EMF levels associated with CPS' proposed transmission line were

¹⁸² CPS Energy Ex. 17; The average is 37. Transcript at 228:12-13; 746:23-747:3.

¹⁸³ CPS Energy Ex. 17.

¹⁸⁴ CPS Energy Ex. 17.

¹⁸⁵ Transcript at 220:2 –221:21; see also BR Ex. 13, at 49 (Table 4-31 for Route Z1); Mr. Marin, on behalf of CPS Energy, testified that all routes comply with prudent avoidance. Transcript at 565:12-16.

¹⁸⁶ Tr. pg. 231, Ln. 13 – pg. 232, Ln. 19; see also Bexar Ranch Ex. 13, page 44 (Table 4-28).

¹⁸⁷ Transcript at 234: 11-19.

¹⁸⁸ Transcript at 817.

consistent with background levels and exposures common to many household appliances.¹⁸⁹ Based upon this study, it is CPS' position in this proceeding that the EMF exposure distance for its proposed 138-KV transmission line is approximately 100 feet.¹⁹⁰ Routes Z2, Z1, AA1 and AA2 only have one habitable structure within 100 feet of the centerline of the proposed route centerline.¹⁹¹ In contrast, Route W has 4 habitable structure (three single family residences and one commercial guard house) within 100 feet.¹⁹² Routes Q1, P and R1 each have 2 habitable structures (one single family residence and one work shop) within 100 feet.¹⁹³

Finally, as to the policy of prudence avoidance, estimated costs must be taken into account because the policy of prudent avoidance concerns reducing exposure to EMF "with reasonable investments of money and effort."¹⁹⁴ Routes Z2, Z1, AA1 and AA2 are all millions of dollars less expensive than Routes Q1, P, R1 and W. In particular, Route Z2 is \$5,770,162 less expensive than Route P; \$5,884,278 less expensive than Route R1; \$8,252,334 less expensive than Route Q1; and \$15,231,248 less expensive than Route W.¹⁹⁵ Route Z2 is \$652,992 less expensive than any other alternative route in this proceeding.¹⁹⁶

Given the fact that there is only one habitable structure on Route Z2 within the 100 feet EMF distance and 21 of the 32 habitable structures within 300 feet of Route Z2's centerline are located on the other side of Toutant Beauregard Road, it would not be a reasonable nor prudent investment of

¹⁸⁹ CPS Ex. 12, Exhibit ARM-5R (Scenic Loop 138 KV Transmission Line EMF Analysis); see also CPS Ex. 12 at 13: 1-7.

¹⁹⁰ Transcript at 815-817.

¹⁹¹ Bexar Ranch Ex. 13, pages 49-50 (Tables 4-31 and 4-32); see also Tr. at pg. 210, Ln. 18 – pg. 212, Ln. 5 (regarding Route Z2 habitable structures).

¹⁹² Bexar Ranch Ex. 13, pg. 44 (Table 4-28); Ms. Meaux, on behalf of CPS Energy, testified that along Route W where there are 29 habitable structures, and that HS 194 is 70 feet from centerline; HS 177 is 78 feet from centerline; HS 174 is 94 feet from centerline. She also testified to HS 174 located on Route W which is 122 feet from centerline. Transcript at 224:15-225-11. Ms. Meaux, on behalf of CPS Energy, testified as to the two guardhouses tabulated as "habitable structures" the one on Anaqua Springs HOA is 227 feet from centerline and the one on Route W is 63 feet from centerline. Transcript at 229:23-230:8.

¹⁹³ Bexar Ranch Ex. 13, pg. 36-38 (Tables 4-21 through 4-23).

¹⁹⁴ TAC Sec. 25.101 (a)(6).

¹⁹⁵ See CPS Ex. 17 and BR Ex. 12 at 6.

¹⁹⁶ See CPS Ex. 17 and BR Ex. 12 at 6.

rate payers dollars to choose a more expensive route in this proceeding based upon the policy of prudent avoidance. Accordingly, Route Z2 best comports with the policy of prudent avoidance.

VI. ROUTES W, P, Q1, AND R1 ARE NOT THE BEST MEETS ROUTES.

Some of the parties to this proceeding have suggested the selection of Routes W, P, Q1, and/or R1. However, none of these routes best meet the routing criteria set for in PURA Section 37.056(c) and P.U.C. SUBST. R. 25.101(b)(3)(B) and there are many negative factors that weigh strongly against the selection of any of these routes.

Route W. Mark Anderson, the expert witness for Anaqua Springs HOA and Brad Jauer/BVJ Properties recommends Route W.¹⁹⁷ However, Route W should not be selected for many reasons, including the following:

- Route W is 6.25 miles in length, which is approximately 40% longer than Route Z2, which is only 4.46 miles.¹⁹⁸
- The estimated cost for Route W is \$52,869,828, which makes it the 32nd least expensive route. In comparison, the estimated cost for Route Z2 is only \$37,638,580. Thus, Route W is \$15,231,248 more expensive than Route Z2.¹⁹⁹
- According to CPS' Table 4-1 data, Route W parallels existing ROW for 58% of its length. However, this amount includes 1.39 miles along Segment 44. As noted above, Bexar Ranch disputes that any portion of Segment 44 parallels compatible ROW. Route Z2 parallels existing ROW for 71% of its length.²⁰⁰
- Route W would cross 6.03 miles of upland woodland/brushland as compared to Route Z2 which crosses only 3.53 miles.²⁰¹
- In addition to its greater length and estimated costs, Route W also has 29 habitable structures within 300 feet of its centerline. Route Z2 has only 3 more habitable structures within 300 feet of its centerline.²⁰²
- Only 6 of the 29 habitable structures within 300 feet of Route W's centerline would be located on the other side of Scenic Loop Road from the proposed transmission line, and 21 of the 32

¹⁹⁷ AS_Jauer Ex. 25 at 7:20-21.

¹⁹⁸ CPS Ex. 17; Tr. at pg. 207, Ln. 5-15.

¹⁹⁹ CPS Ex. 17; BR Ex. 12 at pg. 6; Dreico Companies Ex. 2; and CPS Ex. 14 (Lyssy Rebuttal) at 018.

²⁰⁰ CPS Ex. 17.

²⁰¹ CPS Energy Ex. 17.

²⁰² CPS Energy Ex. 17.

habitable structures within 300 feet of the centerline of Route Z2 would be across Toutant Beauregard from the proposed transmission line.²⁰³

- Route W has 4 habitable structures (3 single family residences and 1 commercial guardhouse) within 100 feet of the centerline. Route Z2 has only one habitable structure within 100 feet of the centerline.²⁰⁴
- Route W includes Segment 44, which would completely bisect the middle of Bexar Ranch.²⁰⁵
- Route W includes Segment 27, which would bisect Guajalote Ranch.²⁰⁶
- Route W would use Substation Site 6, which is smaller than Substation Site 7 and provides less shielding from public view.²⁰⁷
- No landowner has consented to Route W, unlike Route Z2 which has the consent of Toutant Ranch, et al and right-of way donations and discounts for a significant portion of Route Z2's length.²⁰⁸

Routes P, Q1 and R1. PUC's staff's expert recommended Route P. In addition, a few parties to the proceeding suggested Routes R1 and Q1. Routes P, R1 and Q1 should not be selected for many reasons, including but not limited to the following:

- The estimated costs for each of these routes are all more than \$5 million more expensive than Routes Z2. In particular, the estimated cost for Route P is \$43,408,742, which is \$5,770,162 more expensive than Route Z2. The estimated cost for Route R1 is \$43,533,858 which is \$5,884,278 more expensive than Route Z2. The estimated cost for Route Q1 is \$45,890,914, which is \$8,252,334 more expensive than Route Z2.
- No landowner has consented to the use of Routes P, R1 and Q1 and no portion of any of those routes have been donated or discounted.
- Routes P, R1 and Q1 would respectively cross 4.42, 4.35 and 5.27 miles of upland woodlands/brushland. Route Z2 would cross only 3.53 miles of upland woodlands/brushland.

²⁰³ Tr. at pg. 231, Ln. 13 – Pg. 232, Ln. 19; see also Bexar Ranch Ex. 13, pg. 44 (Table 4-28); Tr. at pg. 220, Ln. 2 – Pg. 221, Ln. 21; see also Br. Ex. 13 at 49-50 (Tables 4-31 and 4-32).

²⁰⁴ BR Ex. 13 at pg. 44 (Table 4-28); Tr. at pg. 210, Ln. 18 – Pg. 212, Ln. 5 (regarding Roue Z2 habitable structures); BR Ex. 13 at pg. 49-50 (Tables 4-31 and 4-32).

²⁰⁵ CPS Energy Ex. 16 (referring to inset); CPS Energy Ex. 15 at LBM-2R, Amended Figure 4-1R at 027.

²⁰⁶ CPS Energy Ex. 16 (referring to inset); CPS Energy Ex. 15 at LBM-2R, Amended Figure 4-1R at 027.

²⁰⁷ BR Ex. 6 at 11:17-12:2; CPS Energy Ex. 16.

²⁰⁸ Mr. Lyssy, on behalf of CPS Energy, confirmed that Routes Z2, Z1, AA1 and AA2 all have the benefit of the donated land. Transcript at 195:10-196:8.

- Routes P, R1 and Q1 do not parallel any major roadway like Toutant Beauregard or Scenic Loop Road, and thus, none of the habitable structures identified within 300 feet of those routes would have a major roadway between the homes and proposed transmission line.²⁰⁹
- Routes P, R1 and Q1 each have 2 habitable structures (1 single family residence and 1 workshop) within 100 feet EMF distance. Route Z2 has only 1 habitable structure within 100 feet.²¹⁰
- Route P is the worst route in terms of areas of ROW across golden-cheeked warbler modeled habitat designated as 3-Moderate and 4-High Quality acres at 25.11 acres. Route R1 has 19.03 acres.
- Routes P, R1 and Q1 would use Substation Site 6, which is smaller than Substation Site 7 and provides less shielding from public view.²¹¹
- According to CPS' Table 4-1 Data, Route P and Route Z2 have the same percent of paralleling ROW at 71%. Route R1 has 64% and Route Q1 has 69%. However, the length allegedly paralleling Routes P and R1 include 0.85 miles along Segment 43, which Bexar Ranch disputes. The length allegedly paralleling Route Q1 includes 1.39 miles along Segment 44. As noted above, Bexar Ranch disputes that any portion of Segment 44 parallels compatible ROW.²¹²
- Routes P and R1 utilize Segment 43 which would bisect the northern portion of Bexar Ranch.²¹³
- Route Q1 utilizes Segment 44 which would bisect the middle of Bexar Ranch.²¹⁴
- Routes P, R1 and Q1 would each run through existing neighborhoods. Route Z2 does not run through any existing neighborhoods, but instead parallels Toutant Beauregard for a significant portion of its length.²¹⁵

²⁰⁹ Transcript at 234:11-19.

²¹⁰ BR Ex. 13, pg. 36-38 (Tables 4-21 through 4-23); Tr. at pg. 210, Ln. 18 – Pg. 212, Ln. 5 (regarding Roue Z2 habitable structures); BR Ex. 13 at pg. 49-50 (Tables 4-31 and 4-32).

²¹¹ BR Ex. 6 at 11:17-12:2; CPS Energy Ex. 16.

²¹²

²¹³ CPS Energy Ex. 16.

²¹⁴ CPS Energy Ex. 16.

²¹⁵ CPS Energy Ex. 16.

VII. PRELIMINARY ORDER ISSUE NO. 7: WHAT OTHER DISPOSITION, IF ANY, SHOULD BE MADE OF ANY RECOMMENDATION OR COMMENT [BY THE TPWD]?

The Texas Parks & Wildlife Division's initial comment letter in these proceedings recommended Route AA. Following CPS Energy's amendments, the TPWD issued a second letter, therein discussing the basis of its updated recommendation to use Route DD.²¹⁶ Route DD is located along Toutant Beauregard Road and does not include any segment that would impact Bexar Ranch or Guajalote Ranch.²¹⁷ (This is also true as to former Route AA.²¹⁸)

In this second letter, the TPWD focused on issues relating to impacts on ecology and the environment, stating, that the TPWD's primary recommendation is to minimize fragmentation of intact land, adding the State's long-term interests are best served when new utility lines are sited where possible in or adjacent to existing utility corridors, roads, or rail lines "instead of fragmenting intact lands."²¹⁹ The Bitter Family agrees with the TPWD, and hopes that a route will be selected "that minimizes the fragmentation of intact lands because such a route should have the least adverse impacts to natural resources."²²⁰

Route DD is the fourth shortest route and the fifth least costly in these proceedings, and it achieves 70% paralleling of existing ROW and property lines.²²¹ It impacts 33 habitable structures, which is below the average and similar to such counts on Routes Z2 and Z1.²²²

Route DD is a better route than Routes P, Q1, R1 and W. However, because Route DD crosses the NISD property along Segment 41 (the undeveloped portion) and does not use the Dreiss donation, Route Z2 remains a better option.²²³

²¹⁶ BR Ex. 10.

²¹⁷ CPS Energy Ex. 16 and 17; and CPS Energy Ex. 1 at

²¹⁸ See CPS Energy Ex. 1, at Figure 6-2 and Page 2-11 (Figure 2-3) (emphasis added); *see also* CPS Energy Ex. 18.

²¹⁹ BR Ex. 10.

²²⁰ BR Ex. 3 at 23:20-22.

²²¹ CPS Energy Ex. 17; Dreico Companies Ex. 2; CPS Energy Ex. 14 (Lyssy Rebuttal) at 018.

²²² CPS Energy Ex. 17.

²²³ CPS Energy Ex. 16.

VIII. MODERATION OF IMPACT.

Rule 16 TAC 25.101(b)(3)(B) requires routing the project to the extent reasonable to moderate the impact on the affected community and landowners unless grid reliability and security dictate otherwise. In that same spirit, the Order of Referral also asked the parties to consider the following questions, “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?”

Here, the answer is, “**Yes, by using Route Z2.**”

Route Z2 would have no incremental added cost because it is the least costly route. Impact of Route Z2 is moderated as follows with respect to the following parties:

- Pro se intervenors on Routes 17 (by not using that Segment);
- Primarily Primates (by not using Substation Site 1);
- Pro se intervenors on Segment 54 (by using narrower rights of way, spanning, limiting encroachment to minor levels, and offering a substation site with a visual buffer);
- Brad Jauer/BVJ Properties (by using Segment 36 instead of Segment 32);
- Anaqua Springs HOA (by working with CPS Energy to span its frontage, which CPS Energy states is possible, and by not crossing any residential tracts);
- Steve and Cathy Cichowski (by avoiding use of Segment 43 which is near one of his homes);
- Heidemann Ranch and Barrera/Ramirez interests (by avoiding Segment 35 and all family tracts);
- Maria Concepcion Uriate-Azcue (by avoiding Segment 2 and related substations);
- NISD (by avoiding Segment 35 and 41);
- Dreiss (by accommodating his preferred routing and providing the community with a donation);
- High Country Ranch (by avoiding Segment 49a);
- Rose Palace Dance Hall (by avoiding intersection of Toutant Beauregard Road and Scenic Loop);
- Chandlers and Putnams and adjacent pro se intervenors (by avoiding Segment 40);
- Alvarado Living Trust (by avoiding Substation Site 3 and Segments 4 and 5); and
- Pro se intervenors in Sundance Ranch (by routing across the road along Segment 20).

CONCLUSION AND PRAYER

Bexar Ranch is a working ranch that the Bitter Family has owned, preserved and protected for nearly 100 years. The family has no intention of developing its property, but instead is in negotiations to place the property in a conservation easement. Their activities on Bexar Ranch are not why a new transmission line is needed. And, the Bitter family is already burdened with a transmission line on its entire western boundary. Routes P, Q1, R1 and W all include segments that would severely bisect the interior of Bexar Ranch and fragment this property that has withstood the passage of time. Route W would also bisect Guajalote Ranch, one of the few other remaining large undeveloped ranches in the area. To the east, those same routes would run through existing neighborhoods impacting numerous property owners.

Fortunately, for Bexar Ranch, Guajalote Ranch and the numerous homeowners of the Canyons, Altair and Clearwater neighborhoods, better choices for CPS Energy's new transmission line exist. Here, the evidentiary record strongly supports the selection of Route Z2, which is the shortest and least costly of the 39 alternative routes under consideration, and which offers substantial means by which to moderate the impact on landowners. Route Z2 does not bisect any properties that landowners are trying to preserve and keep undeveloped, and Route Z2 does not run through any neighborhoods. The same is true for Route Z1, which Bexar Ranch and Guajalote Ranch support.

Accordingly, BEXAR RANCH, L.P. and GUAJALOTE RANCH, INC. respectfully pray that the Administrative Law Judges recommend, and that the Commission order, Routes Z2 (or CPS Energy's best-meets route, Route Z1). Selection of either of these routes would fully comport with PURA § 37.056(c), P.U.C. SUBST. R. 25.101 and the applicable routing criteria.

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing document has been filed in the records of Docket 51023 on this 21st day of May, 2021.



Soledad M. Valenciano