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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

**INITIAL BRIEF OF JAY AND AMY GUTIERREZ AND THE GUTIERREZ  
MANAGEMENT TRUST**

**I. INTRODUCTION**

Jay and Amy Gutierrez and the Gutierrez Management Trust (together, the Gutierrez Parties) file this Initial Brief to advocate the rejection of Route W and any proposed route that incorporates Segment No. 57 in any proposal for decision (PFD) issued by the State Office of Administrative Hearings (SOAH) and, subsequently, the order of the Public Utility Commission of Texas (PUC). The Gutierrez Parties own Property Nos. O-008 and O-061, potentially impacted by proposed Segment 57 of the Scenic Loop 138-kV transmission line project. The Gutierrez Parties own and reside a home that would be directly impacted by Segment 57 and is identified as Habitable Structure No. 174 in the Application in this case.

The Gutierrez Parties urge SOAH and the PUC to consider routes that minimize impacts on landowners and the environment to the extent possible and approve a route with the lowest possible cost to the public. Routes that include Segment No. 57, including Route W, fail to meet these objectives and should be rejected.

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## II. ISSUES SET OUT BY THE COMMISSION IN ITS ORDER OF REFERRAL AND PRELIMINARY ORDER

The participation of the Gutierrez Parties in this case is primarily related to the ultimate selection of the route along which the City of San Antonio (CPS) will be approved to construct the Project. Accordingly, a number of the issues identified in the Order of Referral are not applicable to routing and will not be briefed. The numbering convention from the Order of Referral is maintained for the convenience of the Administrative Law Judges (ALJs).

### Route

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

The factors set forth in PURA § 37.056(c) and 16 TAC § 25.101(b)(3)(B) direct a transmission line to be routed to the extent reasonable to moderate the impact on the affected community and landowners. In general, shorter routes will have impact on fewer landowners and impose less burden on the community. The table below is an excerpt from Table 4-1 to the Environmental Assessment attached to the Application in this case. The excerpt shows the evaluation criteria for three routes that were discussed as potential alternatives at the hearing on the merits, Route Nos. R1, W, and Z1.

Route W is approximately 1.6 miles longer than either Routes R1 or Z1, and impacts more property and landowners. Route W does not avoid significant impact on habitable structures within 300 feet of the centerline of the route, impacting almost as many as Route Z1 and over three times as many as R1. Further, Route W follows existing rights-of-way (ROW) and apparent property lines for less of its total length than either Route R1 or Route Z1 and impacts significantly more woodland and brush land, which is the dominant characteristic of the study area as the threshold of the scenic Texas Hill Country.

**Evaluation Criteria**

<b>Land Use</b>		<b>R1</b>	<b>W</b>	<b>Z1</b>
1	Length of alternative route (miles)	4.76	6.25	4.53
2	Number of habitable structures <sup>1</sup> within 300 feet of the route centerline	7	25	30
3	Length of ROW using existing transmission line ROW	0	0	0
4	Length of ROW parallel and adjacent to existing transmission line ROW	0	0	0
5	Length of ROW parallel to other existing ROW (roadways, railways, canals, etc.)	0.85	2.60	1.60
6	Length of ROW parallel and adjacent to apparent property lines <sup>2</sup>	2.21	1.03	1.49
7	Sum of evaluation criteria 4, 5, and 6	3.06	3.63	3.09
8	Percent of evaluation criteria 4, 5, and 6	64%	58%	68%
9	Length of ROW across parks/recreational areas <sup>3</sup>	0	0	0
10	Number of additional parks/recreational areas <sup>3</sup> within 1,000 feet of ROW centerline and substation site	0	0	0
11	Length of ROW across cropland	0	0	0
12	Length of ROW across pasture/rangeland	0.36	0.08	0.54
13	Length of ROW across land irrigated by traveling systems (rolling or pivot type)	0	0	0
14	Length of route across conservation easements and/or mitigation banks (Special Management Area)	0	0	0
15	Length of route across gravel pits, mines, or quarries	0	0	0
16	Length of ROW parallel and adjacent to pipelines <sup>4</sup>	0	0	0
17	Number of pipeline crossings <sup>4</sup>	0	0	0
18	Number of transmission line crossings	0	0	0
19	Number of IH, US and state highway crossings	0	0	0
20	Number of FM or RM road crossings	0	0	0
21	Number of cemeteries within 1,000 feet of the ROW centerline and substation site	1	0	1
22	Number of FAA registered airports <sup>5</sup> with at least one runway more than 3,200 feet in length located within 20,000 feet of ROW centerline and substation site	1	1	1
23	Number of FAA registered airports <sup>5</sup> having no runway more than 3,200 feet in length located within 10,000 feet of ROW centerline and substation site	0	0	0
24	Number of private airstrips within 10,000 feet of the ROW centerline and substation site	0	0	0
25	Number of heliports within 5,000 feet of the ROW centerline and substation site	0	0	0
26	Number of commercial AM radio transmitters within 10,000 feet of the ROW centerline and substation site	0	0	0
27	Number of FM radio transmitters, microwave towers, and other electronic installations within 2,000 feet of ROW centerline and substation site	0	1	1
28	Number of identifiable existing water wells within 200 feet of the ROW centerline and substation site	1	2	2
29	Number of oil and gas wells within 200 feet of the ROW centerline (including dry or plugged wells) and substation site	0	0	0
<b>Aesthetics</b>				

30	Estimated length of ROW within foreground visual zone <sup>6</sup> of IH, US and state highways	0	0	0
31	Estimated length of ROW within foreground visual zone <sup>6</sup> of FM/RM roads	0	0	0
32	Estimated length of ROW within foreground visual zone <sup>6</sup> [7] of parks/recreational areas <sup>3</sup>	0	0	0
<b>Ecology</b>				
33	Length of ROW across upland woodlands/brushlands	4.35	6.03	3.60
34	Length of ROW across bottomland/riparian woodlands	0	0	0
35	Length of ROW across NWI mapped wetlands	0	0	0
36	Length of ROW across critical habitat of federally listed endangered or threatened species	0	0	0
37	Area of ROW across golden-cheeked warbler modeled habitat designated as 3-Moderate High and 4-High Quality (acres) <sup>8</sup>	19.03	2.95	11.12
38	Area of ROW across golden-cheeked warbler modeled habitat designated as 1-Low and 2-Moderate Low Quality (acres) <sup>8</sup>	13.33	16.59	11.02
39	Length of ROW across open water (lakes, ponds)	0.00	0.00	0.00
40	Number of stream and river crossings	8	9	8
41	Length of ROW parallel (within 100 feet) to streams or rivers	0.15	0.24	0.10
42	Length of ROW across Edwards Aquifer Contributing Zone	4.76	6.25	4.53
43	Length of ROW across FEMA mapped 100-year floodplain	0.16	0.00	1.03
<b>Cultural Resources</b>				
44	Number of recorded cultural resource sites crossed by ROW	2	1	0
45	Number of additional recorded cultural resource sites within 1,000 feet of ROW centerline	12	1	2
46	Number of NRHP listed properties crossed by ROW	1	1	0
47	Number of additional NRHP listed properties within 1,000 feet of ROW centerline	0	0	1
48	Length of ROW across areas of high archeological site potential	2.65	2.75	3.01

The table below is an excerpt from Attachment 3 to the Application showing the comparative estimated costs of Routes R1, W, and Z1.

**CPS Energy CCN Application Amendment  
(revised 12/23/2020)  
Estimated Costs for Transmission Line and Substation Facilities**

**Table 1: Transmission and Substation Facilities Total Estimated Costs**

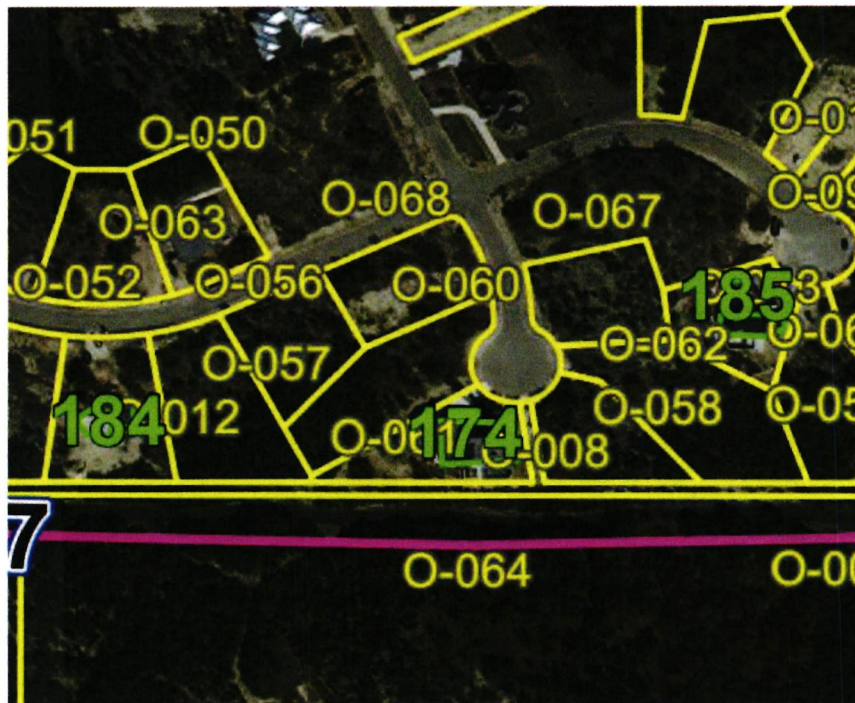
Route	Total Length (miles)	Sub Site	**Estimated Total Cost
R1	4.76	6	\$43,522,858
W	6.25	6	\$52,869,828
Z1	4.53	7	\$38,474,771

ROW & Land Acquisition	Engineering & Design (Utility)	Engineering & Design (Contract)	Procurement of Material & Equipment	Construction of Facilities (Utility)	Construction of Facilities (Contract)	Other
\$4,248,347	\$618,640	\$1,618,100	\$13,186,368	\$3,041,060	\$11,142,125	\$8,789,289
\$4,137,701	\$684,200	\$1,986,875	\$16,482,368	\$3,204,960	\$13,857,732	\$11,378,174
\$4,174,144	\$608,520	\$1,561,175	\$11,523,763	\$3,015,760	\$9,891,014	\$7,000,360

\*\*Estimated Costs include a 10% Contingency for unknown project costs not evident at the time these estimates were created.

Route W has an estimated cost of more than \$9 million more than Route R1 and more than \$13 million more than Route Z1. This represents a substantial additional cost to the public for the project and, as seen from the Environmental Assessment Table 4-1, this cost provides no discernable benefits either in the impact to the community, the number of habitable structures impacted, or the environment.

The map excerpt below from the CPS Intervenor Map for this case shows the location of proposed Segment 57 in proximity to the habitable structure resided in by the Gutierrez Parties. Other habitable structures are also in direct proximity to Segment 57 in this area.



The photographs below from the Direct Testimony of Jay A. Gutierrez show the land that would be traversed by Segment 57, precisely the type of woodland and brushland identified by the Environmental Assessment as impacted by Route W.



The Gutierrez Parties understand that no property owner wants the transmission line route ultimately selected in this case to traverse their property or impact their home. For that reason, the Gutierrez Parties take no position on which specific route should ultimately be approved and understand that there are strong advocates in support of and opposed to both Routes R1 and Z1. Route W should not be approved, however, because it imposes significant additional monetary costs upon the public without providing any advantages over Routes R1 and Z1 in terms of the routing criteria identified by PURA or the PUC's routing regulations.

**IV. CONCLUSION AND PRAYER**

WHEREFORE, PREMISES CONSIDERED, the Gutierrez Parties respectfully request that the ALJs and PUC select no route utilizing Segment No. 57, including Route W given the excessive cost of these routes and the failure of the routes to minimize impacts on landowners or the environment.

Respectfully submitted,

By:

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Andres Medrano  
Ph: 512.542.7013  
Fax: 512.542.7100  
[amedrano2@foley.com](mailto:amedrano2@foley.com)

FOLEY & LARDNER LLP  
600 Congress Avenue, Suite  
3000  
Austin, TX 78701

COUNSEL FOR JAY A GUTIERREZ,  
AMY L GUTIERREZ, AND THE  
GUTIERREZ MANAGEMENT TRUST

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing document was served on all parties on the 21<sup>st</sup> day of May 2021.

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Andres Medrano