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THE TEXAS STATE OFFICE OF ADMINISTRATIVE HEARINGS

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In re 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 Project
in Bexar County, Texas

Docket Number: 51023
SOAH Docket No. 473-21-0247
REPLY BRIEF OF PATRICK CLEVELAND

I, Patrick Cleveland, do hereby file this initial brief in the above captioned case. This reply brief is not intended to rehash every minutia of data because that's already been done. It is only provided to point out some general observations in the briefs of other parties.

1. SHLAA's Illusory Common Front

SHLAA bemoans the fact that 15 of the 33 proposed routes go through their properties,¹ but it is SHLAA that created this behemoth organization out of three different subdivisions in an attempt to show a common front against all of the southern routes in the study area. Once created, SHLAA now contends that all of the southern routes impact the organization in some fashion, if nothing else, at least visually². Of course they do. There is no doubt that was the goal when SHLAA was formed.

Where would we be if everybody in the northern half of the study area had formed the "Save Toutant Beauregard Road Area Association"? We would be at a stalemate—the south versus the north, and we would be nowhere near the goal of determining the best possible route pursuant to PURA § 37.056 and 16 Tex. Admin. Code § 25.101. So, instead of engaging in this artificial endeavor, I respectfully request that we follow the rules and identify the real impact on property owners and the environment in the study area.

¹ SHLAA Initial Brief at 7.

² *Id.* at 8.

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1 **2. The Environment**

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3 By environment, I mean the actual environment, not the remaining environment that's
4 left in one's backyard after creating a massive housing development. Numerous intervenors
5 from various housing developments have complained that transmission lines will ruin the
6 environment around them. For example, SHLAA states that many of the residents in that
7 organization are located "where they can enjoy . . . the natural beauty and peaceful surroundings
8 of the area, including hills, valleys, and limestone bluffs, woods, springs, creeks, waterfalls, a
9 variety of wild flora and fauna which inhabit that environment, various domesticated animals
10 including horses and Longhorn cattle, and scenic views, panoramic vistas, and sunsets over that
11 landscape."³ Clearwater Ranch states, "[a]s development continues to creep into the study area,
12 this neighborhood continues to preserve native Texas Hill County flora and fauna."⁴
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19 My response is that you should've seen the natural environment and views before your
20 houses were built. You would've loved it as much as my family and I once did. Moreover, what
21 is so stunningly ironic about these statements is the fact that every housing development
22 involved in this case has contributed to the destruction of the natural environment by the simple
23 fact of clearing natural land and building streets and homes upon it. Just by glancing at the CPS
24 Energy Constraints Map, one can see the sea of hundreds, or perhaps thousands of lots created in
25 the Canyons, Huntress Lane area, Clear Water Ranch, Anaqua Springs, Scenic Hills, Sundance
26 Ranch and Pecan Springs developments. Would a transmission line have a significant impact on
27 the environment in these developments? I submit not, as a transmission line is insignificant
28 compared to thousands of homes that have taken over natural land. So, the real argument being
pursued by the residents of these housing developments is that a transmission line will affect
their personal environment, not *the* environment. This is nothing more than the "not in my
backyard" argument.

Not to be hypocritical, we also contributed to the destruction of the environment when
the members of High Country Ranch built homes on their individual lots. The difference is that

³ *Id.* at 7.

⁴ Initial Brief of Bexar Ranch and Guajalote Ranch at 4.

1 HCR created a 300+ acre nature preserve, that for the most part, is a tract of land that has been
2 preserved from human destruction and construction since the beginning of mankind. Perhaps it's
3 a bit of a miracle being so close to a large city, but somehow, this corner of the earth managed to
4 remain in its natural state long enough for Vernon Willoughby to come along before other
5 modern developers could transform it.⁵ It was he who took the steps to ensure that High Country
6 Ranch would continue to remain unspoiled.⁶ Since that day, 44 years have passed and it still
7 remains preserved, just like we hope it will be forever.

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12 If the Altair development, the Huntress lane development, the Canyons development and
13 the Clear Water Ranch development really wanted to save the environment, they wouldn't have
14 advocated for a transmission line to go through a nature preserve. If they had conducted an
15 honest assessment with respect to the environment and the rules of PURA § 37.056 and 16 Tex.
16 Admin. Code § 25.101, they would've advocated for Route Y, the northernmost route, which is
17 ranked number one with respect to the length that does not follow existing right of way.⁷ Sure,
18 this route would affect the members of High Country Ranch because we'd have to drive
19 underneath it to exit the ranch, but like SHLAA, who indicated that they could live with the
20 hardship of a route on Toutant Beauregard Road,⁸ I'm confident the members of High Country
21 Ranch could find a way do the same with Route Y.

27 **3. High Country Ranch Compared to Bexar Ranch.**

28 High Country Ranch and Bexar Ranch are very similar. Almost all of the wonderful things discussed in Bexar Ranch's Initial Brief, pages 3-6, also exist at High Country Ranch, after all, these two areas are not far apart. Like Bexar Ranch, High Country Ranch has the following:

⁵ See PC Exhibits 21-1 through 21-4 (Covenants and Restrictions attached to the Willoughby warranty deed)

⁶ See PC Exhibit 28 (Direct Testimony of Patrick Cleveland).

⁷ See CPS Energy Exhibit 1, Table 4-1 (Environmental Data).

⁸ Direct Testimony of Cynthia Grimes, David Clark and Jerry Rumpf on behalf of SHLAA at 12 (Stating that some members of SHLAA would see the transmission lines, drive along them on Toutant Beauregard Rd. and "Substation 7 abuts the back of a SHLAA member's property.")

- 1 - Beautiful hills and some of the roughest and tallest hills in the region, including some
- 2 of the highest points in Bexar County;⁹
- 3
- 4 - Views that go for miles¹⁰
- 5
- 6 - Steep canyons and valleys, as well as springs and creeks¹¹
- 7
- 8 - An abundance of wildlife¹²
- 9
- 10 - A commitment to remain a natural preserve¹³
- 11
- 12 - The desire that “this time” it be spared.¹⁴ This is because High Country Ranch suffers
- 13 from the same existing Ranchtown-Menger transmission line that Bexar Ranch
- 14 suffers from, as it continues north of Bexar Ranch and follows the entire western
- 15 border of HCR. Just like at Bexar Ranch, these hulking towers already impact HCR’s
- 16 entire western horizon, so we also ask to be spared from further impact.
- 17

18 It is unfortunate for Bexar Ranch and High Country Ranch that CPS Energy generally
19 ignored the restraints of PURA § 37.056 and 16 Tex. Admin. Code § 25.101 when designing
20 routes that go through these ranches, because both have some of the most pristine land in Bexar
21 County. However, the major difference between these two properties is that High Country
22 Ranch is smaller and because of this, less able to absorb the impact of a transmission line
23 through it.¹⁵ The other major difference is that High Country Ranch is a community recreational
24 area and nature preserve, which is open to the public in that any time a lot owner sells, anyone
25 can buy the lot and become a member.¹⁶ So, in effect, the natural beauty and wonders of High
26 Country Ranch are not limited to the enjoyment of one family, but many families. And many
27 more families have a chance to enjoy this preserve in the future, if not for an eternity.
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⁹ See PC Exhibit 28 and PC Exhibits 9-11.

¹⁰ See PC Exhibit 9.

¹¹ See PC Exhibit 7.

¹² See PC Exhibit 28 at 3.

¹³ This is a legal commitment enshrined in the warranty deed from Karsch to Willoughby; PC Exhibits 21-1 through 21-4

¹⁴ See PC Exhibit 10 showing the transmission lines in the west.

¹⁵ Bexar Ranch is purportedly 3,200 acres (See Initial Brief of Bexar Ranch and Guajalote Ranch at 3), while High Country Ranch is approximately 300 acres plus a 9 acre tract that was set aside for a future clubhouse.

¹⁶ See PC Exhibit 28, para. 18 and 19.

1 **4. Cost Versus Environment**

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4 Those intervenors who live in the southern portion of the study area have focused on cost
5 as an important factor¹⁷, as the northern routes AA1 and Z1 are purportedly the lowest (though
6 this premise is suspect).¹⁸ The reason they focus on cost is that almost all environmental factors
7 are in favor of southern routes and against Routes AA1 or AA2.¹⁹ For example, with respect to
8 the comparison of Route R1 and AA1 and AA2, the following table shows which environmental
9 factors favor each route.²⁰
10

11 Table 1.

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Environmental Factor	Favors Route R1	Favors Route AA1 and AA2
Length	X	
Length Not Following ROW	X	
Total ROW	X	
Percent ROW	X	
Habitable Structures	X	
Pasture	X	
Woodlands		X
Wells	X	
Golden Cheeked Warbler (Mod/High)		X
Golden Cheeked Warbler (Low/Mode)	X	
Stream Crossings	X	
Paralleling Streams	X	

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¹⁷ See Initial Briefs of SHLAA, Bexar Ranch and Clearwater Ranch

¹⁸ See Post-Hearing Initial Briefs of Brad Jauer and BVJ Properties, LLC, Steve and Cathy Cichowski, and Anaqua Springs HOA.

¹⁹ See Initial Brief of Patrick Cleveland, PC Exhibit 27 and CPS Energy Exhibit 1, Table 4-1 Only significant environmental factors are included (insignificant environmental factors that vary in amounts of 0-2 were not included).

²⁰ *Id.*

1	Edwards Aquifer	X	
2	100 year flood plain	X	
3			
4	Cultural Sites w/i 1,000 feet		X
5			
6	Archaeological	X	
7			
8			
9			

10 Looking closer at the cultural sites w/i 1,000 feet of the centerline with respect to Routes
11 R1 and P, “[t]hese routes extend less than 105 feet into the eastern boundary of the 3,500 acre
12 NRHP boundary [R.L. White Ranch]. . . .”²¹ These routes connect into the existing Ranchtown-
13 Menger transmission line running generally north to south along the eastern border of the R.L.
14 White Ranch.²² The actual cultural sites (buildings, etc.), however, **are over one mile** from
15 where Routes R1 and P connect to the existing Ranchtown-Menger transmission line.²³ Thus,
16 Routes P and R1 would not affect the R.L. White Ranch cultural sites any more than the existing
17 Ranchtown-Menger transmission line already has. Conversely, Segment 36 (which is part of
18 Routes AA1 and AA2) is “not only within 1,000 feet of the [Heidemann Ranch] NRHP District
19 boundary, the 138 kV transmission line would run along the west side of Toutant- Beauregard
20 Road and clearly be visible not only from the Heidemann Ranch grounds, but also from the
21 historic buildings on the property.”²⁴ Therefore, the cultural environmental criterion favors
22 Route R1 over Routes AA1/AA2. Additionally, if Routes P and R1 had any significant impact on
23 the R.L. White Ranch, one would presume that representatives of the ranch would’ve intervened.
24 But they did not.

²¹ CPS Energy Exhibit 1, Attachment 1 at 4-28. Note, however, that expert Jason Buntz stated that this is an error because “a proposed transmission line connecting perpendicularly to the existing 138 kV line would not be extending into the White Ranch Historic District boundary by 105 feet, let alone crossing it.” Errata to Direct Testimony of Jason E. Buntz at 13.

²² *Id*

²³ *Id*

²⁴ Errata to Direct Testimony of Jason E. Buntz at 14.

1 Based on the above information, 14 of the 16 significant environmental criteria favor
2 Route R1 over Routes AA1 or AA2. Clearly Route R1 is a better route with respect to the
3 environment. Even more importantly, Route R1 is a significantly better route with respect to
4 habitable structures. Route R1 has 13 habitable structures, while Routes AA1/AA2 have 31 and
5 30 respectively.
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9 A comparison of Route AA1/AA2 and Route P offers similar results. Route P is less
10 favorable with respect to the same environmental criteria (GCW moderate/high and Woodlands).
11 Route P is tied with Route AA2 in length and length of ROW across Edwards Aquifer, and
12 slightly more favorable than Route AA1 in length and length across Edwards Aquifer area.
13 Thus, once again, most of the environmental criteria favor Route P over Routes AA1/AA2.
14 Also, Route P has only 17 habitable structures within 300 feet of the centerline.
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19 Finally, SHLAA complained that “Ratepayers are already dealing with the cost impacts
20 from the February 2021 Winter Storm Uri, and do not need additional costs imposed upon them.
21 . . .”²⁵ Also, Bexar Ranch postulated that choosing Route Z would moderate the impact to the
22 Texas Ratepayer.²⁶ However, these are temporary tribulations of today, which I pray will not
23 overshadow the more substantial directives and long term goals contained in PURA.
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28 WHEREFORE, based on the information herein, my initial brief and my previously
submitted testimony, I respectfully request that this tribunal avoids choosing any route that goes
through the nature preserve and recreational area of High Country Ranch.

²⁵ Initial Brief of SHLAA at 5.

²⁶ Initial Brief of Bexar Ranch and Guajalote Ranch at 11.

1 Respectfully submitted this 28th day of May 2021.
2

3 /Patrick Cleveland/
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20 CERTIFICATE OF SERVICE
21

22 I certify that notice of the filing of this document was provided to all parties of record via
23 electronic mail on May 28, 2021, in accordance with the Order Suspending Rules, issued in
24 Project No. 50664.
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/Patrick Cleveland/
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