

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

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PUBLIC UTILITY COMMISSION

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

BEFORE THE STATE OFFICE  
OF  
ADMINISTRATIVE HEARINGS

**TOUTANT RANCH, LTD., ASR PARKS, LLC, PINSON INTERESTS LTD. LLP, AND CRIGHTON DEVELOPMENT CO.’S REPLY BRIEF**

**I. INTRODUCTION**

Toutant Ranch, Ltd., Pinson Interests Ltd. LLP, ASR Parks, LLC, and Crighton Development Co. (collectively, “Companies”) file this reply brief to respond to two issues raised by other parties’ initial briefs.

**II. ARGUMENT AND AUTHORITIES**

**A. The Companies oppose Northside ISD’s proposed modification to Segment 42a, and that modification should not be adopted.**

Northside ISD opposes the selection of Segment 42a, but in its brief, it suggests that if the Commission selects Segment 42a, it should modify that segment to shift it further from the McAndrews Elementary School property. The Companies strongly oppose Northside ISD’s eleventh hour proposal to push Segment 42a closer to the Companies’ development projects.<sup>1</sup> Recent Commission precedent—including a *SOAH order issued earlier in this proceeding*<sup>2</sup>—makes it clear that every directly impacted landowner must consent to a proposed modification of a segment that is filed in a utility’s CCN application. Accordingly, absent the Companies’ consent to these changes on their property, Northside ISD’s proposed modification should not be adopted. Additionally, while the Companies intend to fulfill their agreement to donate a portion of the right-

<sup>1</sup> See Northside ISD Initial Br. at 5 (May 21, 2021).

<sup>2</sup> E.g. Docket No. 51023, SOAH Order No. 9 Addressing “Route R-1 Modified” Issues at 1 (Mar. 8, 2021) (“*Commission precedent is clear that the ALJs cannot devise new or modified segments not included in the application and opposed by affected landowners.*”) (emphasis added).

856

of-way (ROW) for Segment 42a if the Commission selects that segment, it is worth noting that Northside ISD's proposed modification would move that segment from the location where the Companies agreed to donate ROW, and shifting the location of that segment could potentially invalidate the agreed donation.

**B. The Companies stand by their Agreement with CPS Energy and do not believe that Agreement compromised their ability to participate in this proceeding.**

As discussed in prior filings, the Companies stand by their freely-negotiated agreement with CPS Energy (the "Agreement").<sup>3</sup> Contrary to arguments raised by BVJ Properties,<sup>4</sup> the Companies do not believe that the Agreement compromised their ability to participate in this proceeding, and dispute any characterization of that Agreement as creating a due process issue. The purpose of the Agreement was not to limit the Companies' ability to litigate with respect to this transmission line project. Instead, CPS Energy went to great effort to help ensure that this project would not be unduly economically destructive to the Companies' ongoing development projects. The Companies appreciate CPS Energy's willingness to help resolve the ongoing business problems that this line presented for the Companies' operations and do not support any effort by other parties to question or invalidate their Agreement with CPS Energy.

**III. CONCLUSION**

As discussed in the Companies' initial brief, the Companies support the use of a transmission line path that begins at the node that interconnects Segments 41, 42a, 46, and 46a and travels to the west across their properties. The Companies do not take a position with respect to the portions of this transmission line that do not directly impact their properties. However, the Companies would not oppose the Commission routing the line along a path that would avoid their properties and ongoing development projects.

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<sup>3</sup> See Dreico Companies' Exhibit I (Direct Testimony of Tom Dreiss) at Attachment I (the Agreement); *see generally* Docket No. 51023, Toutant Ranch, Ltd., ASR Parks, LLC, Pinson Interests Ltd., LLP, and Crighton Development Co.'s Statement of Position Regarding Appeal of SOAH Order No. 10 (April 19, 2021).

<sup>4</sup> See BVJ Properties Initial Br. at 6 (May 21, 2021).

Respectfully submitted,

THOMPSON & KNIGHT LLP

/s/ Michael McMillin

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**ATTORNEYS FOR TOUTANT RANCH, LTD.,  
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LLP AND CRIGHTON DEVELOPMENT CO.**

**CERTIFICATE OF SERVICE**

I, Michael McMillin, Attorney for Toutant Ranch, Ltd., ASR Parks, LLC, Pinson Interests Ltd. LLP, and Crighton Development Co., hereby certify that a copy of the foregoing document was served on all parties of record in this proceeding on this 28<sup>th</sup> day of May, 2021 by electronic mail, facsimile and/or First Class, U.S. Mail, Postage Prepaid.

/s/ Michael McMillin

Michael McMillin