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APPL. OF THE CITY OF SAN § STATE OFFICE OF ADMINISTRATIVE
ANTONIO TO AMEND ITS CCN FOR § HEARINGS
THE SCENIC LOOP 138-KV § ON REFERRAL FROM THE
TRANSMISSION LINE IN BEXAR § PUBLIC UTILITY COMMISSION
COUNTY, TEXAS § OF TEXAS

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REPLY BRIEF OF SAVE HUNTRESS LANE AREA ASSOCIATION

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Save Huntress Lane Area Association (“SHLAA”), intervenor, files this its reply brief.

I. Summary: Routes Z2, Z1, AA1, and AA2 are Still the Best, for 4 Main Reasons

The Primarily Primates’ initial brief “urges SOAH and the PUC to consider routes that best minimize *impacts on landowners and the environment* to the extent possible as well as avoiding *unnecessary costs to the public.*”¹ Those would be Routes Z2, Z1, AA1, and AA2. This is because:

- Routes Z2 and Z1 *do not bisect any properties* – except that of the Toutant Ranch et al. developer, who *consents* thereto. In contrast, routes like Route P, Q1, R1, and W would bisect various properties (not just run along their property line edges). Such bisecting of property results in both private property fragmentation and habitat fragmentation, to the detriment of both landowners and the environment.
- Routes Z2, Z1, AA1, and AA2 *do not run through existing neighborhoods*, they instead run in between some of the neighborhoods that border on Toutant Beauregard Road, by utilizing the portion of that thoroughfare in between the Toutant Ranch et al. developer’s property and the Substation Site 7. In contrast, routes like Route P, Q1, R1, and W would run through existing neighborhoods (not just run along their subdivision edges). Such bisecting of subdivisions likewise results in private property fragmentation and habitat fragmentation, to the detriment of both landowners and the environment.
- Routes Z2, Z1, AA1, and AA2 have estimated costs between \$37.64 million to \$39.05 million, and along with Route DD are the five least expensive routes (with 40% of the cost locked in by consented/donated right-of-ways, which eliminate condemnation case costs on those). In contrast, the estimated cost for routes like Routes P, Q1, R1, and W would be between \$43.4 million to \$52.87 million, i.e., approximately \$5 million to \$15 million more expensive. The millions of dollars in additional costs would impose, not avoid, unnecessary costs to the public.
- And the reason those additional costs are unnecessary is because Routes Z2, Z1, AA1, and AA2 all have just one home – the most personal and important type of habitable structure in this case – within 100 feet of the route’s centerline (the distance CPS Energy’s electro-magnetic fields (“EMF”) study indicates is the EMF exposure distance for a 138 kV transmission line), the same as for routes like Route P, Q1, and R1 (while Route W has 3 such homes). The additional millions in costs to the public would not buy any real EMF benefit for home residents by using Routes P, Q1, R1, and W.

¹ Primarily Primates Inc. Initial Br. at p. 1 (emphasis added).

SHLAA members chose not to buy property along a major thoroughfare, so as to avoid traffic, electric lines, etc. Proposed Routes P, Q1, and R1 would transform the neighborhood by running through the heart of the neighborhood, not along an existing thoroughfare (Toutant Beauregard Road) with existing electric distributions lines and other infrastructure.

Indeed, the public meeting feedback, even before Substation Sites 6 and 7 were added, was that the SHLAA area and Substation Site 5 (the closest to what is now Substation Site 6) had the most negative comments, unlike the areas along Toutant Beauregard Road. Moreover, the Huntress Lane neighborhood, the Canyons subdivision, and the Altair subdivision joined forces to build on that opposition to certain routes and certain substations. In other words, the public meeting feedback and the existence of SHLAA demonstrates strong “community values” against Routes P, Q1, and R1 or any other routes which would connect to Substation 6.

The Scenic Hills residents try to make the comparison to the SHLAA area by arguing that that transmission poles and lines will affect their neighborhood. To the contrary, Scenic Hills has no proposed transmission route that would go *through* its neighborhood. Instead, Routes Z2, Z1, AA1, and AA2 would simply go along the southern outer edge of its neighborhood, along Toutant Beauregard Road (a main thoroughfare which already has electric distribution lines), while a route using Segment 17 would go along the western outer edge of its neighborhood (and Segment 17 is not part of any the routes in the Focus Routes Map).

If CPS Energy had a transmission line route going through the neighborhood and bisecting neighbor properties in Scenic Hills then, and only then, could Scenic Hills argue that the effect in their neighborhood would compare to the impact Routes Q1, R1, and P would have on SHLAA, since those latter routes go directly through the Huntress Lane neighborhood and bisect properties in the neighborhood. There is simply no proposed transmission route that would go directly through the Scenic Hills properties and neighborhood.

II. Reply to Commission Staff Regarding Route P

Staff claims that Route P exhibits “positive quantitative features,” citing in support the fact that of all the potential routes it is “14th least costly,” has the “4th fewest habitable structures within 300 feet of the centerline,” and is the “9th shortest.”² Those are all on their face *negative* quantitative features, and are all on a relative basis even more *negative* quantitative features when compared to the quantitative features of other routes:

² Commission Staff’s Initial Br. at p. 3.

- Route P would be *about \$5 million more expensive* than Routes Z1, Z2, AA1, and AA2.³
- Of the 33 routes included in the CPS Energy “Route Cost and Data Summary Table” admitted into evidence, Route P is only in the middle, not near the top, of the routes in terms of which routes are “least costly.” The top five routes in terms of which routes are “least costly” are those which rely on utilization of Toutant Beauregard Road, namely Routes Z2, Z1, AA1, AA2, and DD.⁴
- The 300 foot distance to the centerline of a route is a notice distance, not an EMF distance (which is approximately 100 feet according to CPS Energy’s EMF study), and Route P only has one home within 100 feet of its centerline – which is the exact same situation for Routes Z1, Z2, AA1, and AA2. In other words, Route P is no better on EMF as to the most personal and important habitable structures – homes.⁵
- Route P, compared to Route Z1, is on average closer to single family residences by 12%.⁶

In short, Commission Staff has not cited any quantitative matters that make Route P one that should be selected; it instead has laid out quantitative reasons why Route P should not be chosen.

Commission Staff claims that Route P has “positive qualitative features.”⁷ In support it cites “community values” in the feedback landowners provided at the CPS Energy public meeting. However, the public meeting feedback, even before Substation Sites 6 and 7 were added,⁸ was that the SHLAA area and Substation Site 5 (the closest to what is now Substation Site 6) had the most negative comments, unlike the areas along Toutant Beauregard Road.

As set out in the Bexar Ranch brief, preliminary Segment 15 (part of Routes P, Q1, and R1), Segment 16 (part of Route W), Segment 26 (now Segment 26a, and part of Routes Q1 and R1), and Substation Site 5 had the greatest number of negative comments.⁹ In other words, the Staff witness was simply wrong about what the public feedback showed.

Indeed, the Huntress Lane neighborhood, the Canyons subdivision, and the Altair subdivision

³ CPS Energy Ex. 17 (Route Cost & Data Summary Table). Specifically, Route P = \$43.41 million. That is respectively \$4.93, \$5.77, \$5.11, and \$4.36 million more than Routes Z1, Z2, AA1, and AA2, respectively.

⁴ CPS Energy Ex. 17 (Route Cost & Data Summary Table).

⁵ SHLAA Ex. 8 at responses to Questions 1-1 and 1-2 (CPS Energy Response to SHLAA’s 1st RFI); CPS Energy Ex. 12 at ARM-5R (Marin Reb.).

⁶ SHLAA Ex. 8 at pp. 3, 5, & 7-8 (CPS Energy Response to SHLAA’s 1st RFI).

⁷ Commission Staff’s Initial Br. at p. 3.

⁸ Tr. at p. 790; CPS Energy Ex. 1, Application Attachment 1, Environmental Assessment, at Figure 2-2 (Preliminary Segments Presented at Open House Meeting).

joined forces to build on that opposition to certain routes and certain substations. In other words, the public meeting feedback and the existence of SHLAA demonstrates strong “community values” against Routes P, Q1, and R1 or any other routes which would connect to Substation 6.

Moreover, the Staff witness made no physical site visit after the CPS Energy application was filed.¹⁰ This important absence of any first-hand knowledge of the study area and the impacted neighborhoods further makes Staff assertions about “community values” inaccurate and unreliable.

The Staff assertion about landowners and “community values” is further undermined by the fact that one of the affected landowners, the Toutant Ranch et al. developer, consents to the use of the segments on its large property, which are all part of Routes Z2, Z1, AA1, and AA2.¹¹ No other intervenor in the case has consented to the use of its property for a transmission line.

One of the other “qualitative features” Staff says its witness considered was “environmental integrity.”¹² To the contrary, it is undisputed, even by the Commission Staff, that Route P is the *worst route on golden cheek warbler habitat* using the currently available habitat information.¹³ Moreover, Route P would run across 4.42 miles of upland woodlands/brushlands, compared to only 3.53 miles by Route Z2 - meaning about 20% more trees are at risk of removal or other cutting on Route P than on Route Z2.¹⁴ Thus, Route P does not demonstrate environment integrity.

Another of the “qualitative features” Staff says its witness considered was “moderation of impact on the affected community and landowners.”¹⁵ This is belied by the fact that Route P would bisect various properties (not just run along their property line edges), and would run through existing neighborhoods (not just run along their subdivision edges). Running along a major thoroughfare does not adversely impact a community as much as running through a neighborhood or bisecting properties in the neighborhood. It is further belied by the fact that the only property bisected by Routes Z2, Z1, AA1, and AA2 is with landowners consent, i.e., the Toutant Ranch et al. developer.¹⁶

⁹ Bexar Ranch Initial Br. at pp. 14-15.

¹⁰ SHLAA Ex. 6 at pp. 3-10 (Staff’s Responses to SHLAA’s 1st RFI); Tr. at p. 791.

¹¹ Toutant Ranch et al. Ex. 1 *passim* (Dreiss Dir.).

¹² Commission Staff’s Initial Br. at p. 3.

¹³ CPS Energy Ex. 17 (Route Cost & Data Summary Table); SHLAA Ex. 6 at p. 56 (Staff’s Response to SHLAA’s 1st RFI).

¹⁴ CPS Energy Ex. 17 (Route Cost & Data Summary Table).

¹⁵ Commission Staff’s Initial Br. at p. 3.

¹⁶ Toutant Ranch et al. Ex. 1 *passim* (Dreiss Dir.).

III. Reply to Anaqua and Jauer

A. Jauer Changes its Position and Abandons Support of Route W

Jauer and Anaqua Springs jointly submitted the testimony of Mr. Anderson.¹⁷ Mr. Anderson, in turn, proposed on behalf of both Anaqua and Jauer the use of Route W.¹⁸ Mr. Anderson did not recommend use of Route P. Route P would go near the house of the Anaqua Spring HOA President, Mr. Cichowski.¹⁹

In its brief, Jauer now abandons its chief witness and its alliance with Anaqua regarding Route W. Jauer instead recommends selection of Route P or Route R1. Jauer Initial Br. at p. 3. Jauer says it also “does not object to Route W.”²⁰ Other than that “no-objection” statement, the Jauer brief spends no time and no effort defending or supporting in any way the selection of Route W. Jauer has therefore abandoned its support for Route W.

It may be that Jauer has abandoned Route W due to its approximately \$15 million additional cost over a route like Z1, compared to an approximately \$5 million additional cost for a Route Like P over a Route like Z2. That has forced Anaqua to attempt to justify the addition \$15 million additional cost compared to a route like Z2 by saying that “Route W is the least expensive of the southern routes O, S, V, and W.”²¹ Those additional routes are of course, by definition even worse than Route W, because they are all well over \$55 million. Saying a bad route is the least-worse of even far worse routes is not a positive reason in support of a bad route. And none of those other “southern” Routes O, S, V are on the Focus Routes Map.

Jauer does continue to agree with Anaqua about their various dissatisfactions with CPS Energy and about not using Toutant Beauregard Road. Therefore, the following portions of this reply brief will deal with those areas where Anaqua and Jauer still agree.

B. Complaints About CPS Energy’s Information

Anaqua and Jauer complain that the CPS Energy application and other information does not “comply” with some standard of “certainty” that they claim, without citation to any law or regulation,

¹⁷ AS/Jauer Ex. 25 (Anderson Dir.).

¹⁸ Mr. Jauer in his own direct simply reference Mr. Anderson’s testimony in terms of what route should be selected. Jauer Ex. 1 at p. 4 (Jauer Dir.).

¹⁹ SHLAA Ex. 3 at p. 5 (Landowner Cross-Reb.); CPS Energy Ex. 15 at Exh. LBM-2R entitled “Amended Fig. 4-1R” (Meaux Reb.). In his testimony, Mr. Cichowski opposed use of Segments 38 and 43, which are components of Routes P and R1. CPS Energy Ex. 16 (Focus Routes Map).

²⁰ Jauer Initial Br. at pp. 26 & 28.

²¹ Anaqua Initial Br. at 4.

somehow impeded their ability to present their case.²² CPS Energy will presumably respond to those criticisms. But those criticisms do nothing to change the absolute and undisputed facts that:

- routes like Route Z2 will not bisect any existing neighborhoods;
- routes like Route Z2 will not bisect any private property (except by consent);
- routes like Route Z2 are shorter in length than Routes P or R1;
- routes like Route Z2 will only be within 100 feet of one single family residence (the same as Route P and Route R1, and less than the three on Route W);
- routes like Route Z2 will have about 40% of the cost of those routes not just estimated, but fixed, and with no condemnation proceeding costs to boot, due to the Toutant Ranch et al. developer ROW consents and donations for such routes (as discussed below);
- routes like Z2 will connect to Substation Site 7, which provide greater shielding from public view; and
- Route Z2 is the least expensive route in terms of CPS Energy's filed cost estimations, by about \$5 to \$15 million less than those which Anaqua and Jauer propose.

C. Complaints About ROW Consents/Donations

The Anaqua and Jauer briefs reargue the issues of whether a utility and a landowner can agree to ROW locations as well as ROW donations on the landowner's own land, something the Administrative Law Judges ("ALJs") rejected in SOAH Order Nos. 9 and 10 (and which the Commissioners did not overturn).²³ Anaqua and Jauer offer no additional bases on which to reconsider those rulings.

It should be noted that the Toutant Ranch et al. developer who has made the ROW consents and donations prefers the use of Segment 46 instead of the combination of Segment 46 and Segment 46a, and thus favors use of Route Z2 over Route Z1.²⁴ This further adds to the reasons for considering Route Z2 to be the best of the best route selections.

In addition, the Toutant Ranch et al. developer who has made the ROW consents and donations has provided a real benefit to ratepayers, because it not only lowers the cost of routes using those consented and donated ROW segments, but fixes about 40% of the cost of those routes, so that they will neither go up or involve the utility incurring condemnation costs.²⁵

²² Anaqua Initial Br. at pp. 3, 5-12; Jauer Initial Br. at pp. 3-6.

²³ Anaqua Initial Br. at pp. 8 & 16-17; Jauer Initial Br. at p. 6.

²⁴ Toutant Ranch et al. Initial Br. at *passim*.

²⁵ Toutant Ranch et al. Ex. 1 at 13 (Dreiss Dir.); Tr. at p. 261.

Finally, the Commission has long been encouraging utilities and developers to work together on agreed-upon segment locations.²⁶ Approving routes like Z2 and Z1 will continue to encourage working together, thereby reducing ROW costs, litigation costs, and ultimately ratepayer money.

D. Complaints About Landowner Notice for Substation Site 7

The Anaqua and Jauer briefs also complain that CPS Energy should have given notice of the application to landowners adjacent to Substation Site 7.²⁷

Since CPS Energy did newspaper publication notice for the area, Anaqua and Jauer presumably are talking about direct mail notice. The Commission in Procedural Rule 22.53 requires notice of landowners based on proximity to transmission line segment centerlines, not to substation sites. Two members of SHLAA, Ms. Cody and Mr. Rangel, who live near Substation Site 7, also did not receive direct notice,²⁸ but nevertheless took steps to participate, by joining SHLAA. Those around Substation Site 6, also SHLAA members, received direct notice because they are within 300 feet of the transmission line segments.

Anaqua and Jauer then complain that when a landowner adjacent to Substation Site 7 sought to intervene, the landowner was denied the right to participate in the hearing.²⁹ Despite the implication they are trying to create, the intervention request was properly denied on procedural grounds because it was way too late (being filed during the actual conduct of the hearing on the merits) and without a showing of good cause (as required in the rule for late interventions).³⁰

In addition, Anaqua claims that the person who filed for late intervention “lives adjacent to” Substation Site 7.³¹ This is factually incorrect. That person may own property by the site, but he actually resides in Dallas, as stated in his motion to intervene.³²

E. Complaints About the SHLAA “Community Values”

“Community values” is a “shared appreciation of an area or other natural or human resource by a national, regional, or local community. Adverse effects upon community values consist of

²⁶ See discussion and case citations in *CPS Energy's Response to Steve Cichowski's Motion for Referral of Certified Issues* (Mr. 15, 2021), available at <http://interchange.puc.texas.gov/search/documents/?controlNumber=51023&itemNumber=644>.

²⁷ Anaqua Initial Br. at pp. 8 & 9-10; Jauer Initial Br. at p. 6.

²⁸ CPS Energy Ex. 1, Application Attachment 8 (Landowner Notice List).

²⁹ Anaqua Initial Br. at pp. 8 & 9-10; Jauer Initial Br. at p. 6.

³⁰ Tr. at 254-55; PUC. Proc. R. § 22.104(d).

³¹ Anaqua Initial Br. at p. 8.

³² Motion to Intervene (May 2, 2021), available at http://interchange.puc.texas.gov/Documents/51023_814_1125304.PDF.

those aspects of a proposed project that would significantly alter the use, enjoyment, or intrinsic value attached to an important area or resource by a community.”³³ The Huntress Lane neighborhood and Canyons and Altair subdivisions joined forces to oppose certain routes and substations. That, by definition, shows a “shared appreciation of an area” by a “local community.”

Jauer and Anaqua nevertheless complain about the ability of parties who agree that they share common interests or shared appreciations of an area to associate together for purposes of participating in an administrative proceeding like this transmission routing case.³⁴ However, the Commission rules expressly authorize participation in cases by associations.³⁵ And no party opposed SHLAA’s right to intervene and participate until the Jauer and Anaqua post-hearing briefs were filed.

The Anaqua and Jauer briefs take it upon themselves to question the judgment of the SHLAA membership in believing they shared common interests, claiming instead that SHLAA has “geographically disparate interests,” “diverse” interests, and the like.³⁶ The Anaqua and Jauer briefs even take it upon themselves to say what the position of SHLAA should have been in this case, or what its witnesses should have said in their testimony, based upon the Anaqua/Jauer view of what makes sense (only to) Anaqua/Jauer³⁷ – as opposed to what makes sense to the actual members of SHLAA who voluntarily chose to come together and who actually provided prefiled and live testimony. One need only review the testimony of the representatives of SHLAA to see that, in fact, SHLAA members including the Huntress Lane individual residents, the Canyons subdivision, and the Altair subdivision are strongly united in their shared community values.³⁸

Anaqua and Jauer are simply not entitled to abrogate to themselves the right to dictate the position of other parties or the sworn testimony that their witnesses provide – just as Anaqua and Jauer are not entitled to abrogate to themselves the right to dictate the location of segments on the land of other parties (as Anaqua attempts to do again in briefing, even though SOAH Order No. 9 ruled against that effort and the Commission did not overturn that ruling).³⁹

³³ Appl. of AEP Trans. Serv. Corp. to Amend its [CCN] for a 345-kilovolt Double-circuit Line in Caldwell, et al., Counties, Docket No. 33978, Order at Finding of Fact No. 118 (Oct. 10, 2008); SHLAA Ex. 1 at p. 19 (Landowner Dir.).

³⁴ Anaqua Initial Br. at pp.20-23; Jauer Initial Br. at p. 6.

³⁵ PUC Proc. R. 22.103.

³⁶ Anaqua Initial Br. at pp.20-23; Jauer Initial Br. at pp. 6-7.

³⁷ Anaqua Initial Br. at pp. 21-22; Jauer Initial Br. at 7.

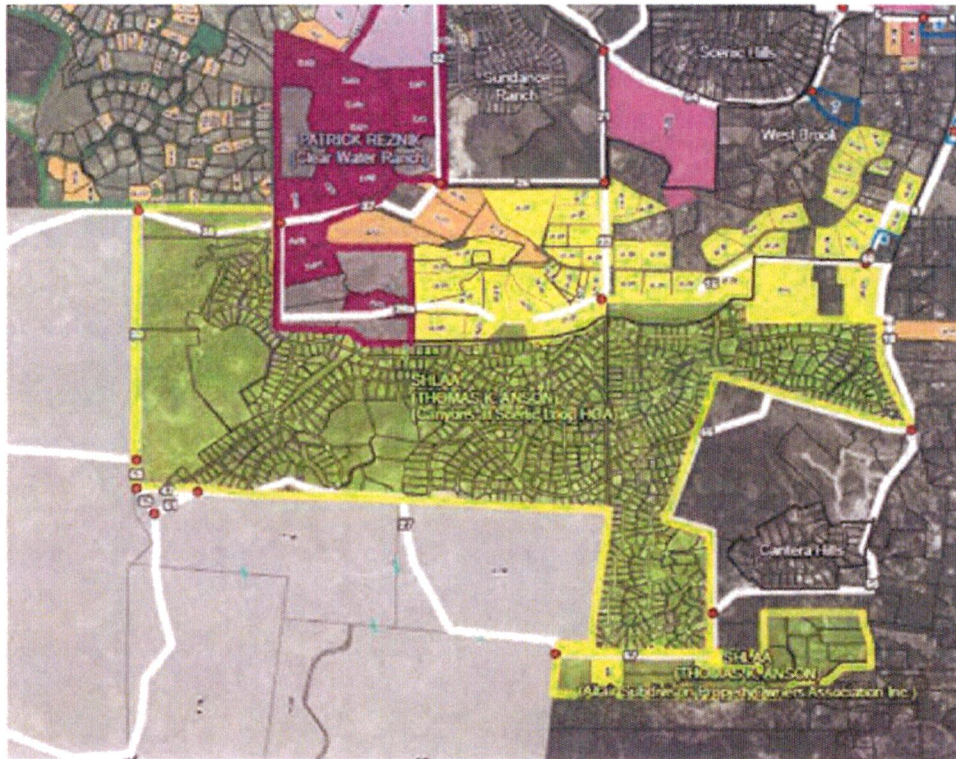
³⁸ SHLAA Ex. 1 (Landowner Dir.); SHLAA Ex. 3 (Landowner Cross-Reb.); Tr. at pp. 676-711.

³⁹ Compare Anaqua Initial Br. at pp. 19-20 & 24-25 with SOAH Order No. 9.

In other words, Anaqua and Jauer seem to think that they get to say how other parties should have responded to the CPS Energy’s application and should have responded to the Anaqua and Jauer positions. To the contrary, SHLAA has the right to make its own decisions, to oppose the positions of Anaqua and Jauer, and to stand by its decisions that, while there are some impacts on some SHLAA members from some of the segments in routes like Route Z2, SHLAA and the SHLAA members support the selection of Routes Z2 and alternatively Routes Z1, AA1, and AA2, using Substation Site 7, and oppose the use of all routes which connect to Substation Site 6.

In short, SHLAA was formed for the common interest of protecting the area, i.e., to protect their “community values.” Anaqua rails against SHLAA as “a coalition against all routes that are in the central and the southern portions of the subdivision,”⁴⁰ but that association and its united opposition to all Substation Site 6 routes exemplifies the very nature of “community values.”

As shown by the portion of the CPS Energy intervenor map Anaqua’s brief included (at p. 22), the “community values” they share based on the various values they attach to their area is large, because the community of which SHLAA is comprised is large (over 30 individual landowners, over 700 landowners in the Canyons subdivision, and over a dozen landowners in the Altair subdivision):



⁴⁰ Anaqua Initial Br. at 21-22.

Simply put, SHLAA is a prime example of a “shared appreciation of an area . . . by a . . . local community” and their concerns about “aspects of a proposed project that would significantly alter the use, enjoyment, or intrinsic value attached to an important area or resource by a community.”⁴¹ Indeed, SHLAA was formed after the public meeting was held and the feedback had the most negative comments about affecting the SHLAA area and Substation Site 5 (the closest to what is now Substation Site 6), unlike the areas along Toutant Beauregard Road.⁴²

The SHLAA “shared appreciation” and concerns about impacts on “the use, enjoyment, or intrinsic value attached to” the SHLAA area is not limited to SHLAA. The Clearwater Ranch subdivision residents share the same concerns as the SHLAA members about habitat and property fragmentation, aesthetics impacts, impacts on property values, EMF exposure, impacts on flora and fauna – not just with regard to their Clearwater Ranch subdivision, but also with regard to the SHLAA area.⁴³

In other words, Clearwater Ranch has the same “community values” as SHLAA, and the Clearwater Ranch “community values” include both Clearwater Ranch and SHLAA. Therefore, the public meeting feedback, the existence of SHLAA, and the participation of Clearwater Ranch demonstrates strong “community values” against using Routes P, Q1, and R1 or any other routes which would connect to Substation 6.

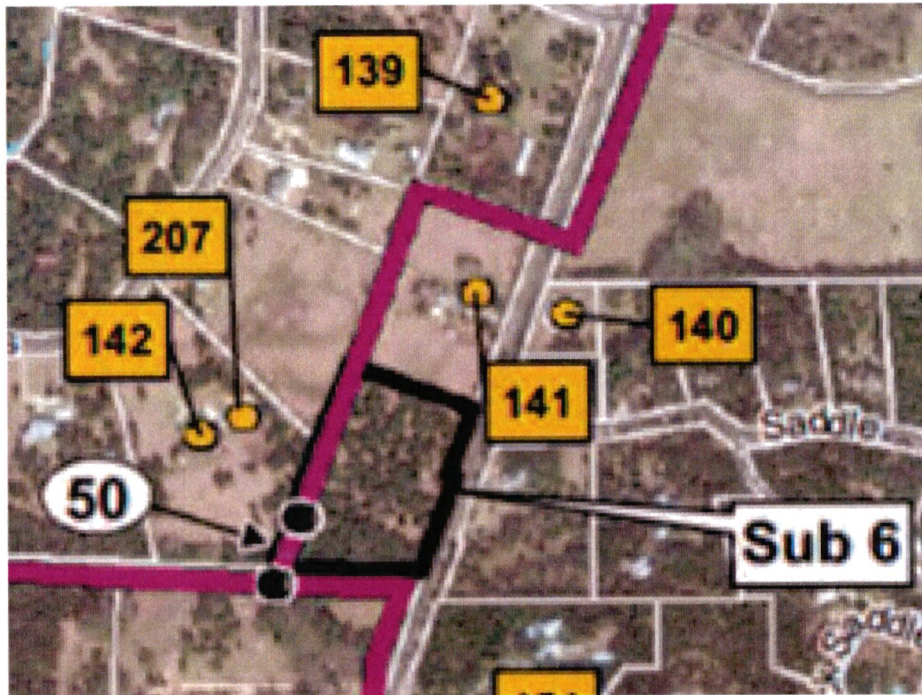
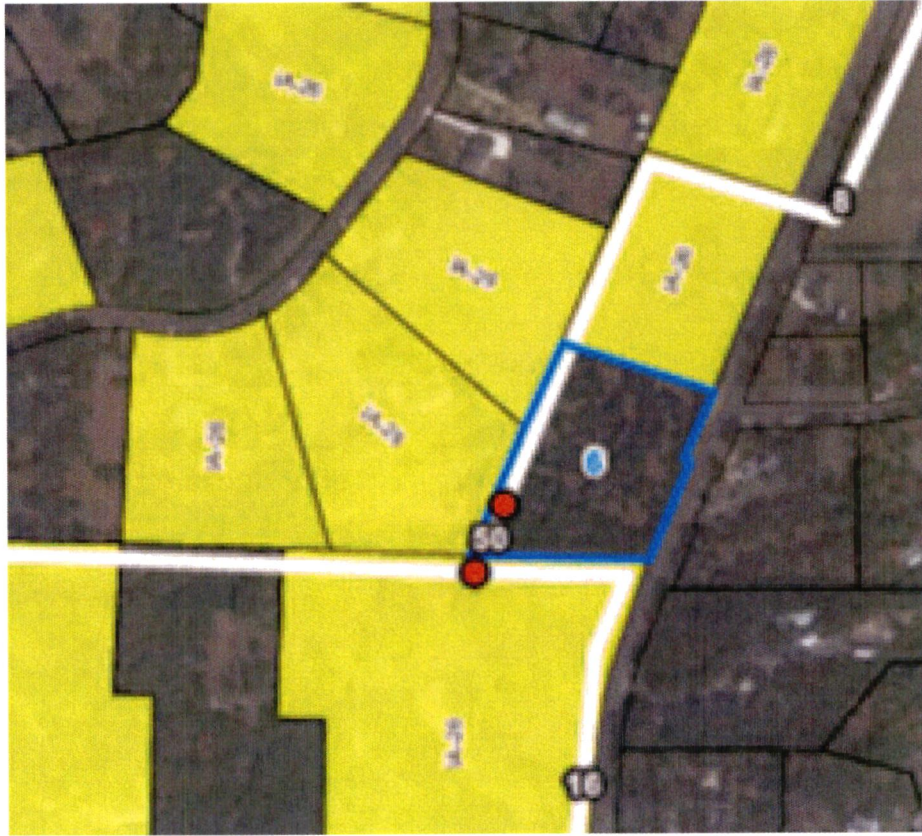
The voice of the SHLAA members should not be silenced because they had the strong conviction of joining together to oppose the routes which affect them all in whatever varying degrees they themselves perceive (not what some opposing party alleges they should perceive). For example, Substation Site 6 is abutted by four residents who felt so strongly about not having the substation next to their property that they went to the expense, time, and effort to strongly oppose the use of Substation Site 6 by being members of SHLAA.⁴⁴

⁴¹ SHLAA Ex. 1 at p. 19 (Landowner Dir.).

⁴² See the detailed discussion regarding that feedback in the Bexar Ranch Initial Br. at pp. 14-15.

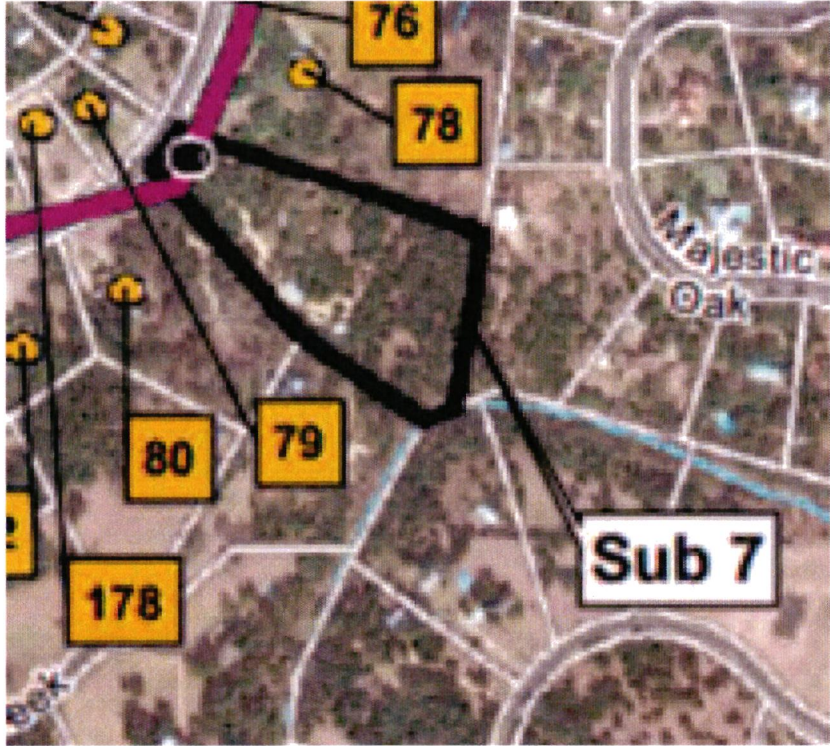
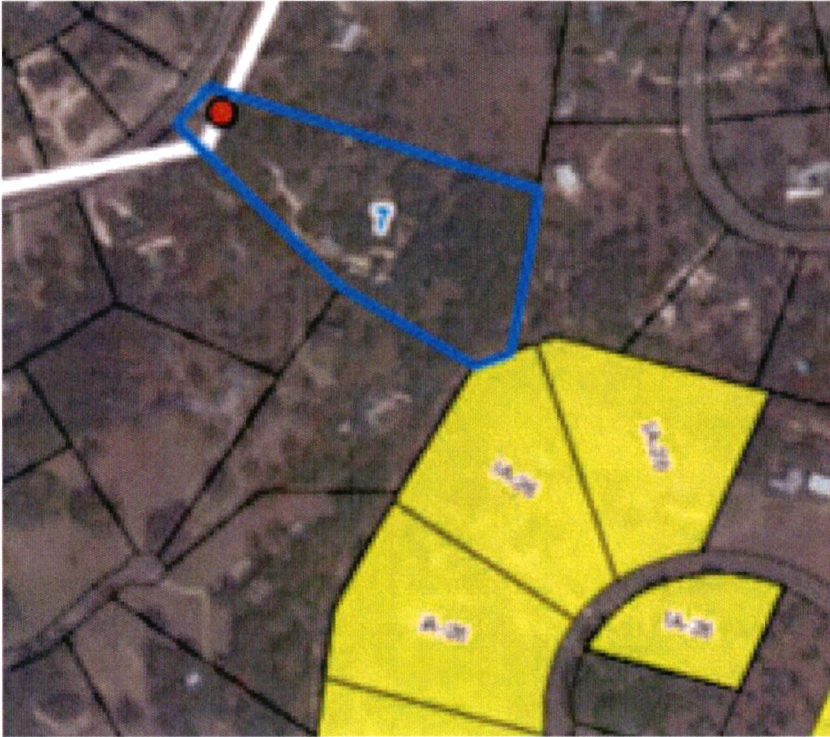
⁴³ Tr. at pp. 759-82; Clearwater Ranch Initial Br. at pp. 4-5.

⁴⁴ CPS Energy Ex. 18 at Inset 2 (intervenor map); CPS Energy Ex. 15 at Exh. LBM-2R entitled “Amended Fig. 4-1R” (Meaux Reb.).



In contrast, none of the residents who live around Substation Site 7 intervened to object to

locating a substation there; the only two residents who intervened near Substation Site 7 are members of SHLAA, and they prefer use of Substation Site 7 over Substation Site 6:



The members of SHLAA should not be penalized for following the rules allowing associations to form to pursue shared and common interests, for intervening as such in a Commission transmission line routing case, and for making known through the association their positions against Substation 6 and routes connecting thereto.⁴⁵

F. Complaints About CPS Energy’s Public Meeting Process

Anaqua and Jauer additionally complain that CPS Energy only held one public meeting, and that Substations Sites 6 and 7 were added without having another public meeting.⁴⁶ CPS Energy will presumably respond to the criticisms of how CPS Energy conducted matters, including what the Commission rules require and how CPS Energy gathers information so as to finalize its application.⁴⁷

Moreover, as noted above, the public meeting feedback information shows that the SHLAA area and the substation site closest to what is now Substation Site 6 had the most objections, unlike the areas along Toutant Beauregard Road.⁴⁸ The application, with the addition of Substation Sites 6 and 7, just made it more important for SHLAA to intervene and oppose the routes which connect to Substation Site 6 and support the routes which connect to Substation 7.

G. Misunderstandings About Habitable Structures

Anaqua and Jauer suggest that habitable structures should be the primary determinant in this case because routes using Toutant Beauregard Road have the “highest habitable structure count” or similar assertions.⁴⁹ But that “habitable structure count” uses the 300 foot distance for *notice* purposes, while the CPS Energy EMF study shows the EMF exposure distance is about 100 feet.⁵⁰

When it comes to the most personal and important habitable structures – homes – Segment 54 (as well as for the entire length of Toutant Beauregard Road used for routes like Routes Z2 and Z1) will only have one single family residence within 100 feet of the transmission route’s centerline

⁴⁵ In another complaint about SHLAA, Jauer discusses a discovery request to the Canyons POA for property tax agricultural exemption documents relating to a Canyons landowner. Jauer Initial Br. at p. 7. SHLAA responded that Canyons POA does not have such documents, because that is not information the POA maintains for the conduct of POA matters; it did direct Jauer to the Bexar County Appraisal District website for the publicly available documents about the tax status. Jauer Ex. 19. SHLAA further supplemented that discovery response, indicating the agricultural exemption would change once the recently-filed platting request, submitted under the 2019 Master Development Plan, was approved. SHLAA Ex. 11 (SHLAA's 2d supplemental response to Jauer's 1st RFI).

⁴⁶ Anaqua Initial Br. at pp. 6-8; Jauer Initial Br. at p. 8.

⁴⁷ See also generally CPS Energy Ex. 2 at 10 (Meaux Dir.); CPS Energy Initial Br. at 22-25.

⁴⁸ See Bexar Ranch Initial Br. at pp. 14-15.

⁴⁹ Anaqua Initial Brief at pp. 3-4, 20, & 24; Jauer Initial Br. at pp. 9-10.

⁵⁰ CPS Energy Ex. 12 at ARM-5R (Marin Reb.).

(again, the EMF exposure distance per the CPS Energy study).⁵¹ And that particular homeowner *did not intervene* in this case.⁵²

Indeed, there is only one intervenor with any kind of habitable structure, residence or otherwise, within 300 feet of Segment 54, and that is Mr. Herrera, the only one with property bordering Toutant Beauregard Road in the entire Scenic Hills subdivision that intervened in this case (and the route is on the other side of Toutant Beauregard Road from his house).⁵³ Therefore, Segment 54 is not the be-all-end-all on the issue of habitable structures, or more to the point, on the policy of prudent avoidance regarding EMF. Routes Z2 and Z1 stand in the same position on this EMF exposure distance issue as the other routes which include Segment 54.

H. Inconsistency About Private Property Impacts

Jauer and Anaqua complain that routes using Segment 54 would pass through the yards of several residents on Toutant Beauregard Road where the line would be on their side of the road (even though all but one resident intervened).⁵⁴ However, so too would the routes Jauer now favors (Routes P and R1) and Anaqua still favors (Route W), which would run through the SHLAA neighborhoods and thus on their yards.⁵⁵

Further, for those properties on Toutant Beauregard Road, Segment 54 – when on their side of the road – would only go on the front edge of the property; in contrast, the Route P and R1 segments would also actually bisect the interior of various Clearwater Ranch and SHLAA properties – such as in the middle (not edge) of the front yard of a SHLAA resident on Segment 15, deep into and through a SHLAA property along Segment 26a, and through several properties within the Canyons part of SHLAA.⁵⁶

⁵¹ SHLAA Ex. 8 at responses to Questions 1-1 and 1-2 (CPS Energy Response to SHLAA’s 1st RFI).

⁵² CPS Energy Ex. 15 at Exh. LBM-2R entitled “Amended Fig. 4-1R” (Meaux Reb.); CPS Energy Ex. 18 at Inset 2 (intervenor map).

⁵³ CPS Energy Ex. 15 at Exh. LBM-2R entitled “Amended Fig. 4-1R” (Meaux Reb.); CPS Energy Ex. 18 at Inset 2 (intervenor map).

⁵⁴ Jauer Initial Br. at pp. 9-10; Anaqua Initial Br at p. 20. It should be noted that two-thirds of the Scenic Hills residents on Toutant Beauregard Road are on the other side of the road from where Segment 54 would be located. CPS Energy Ex. 15 at Exh. LBM-2R entitled “Amended Fig. 4-1R” (Meaux Reb.).

⁵⁵ CPS Energy Ex. 1, at Attachment 6, Sheets 12 & 13 (landowner maps showing Segments 15, 22, and the unchanged portion of 26a); CPS Energy Ex. 16 (Focus Routes Map); CPS Energy Ex. 18, Inset No. 2 (intervenor map showing Segments 15, 22, and 26a); CPS Energy Ex. 18, Inset No. 3 (intervenor map regarding Segment 27); SHLAA Ex. 8 at Table 4-21 in Attachment SHLAA 1-1 (CPS Energy’s Responses to SHLAA’s 1st RFI); Tr. at pp. 184-87 & 901.

⁵⁶ CPS Energy Ex. 1, at Attachment 6, Sheets 12 & 13 (landowner maps showing Segments 15, 22, and the unchanged portion of 26a); CPS Energy Ex. 16 (Focus Routes Map); CPS Energy Ex. 18, Inset No. 2 (intervenor

Of course, Jauer does not live in Scenic Hills or Serene Hills, and has no authority to speak for them. This is especially true since those in Scenic Hills along the Segment 54 portion of Toutant Beauregard Road did not themselves intervene, with the exception of one homeowner, Mr. Herrera.

The Jauer brief also talks about Segment 17 in connection with Scenic Hills or Serene Hills.⁵⁷ But that is a red-herring: Segment 17 is not along Toutant Beauregard Road and is also not included in any of the routes identified by the Focus Routes Map, because no party has been advocating for routes which include Segment 17.

Jauer also points to language in the CPS Energy Siting Manual about how existing residential areas and subdivisions are to be avoided when possible, and habitable structures are to be avoided wherever feasible.⁵⁸ This is not only guidance for transmission line planning, it also is a statement of the community values regarding the importance of existing residential areas and subdivisions – and further supports why Routes P and R1 should not be selected.

That is because Routes P and R1 would go directly through the interior of the Huntress Lane neighborhood, running through individual properties in the neighborhood, and not run along a street or along existing distributions lines. In other words, Routes P and R1 completely fail to avoid the Huntress Lane neighborhoods; rather they would divide the neighborhood itself and bisect the middle of some of its properties.

I. Complaints About Future Developments

The Jauer brief also points to a future potential development on Segment 20, which it claims will be called Scenic Crest.⁵⁹ There was only pro se testimonial assertions about that possibility, with no concrete evidence about its specifics other than some clearing and earth moving activities, and certainly no evidence of new habitable structures.⁶⁰ In addition, nobody owning that property intervened in this proceeding. Moreover, the concerns raised by pro se intervenors about the future Scenic Crest development were about Segment 17, not Segment 20.⁶¹

In any event, potential future development is not considered for habitable structure count

map showing Segments 15, 22, and 26a) & Inset No. 3 (intervenor map regarding Segment 27); SHLAA Ex. 8 at Table 4-21 in Attachment SHLAA 1-1 (CPS Energy's Responses to SHLAA's 1st RFI); Tr. at pp. 184-87 & 701.

⁵⁷ Jauer Initial Br. at 9-10 & 25-26.

⁵⁸ Jauer Initial Br. at pp. 10, 13, 22, 24.

⁵⁹ Jauer Initial Br. at p. 10.

⁶⁰ CPS Energy Ex. 15 at p. 11 (Meaux Reb.).

⁶¹ SHLAA Ex. 3 at pp. 25-25, (Landowner Cross-Reb.), summarizing the relevant pro se testimony of Ms. Sykes, Ms. Arbuckle, Ms. Biemer, Mr. Bernsen, and Ms. Yvette Reyna.

purposes.⁶² It can be considered as an indication the study area is undergoing rapid development, such that the number of existing habitable structures is not a stable criterion in this case (compared to other cases), and the decision should be based on more stable criteria like cost and length.⁶³

There was also similar testimony as to the continuing and future development of lots and houses in the Canyons subdivision along Routes P, R1, and W.⁶⁴ Thus, any consideration regarding future development also applies to the SHLAA area, not just to other parts of the study area.

The continuing development in the SHLAA area can also be considered in terms of comparing the acceptable impacts on one developer who consents to line segments that are adjusted at that developer's request (Toutant Ranch et al.) and the adverse impacts on another developer who has not consented to the line segments which are in conflict with its previously approved Master Development Plan (the Canyons developer).⁶⁵

In addition, CPS Energy indicates that more weight is given to existing development over future development.⁶⁶ The routes which Jauer favors would run *through* existing neighborhoods as well as continuing and future development; the routes using Toutant Beauregard Road on Segments 20 and 56 would run *in between* existing and possible future development.⁶⁷ Therefore, the existing neighborhoods should be protected from being bisected by routes like the Jauer-favored Routes P and R1, since routes using Segment 20 and 56 do not bisect any existing or even future neighborhoods, they would simply run along a major thoroughfare that in turn runs along the outer edge of all the neighborhoods along routes using Toutant Beauregard Road.

J. Invocation of the Elementary School

The Anaqua and Jauer briefs invoke the McAndrew Elementary School, as if it and its property were somehow something to be avoided at all costs.⁶⁸ Those costs, of course, are \$5 million to \$15 million more (for ratepayers to bear) than for Routes Z2, Z1, AA1, and AA2 if the more

⁶² Tr. at p. 555.

⁶³ SHLAA Ex. 1 at pp. 3 & 15 (Landowner Dir.); SHLAA Ex. 2 at pp. 12 & 22-23 (Hughes Dir.); SHLAA Ex. 3 at pp. 19, 26, 31, 33 (Landowner Cross-Reb.); SHLAA Ex. 4 at pp. 4-7 (Hughes Cross-Reb.); SHLAA Ex. 10 (Canyons - Blackbuck Phase 2 Unit 6 Plat per attached 2019 Master Development Plan); Toutant Ranch et al. Ex. 1 *passim* (Dreiss Dir.).

⁶⁴ SHLAA Ex. 10 (Canyons - Blackbuck Phase 2 Unit 6 Plat per attached 2019 Master Development Plan); Tr. at pp. 681-82.

⁶⁵ *Compare* SHLAA Ex. 10 (Canyons - Blackbuck Phase 2 Unit 6 Plat per attached 2019 Master Development Plan) *with* Toutant Ranch et al. Ex. 1 *passim* (Dreiss Dir.).

⁶⁶ CPS Energy Ex. 15 at p.11 (Meaux Reb.).

⁶⁷ CPS Energy Ex. 16 (Focus Routes Map).

⁶⁸ Anaqua Initial Br. at pp. 14-15; Jauer Initial Br. at 10-11.

“southern” Routes P, R1, or W are used.

And Segment 42a (part of Routes Z2, Z1, AA1, and AA2) is not on school property; is 500 feet away from the school building; is from the back edge of its sports area almost three times the EMF exposure distance that CPS Energy’s study identified; and preserves the ability of the school to someday add a middle school on the northside of its property.⁶⁹

Moreover, the NISD has chosen to build school facilities near existing high-voltage transmission lines in multiple locations.⁷⁰ So any attempt to echo the position of NISD in this case rings hollow.

Indeed, the Jauer arguments about that school ring even more hollow when it is recognized that Mr. Jauer does not claim to have a child attending the school, to be on the NISD Board, or to be employed as part of the management personal for NISD in general or the McAndrew Elementary School in particular. Once again, Jauer claims to speak for others when he has no authority to do so.

The Jauer brief claims the “only schools” in the area are on Toutant Beauregard Road.⁷¹ This ignores the undisputed fact that members of SHLAA homeschool their children.⁷² Therefore, if the motivation for avoiding the school is to protect school children from EMF, the Jauer effort to move the transmission line so that it will run through the existing SHLAA neighborhoods and even bisect private property will create the potential for EMF exposure for such homeschooled children.

K. Invocation of Historic Values

The Jauer and Anaqua briefs makes the same “historical values” arguments as Rose Palace and those who echo Rose Palace.⁷³ As SHLAA showed in its brief, and in its evidence cited therein: there is really nothing “historic” other than the name of Toutant Beauregard Road; if anything, as between Scenic Loop Road and Toutant Beauregard Road, it is Scenic Loop Road (where Substation Site 6 sits) that is more historic (being named first as part of the “historic corridor” and still having some of its original road in existence); and the historic “districts” are not touched by routes along Toutant Beauregard Road and the Barrera family interests do not object to Segment 35 coming along one of its historic “districts,” such that neither Rose Palace, Jauer, or others echoing the Rose Palace

⁶⁹ SHLAA Ex. 1 at pp. 8, 21, & 23 (Landowner Dir.); SHLAA Ex. 3 at pp. 4, 10-11, 20-23 (Landowner Cross-Reb.); SHLAA Ex. 4 at p. 9 (Hughes Cross-Reb.); CPS Energy Ex. 12 at Exh. ARM-5R (Marin Reb.).

⁷⁰ Bexar Ranch Ex. 6 at pp. 13-14 & Exh. MT-1 (Turnbough Cross-Reb.); CPS Energy Ex. 12 at ARM-6R (Marin Reb.); Tr. at pp. 623, 630-32, & 629-30.

⁷¹ Jauer Initial Br. at p. 10.

⁷² SHLAA Ex. 3 at pp. 10-12, 21, 24-25, 31, & 37-38 (Landowner Cross-Reb.).

⁷³ Jauer Initial Br. at pp. 11-12; Anaqua Initial Br. at pp. 15 & 18.

position have any business complaining about “historic values.”⁷⁴

L. Misstated Evidence About Substation Site 7 “Flooding”

The Jauer and Anaqua briefs assert that Substation Site 7 is “flood-prone.”⁷⁵ This is not true.

Substation Site 7 has a short section that meets the property line of a SHLAA member where a 45 foot bluff adjoins the creek bed.⁷⁶ The substation will not be built on that back portion of the site by the creek, it will instead be build in the middle of the site on top of the 45 foot bluff amongst the vegetation on that larger site:⁷⁷



The area of Substation Site 7 is not in an official floodplain, has not flooded in the 38 years

⁷⁴ SHLAA Initial Br. at pp. 10 & 15.

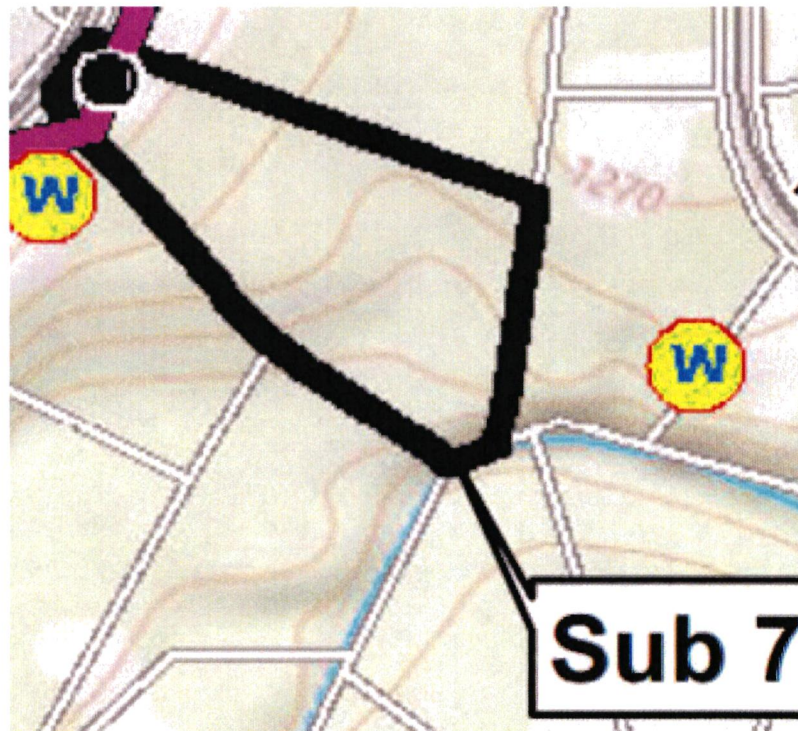
⁷⁵ Jauer Initial Br. at 3, 13-18; Anaqua Initial Br. at pp. 3 & 24.

⁷⁶ CPS Energy Ex. 6, Application Amendment, Figure 2-4 Amended (Constraints Map); Tr. at pp. 689-90.




⁷⁷ CPS Ex. 14 at Exh. SDL-1R (Lyssy Reb.).

that the present owner has been there, and is, according to CPS Energy’s Mr. Lyssy (a Professional Engineer with hydrology engineering training and experience), a viable, less-visible, substation site that based upon his training, experience, and on-site knowledge will not experience any flooding.⁷⁸

For example, CPS Energy Ex. 6, Application Amendment, Figure 2-4 Amended (Constraints Map), shows flood plain areas elsewhere on the map, but it shows no flood plain area behind Substation Site 7; instead it only shows the creek – and that is along the very back edge of the site, for only a very short distance, maybe less than 100 feet (according to the map’s distance scale):



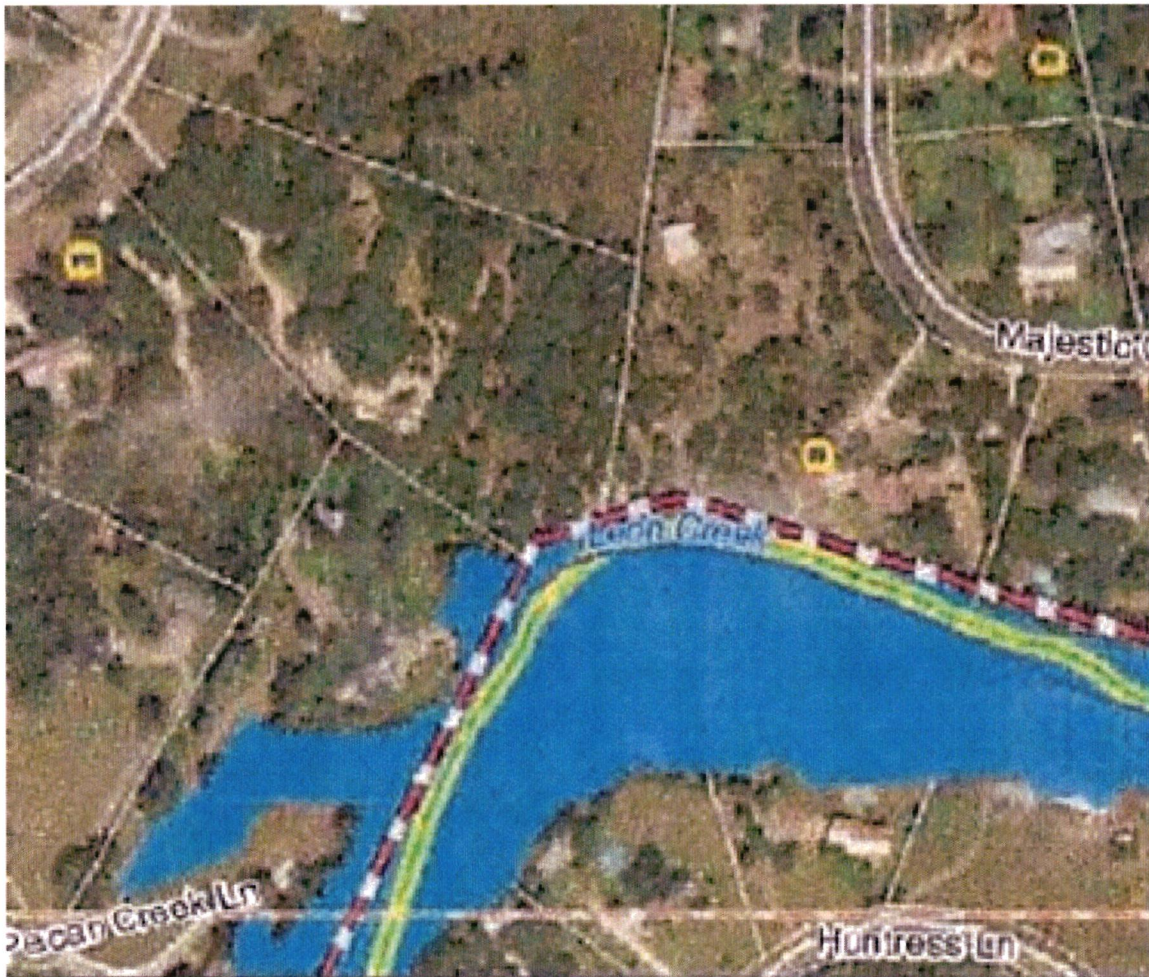
Hydrologic Features

-  River / Stream (NHD)
-  NWI Wetland
-  Floodplain (FEMA)




As another example, Jauer’s own Ex. 15, at pdf p. 16, shows how the Substation Site 7 up on its 45 foot bluff above the creek does not have flooding issues, while the property of Ms. Cody who abuts the Substation Site 7 on the other side of creek has had flooding issues (exactly as Ms. Cody

⁷⁸ SHLAA Ex. 2 at p. 14 (Hughes Dir.); Tr. at pp. 624, 626, 650-52, 654, 657-58, 689-90.

described to Ms. Grimes, when she showed Ms. Grimes where there had been flooding on Ms. Cody's property, as well as the 45 foot bluff across the creek⁷⁹):



**ENVIRONMENTAL
FIELD MAP**

-  Stream
-  Wetland
-  100 Year Floodplain

In support of its incorrect allegations, Jauer cites to a 2014 U.S. Army Corps of Engineers Report, as if it proves there would be flooding on the top of the 45-foot high site.⁸⁰ There is no

⁷⁹ Tr. at pp. 689-90.

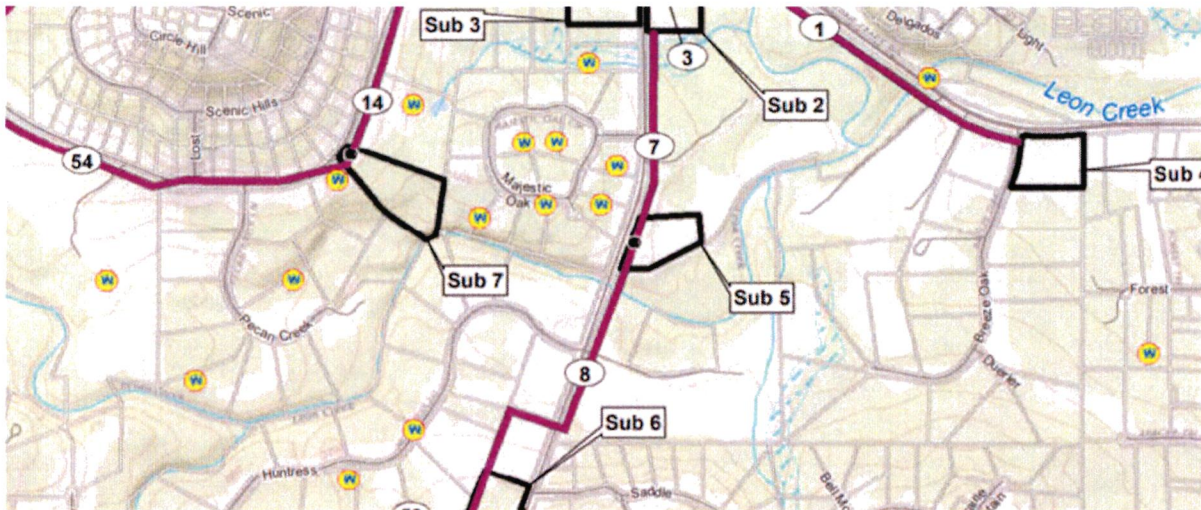
⁸⁰ Jauer Initial Br. at pp. 14-18; Jauer Ex. 3 (Leon Creek Watershed, Texas, Interim Feasibility Report and Integrated Environmental Assessment. U.S. Army Corps of Engineers, Fort Worth District; Final Report Version, 2014).

evidence that this 7 year old report is still applicable to the engineering/flooding concerns of the area. Moreover, as shown below, the entire Jauer argument hinges on a misstatement about what that report shows. Therefore, the entire Jauer argument is incorrect.

The Jauer argument hinges upon Jauer’s contention that “Leon Creek Reach 7” in the 2014 report is where Substation 7 abuts the creek.⁸¹ As the Jauer questioning stated, “this is what’s important” and “this is real important.”⁸² But all he did was have a witness read selected sentences from the report, then Jauer’s counsel made various characterizations about what was read aloud – none of which the witness agreed with. More importantly, those counsel characterizations are simply wrong.

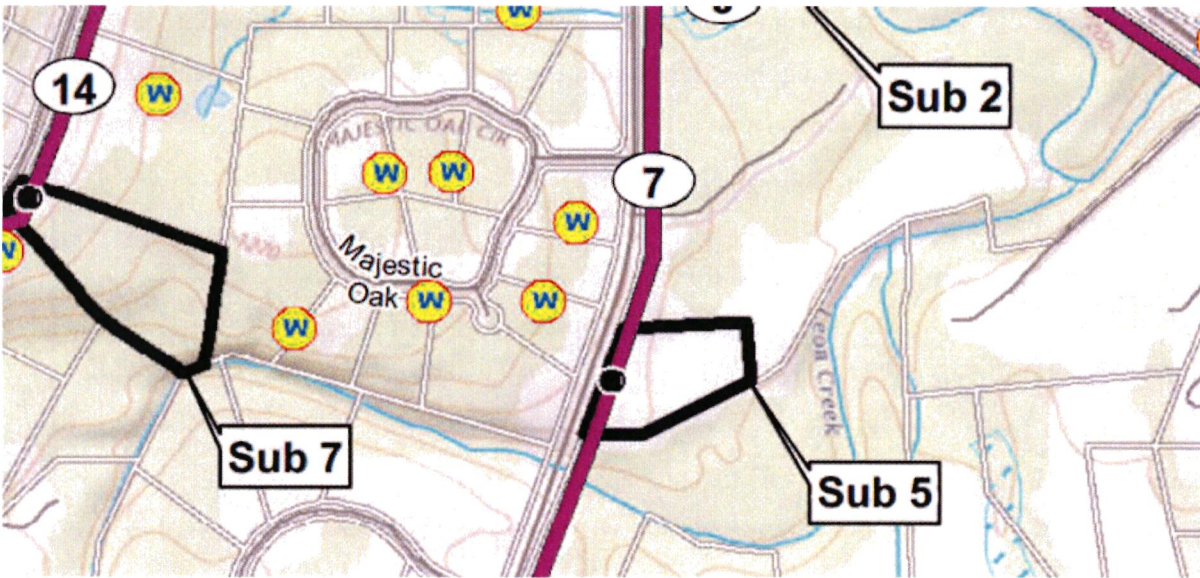
This is because page 19 of Jauer Ex. 3 demonstrates that the actual location of “Leon Creek Reach 7” is pinpointed by an arrow to be at the bridge on Scenic Loop Road which goes over Leon Creek, which in turn is to the east of Substation Site 7, and just south of the location of Substation Site 5. As a result, the flooding Jauer claims should be of concern based on the 7 year old report all occur downstream from Substation Site 7.

The mis-location by Jauer of Leon Creek Reach 7 is shown by a comparison of the CPS Energy Constraints Map (amended) and where the arrow for Leon Creek Reach 7 is pointing on the map on page 19 of the Corps study, respectively, and by following the shape and bends in Leon Creek on the two maps:



⁸¹ Tr. at pp. 428-37; Jauer Ex. 3 (Leon Creek Watershed, Texas, Interim Feasibility Report and Integrated Environmental Assessment. U.S. Army Corps of Engineers, Fort Worth District; Final Report Version, 2014).

⁸² Tr. at pp. 428 & 434.



Jauer also attempted in the hearing to create additional misinformation about Substation Site 7, asking CPS Energy’s Mr. Lyssy – a professional engineer with hydrology engineering trained and experience) – to engage in engineering miscalculations, and Mr. Lyssy refused because it was simply not correct as an engineering matter.⁸³ Despite repeated attempts by Jauer to force the witness to answer in a way that would result in record misinformation, Mr. Lyssy stuck to true engineering

⁸³ Tr. at pp. 646-54.

principles and did not answer a question that would only create misinformation and record confusion.⁸⁴ It appears that the Jauer brief nevertheless is seeking to put forward that same incorrect engineering miscalculation that Jauer could not get into the record.⁸⁵ Therefore, the extra record calculations should not be considered and Jauer's entire argument about Substation Site 7 must be discounted accordingly.

M. Invocation of Engineering Constraints

Although Jauer has abandoned the testimony of Mr. Anderson regarding Route W, Jauer as well as Anaqua still cling to Mr. Anderson's arguments about supposed engineering constraints from using Toutant Beauregard Road.⁸⁶ Those were all debunked by the CPS Energy witnesses on rebuttal, as well as by Mr. Hughes and Dr. Turnbough in their cross-rebuttal testimonies.⁸⁷

Moreover, paralleling roadways is a positive under the Commission's routing criteria, not the negative that Mr. Anderson and Jauer make it out to be.⁸⁸ Every road tends to have other utility-type facilities co-located along the roadways, whether they are electric lines, natural gas lines, water lines, etc. Roadway paralleling is a good thing because it helps avoid going through neighborhoods and across individual properties, i.e., it minimizes fragmentation of properties and habitats.⁸⁹

If Jauer was correct, the Commission would not have made paralleling a positive criterion. And as Mr. Hughes points out, the use of monopoles instead of lattice towers facilitates the beneficial use of the roadway.⁹⁰

Moreover, Anaqua is being inconsistent. While it, like Jauer, endorses the theory that a public road is the last place along which one should locate a transmission line, Anaqua (and previously Jauer before it changed position) advocated for a route which also would be located along a public road, i.e., Route W which parallels a portion of Scenic Loop Road. Simply put, they cannot have it both ways.

Jauer and Anaqua claim that there are low water crossing concerns regarding Toutant

⁸⁴ Tr. at pp. 646-54.

⁸⁵ Jauer Initial Br. at p. 15.

⁸⁶ Jauer Initial Br. at pp. 18-21; Anaqua Initial Br. at p.16.

⁸⁷ CPS Energy Ex. 12 at pp.7- 8 & 17 (Marin Reb.); CPS Energy Ex. 14 at pp. 3-4 & 7-11 (Lyssy Reb.); CPS Energy Ex. 15 at pp. 17-19 (Meaux Reb.); SHLAA Ex. 4 (Hughes Cross-Reb.); Bexar Ranch Ex. 6 (Turnbough Cross-Reb.).

⁸⁸ SHLAA Ex. 2 at p. 22 (Hughes Dir.); PUC Subst. R. 24.101(b)(3)(B)(ii).

⁸⁹ CPS Energy Ex. 14 at p. 9 & its Exh. SDL-3R (Lyssy Reb.); CPS Energy Ex. 16 (Focus Routes Map); Tr. at pp. 182-83; Tr. at pp. 182-83, 193-94, & pp. 862-63.

⁹⁰ SHLAA Ex. 4 at p. 9 (Hughes Cross-Reb.).

Beauregard Road.⁹¹ Because those were really raised by pro se intervenor Mr. Siegel, the SHLAA reply to the Jauer and Anaqua assertion of Mr. Siegel's concern is dealt with below in the reply to Mr. Siegel's brief.

N. Invocation of the Huber Cell Tower

The Jauer brief claims that the Huber cell tower along Toutant Beauregard Road would be "interfered with" by a CPS Energy transmission line along that road. To the contrary, CPS Energy has experience with those issues, including in its own communications facilities in substations and other portions of its system, and can adjust the height of the transmission facilities to avoid the only communication interference issue: line-of-sight.⁹²

As for the alleged issue of cell tower access by maintenance cranes, the access road already has a distribution line in front of the access road, so the foldable cranes already slip under that distribution line, and a higher transmission line will not have any effect on how low the crane has to go to get into the cell tower property.⁹³

O. Complaints About Costs

Jauer posits a cost criticism that is based on a misunderstanding of the ROW widths for operational clearance purposes versus ROW widths for private property easement acquisition purposes.⁹⁴ The cost savings involved in using public road ROW to maintain the operational clearance width while using less private property was already included in the CPS Energy application's cost estimates, and those included all routes using public roads, not just Toutant Beauregard Road.⁹⁵

With those ROW cost savings on all public ROWs, the costs of Route P, Q1, and R1 are about \$5 million *more* than Route Z2.⁹⁶ And that holds true even if one were to assume that all of the private ROW on all routes was 100 feet instead of 75 feet where public roads are involved. This is because Route Z2 *still would be below \$38 million* even if all of its private ROW cost was based on

⁹¹ Jauer Initial Br. at pp. 5; Anaqua Initial Br. at 13-14 .

⁹² See CPS Energy Ex. 12 at p.8 (Marin Reb.).

⁹³ CPS Energy Ex. 12 at p.8 & Exh. ARM-2R (Marin Reb.).

⁹⁴ Jauer Initial Br. at pp. 23-24.

⁹⁵ CPS Ex. 14 at pp. 9-10 (Lyssy Reb.); CPS Energy Initial Br. at 29-30.

⁹⁶ Like certain other pro se intervenors, Anaqua seeks to relitigate the "route adequacy" phase of the case. Anaqua Initial Br. at 4-6. However, that issue was explored in the route adequacy hearing, and no interim order appeal was taken from the order finding route adequacy. So it is too late now to complain again about that issue.

100 feet for the entire route, as CPS Energy made clear in discovery.⁹⁷

Jauer claims that, in addition to its (misstated) concern about the 75 foot versus 100 foot issue, there are other alleged problems with CPS Energy's cost estimates. CPS Energy will presumably respond to those in detail since those are attacks on CPS Energy and its processes. But SHLAA understands that those are, at this point as in every CCN process, *estimates* based on the information the utility has at this stage, of necessity due to the uncertainty from not having route ground surveys, etc.⁹⁸

In addition, there is cost certainty with regard to about 40% of the cost of the routes like Z2 which, utilize the ROW consents and donations by the Toutant Ranch et al. developer, because that agreed-upon lower cost is fixed so it cannot go up – and will also save the utility from incurring condemnation proceeding costs.⁹⁹

Jauer alleges that the “only possible reason” to choose routes like Z2 or Z1 is because of the cost savings compared to the other routes.¹⁰⁰ That is not correct. It is not just cost savings that makes those routes more favorable. For one thing, they do not bisect neighborhoods, they do not bisect the middle of land owner property (absent landowner consent), they do not go through more wooded habitat, and they parallel a major thoroughfare so as to avoid bisecting neighborhoods, private property, and habitat. For another, they utilize the donated/consented ROW by Toutant Ranch et al., instead of property for which there is no consent. And they utilize Substation Site 7 with greater shielding from public view instead of the much more highly visible Substation Site 6.¹⁰¹

All of that substantial increase in cost would be incurred so as to avoid no greater number of single family residences within 100 feet of the line. All of that substantial increase in cost would be incurred so as to have the line run through the middle of existing neighborhoods instead in between any existing ones. All of that substantial increase in cost would be incurred so as to have the line run through the middle of private property, rather than along the property line edge of private property. All of that substantial increase in cost would be incurred so as to avoid having the line avoid running

⁹⁷ Bexar Ranch Ex. 12 at p. 8. Specifically, Route Z2 with an entire ROW width of 100 feet would cost \$37,962,516.

⁹⁸ CPS Ex. 11 at pp. 9-11 (Lyssy Dir.).

⁹⁹ Toutant Ranch et al. Ex. 1 at 13 (Dreiss Dir.); Tr. at p. 261.

¹⁰⁰ Jauer Initial Br. at 27.

¹⁰¹ Even if for the sake of argument about “cost uncertainty” the difference in the estimated costs between Routes Z2, Z1, AA1, and AA2, on the one hand, and Routes like P, R1, Q1, and W, on the other, were arbitrarily cut in half, Routes like P, R1, Q1, and W would still cost \$2.5 million to \$7.5 million more for ratepayers than routes like Z2, Z1, AA1, and AA2.

along Toutant Beauregard Road in front of the entrance to the Jauer subdivision and in front of the entrance and gatehouse to the Anaqua subdivision.

IV. Reply to the NISD

As before, NISD opposes Segment 41, since the segment would run in the north area of its property where it says it someday would like to put a middle school, and expresses concern about Segments 35, which runs in front of the school and less than 300 feet from the edge of the school building, as well as concern about Segment 42a.¹⁰²

The NISD concern about Segment 42a had been about EMF exposures to children, which has been addressed by SHLAA repeatedly, but a short recap here is: (1) Segment 42a is not on school property, does not run along the school's front entrance, is 550 feet away from the school building, and is nearly three times the EMF exposure distance in the CPS Energy EMF study from the back edge of the back sports field; and (2) NISD has built multiple new school facilities close to existing high-voltage transmission lines, so NISD's professed concern about EMF rings hollow.

In what appears to be a new assertion, with no citation to any supporting testimony, NISD alleges in its brief (at pp. 4-5) that a line along Segment 42a would somehow (without specifics) interfere with the operation and maintenance of an alleged water treatment facility and wastewater drainage field in the back part of the school. Such a late assertion unsupported by citation to record evidence should be given no weight or credence.

In any event, the standard ordering paragraphs in a Commission transmission line order will impose obligations on the utility to undertake appropriate efforts that allow for the safe construction and operations of its lines on the approved route, including with regard to the facilities NISD now says it is concerned about.

V. Reply to Rose Palace

The Rose Palace has a sports facility well east of Substation Site 7, and thus not affected by Routes like Z2, Z1, AA1, and AA2. But it does have an affiliated ranch, with no habitable structures within 300 feet of those routes, that is on the south side of Segment 54, which follows Toutant Beauregard Road.¹⁰³

Even though the Rose Palace itself is not affected by Routes like Z2, Z1, AA1, and AA2 and

¹⁰² NISD Initial Brief at *passim*.

¹⁰³ Because the two properties are owned by different legal entities, the brief's assertion at p. 2 that Rose Palace "owns" both the sports arena and the nearby ranch is not legally correct; instead Rose Palace and the nearby ranch are affiliates of each other, but because of their ownership affiliation and their representation by a single attorney it has been convenient to refer to them together under the alignment moniker of "Rose Palace."

Substation Site 7, it argues that southern routes into Substation Site 6 “best meet” the Commission’s routing criteria, and supports use of Routes P, R1, or W.

It proffered Mr. Buntz as its witness, and solely for routing analysis purposes. He did not actually analyze all of the routing criteria that come into play in a transmission line routing case. Instead, he limited his testimony to the “historic values” that he perceived regarding the use by any transmission line routes along Toutant Beauregard Road. So Rose Palace is in no position to proffer any expert analysis of which route or routes “best meet” the Commission myriad routing criteria, since its one expert only evaluated one criterion, in isolation from the others.

Moreover, as set forth in the SHLAA cross-rebuttal testimonies and in SHLAA’s initial brief, the Rose Palace “historical values” testimony is essentially beside the point. This is because: (1) there is really nothing historic other than in name of Toutant Beauregard Road; (2) as between the two roads, Scenic Loop Road (where Substation Site 6 sits) is more historic (being named first as part of the “historic corridor,” and still having some of its original road in existence); (3) the historic “districts” are not touched by routes along Toutant Beauregard Road and the Barrera family interests do not object to Segment 35 coming along by one of its historic “districts,” such that Rose Palace, and others echoing its position, do not have any business complaining about “historic values.”¹⁰⁴

Much of the Rose Palace initial brief is now in support of selection of Route P. This is a change of position, inconsistent with the testimony it sponsored – just like Jauer is changing its position from the testimony it sponsored. Rose Palace’s witness, for his historical value reasons, supported Route R1.¹⁰⁵ It never mentioned Route P in that direct testimony. In addition, whether Rose Palace is considered to be supporting Route R1, Route P, or both, they are both approximately \$5 million more expensive than routes like Routes Z2, Z1, AA1, and AA2.

VI. Reply to the Pro Se Intervenors

Various pro se intervenors on the north side of the study area propose that southern routes in the study area should be used. However, the bases for their assertions are without merit, for the reasons laid out in detail in the SHLAA cross-rebuttal testimony.¹⁰⁶ The following highlights those flaws in relation to the briefs which they filed.

A. Cleveland (High Country Ranch Resident)

Mr. Cleveland says that he supports Routes P, Q1, R1, and W – without any recognition that

¹⁰⁴ SHLAA Initial Br. at p. 15.

¹⁰⁵ Rose Palace Ex. 1 at pp. 19-21 (Buntz Dir.).

¹⁰⁶ SHLAA Ex. 3 at pp. 25-35 (Landowner Cross-Reb.)

those would cost ratepayers \$5-\$15 million more, impact more private property (including unconsented bisecting), impact more habitat including trees and Golden Cheek Warblers, etc.

Mr. Cleveland's only direct response to SHLAA's evidence is that he thinks the Altair subdivision is not significantly impacted by southern Routes P, Q1, U1, or R1, and that SHLAA should have provided more "visual" evidence and exhibits. However, Mr. Cleveland does not live in the Altair subdivision. Therefore, Mr. Cleveland appears to believe that he is able to opine on such matters, in contrast to the SHLAA witness who lives there, filed direct and cross-rebuttal testimony regarding the subdivision, and was cross-examined about that subdivision in the hearing on the merits.

In addition, the Commission's rules regarding pre-filed testimony do not spell out what exact form of evidence is appropriate, beyond those which comply with the court and administrative rules about evidence admissibility. None of those rules specify that evidence cannot be in solely oral narrative form, as occurred with regard to the witness from the Altair area as to the testimony that Mr. Cleveland does not like.

Mr. Cleveland then adopts the positions of Anaqua/Jauer and its witness Mr. Anderson, as well as the positions of Staff's witness Mr. Poole, as to various routing aspects, including the viability (indeed, not recognizing the greater shielding of Substation Site 7 from public view). For all the reasons that the Anaqua/Jauer positions and the testimony of its witness Mr. Anderson have no credibility and are otherwise without merit, so too is Mr. Cleveland's position which relies thereon. Similarly, for all the reasons that the Staff position and the testimony of its witness Mr. Poole have no credibility and are otherwise without merit, so too is Mr. Cleveland's position which relies thereon (i.e., worst impact on endangered species, more wooded areas traversed, incorrect understanding of the habitable structure distance for EMF concerns, etc.)

In this regard, it should be noted that Staff supports Route P, but Anaqua does not. So Mr. Cleveland's position appears to be one of simply arguing for "anything far south" of his property so as to have absolutely no impacts on his property. In contrast, the SHLAA members are still affected in certain ways by Routes Z2, Z1, AA1, and AA2, but recognize that those are nevertheless the most reasonable choices, and support them for that reason.

Finally, as to Mr. Cleveland, his greatest concern, as reflected both in his testimony and his brief, is about Segment 49a which bisects the High Country Ranch, as opposed to Segment 46b which follows the northern border of the High Country Ranch. In the SHLAA testimony and its brief, SHLAA agreed that bisecting private property is something the Commission should avoid, and

therefore stated, and continues to state, that it supports Routes Z1 and Z2 because they do not bisect the High Country Ranch.

B. Cichowski (Anaqua Springs Resident and HOA President)

Mr. Cichowski, even though he is the Anaqua Springs HOA President, says he is also arguing on his own behalf as a pro se “true party in interest,” due to his ownership of a property in the southwestern part of the Anaqua Springs subdivisions.¹⁰⁷ His position on route selection is nevertheless the same as that of Anaqua.

Throughout his brief he criticizes the CPS Energy information and processes, something that CPS Energy will presumably address. But as to the actual route selection criteria, he offers nothing that Anaqua does not already assert – and he is being undercut by Jauer to the same extent that Jauer is abandoning the position of its joint witness with Anaqua by no longer even trying to support Route W in the Jauer post-hearing initial brief.

Like others, Mr. Cichowski tries to make the habitable structure count based on a 300 foot distance the be-all-end-all of the prudent avoidance issue.¹⁰⁸ But as set forth previously the 300 foot distance in this case is for notice purposes only and the EMF exposure distance of concern is about 100 feet, such that all the routes on the Focus Route Map (CPS Energy Ex. 16) have only one single family residence within 100 feet of the relevant route, except for Route W which has three.¹⁰⁹ And Mr. Cichowski ignores the evidence that Route P, compared to Route Z1, is on average closer to single family residences by 12%.¹¹⁰

Like others, Mr. Cichowski tries to make the McAndrews Elementary School something that should be avoided at all costs.¹¹¹ Those costs, of course, are \$5 million to \$15 million more (for ratepayers to bear) than for Routes Z2, Z1, AA1, and AA2.

And Segment 42a (part of Routes Z2, Z1, AA1, and AA2) is not on school property, is 500 feet away from the school building, is as to the back edge of its sports area almost three times the EMF exposure distance that CPS Energy’s study identified, and preserves the ability of the school to

¹⁰⁷ Cichowski Initial Br. at 2.

¹⁰⁸ Cichowski Initial Br. at pp. 6 & 9-10.

¹⁰⁹ CPS Energy Ex. 12 at ARM-5R (Marin Reb.); SHLAA Ex. 8 (CPS Energy Response to SHLAA’s 1st RFI); Tr. at pp. 815-18 & 820.

¹¹⁰ SHLAA Ex. 8 at pp. 3, 5, & 7-8 (CPS Energy Response to SHLAA’s 1st RFI).

¹¹¹ Cichowski Initial Br. at pp. 6-7 & 9-10.

someday add a middle school on the northside of its property.¹¹²

Moreover, the NISD has chosen to build school facilities near existing high-voltage transmission lines in multiple locations.¹¹³ So any attempt by Mr. Cichowski to echo the position of NISD in this case rings just as hollow. Indeed, the Cichowski arguments about that school have less persuasion when it is recognized that Mr. Cichowski does not claim to have a child attending the school, to be on the NISD Board, or to be employed as part of the management personal for NISD in general or the McAndrew Elementary School in particular.

Mr. Cichowski continues to take offense with the Toutant Ranch et al. ROW consents and donations. He does so even though a landowner agreement about ROW locations on its property is considered a positive by the Commission, and his attacks on those ROW consents and donations were rejected by the SOAH ALJs in SOAH Order Nos. 9 and 10, which the Commission did not overturn.

In connection with that issue, his brief in particular argues about the fair market value of the developer's land in contrast to the specific compensation the developer agreed to accept if those consented-to segments are utilized – thereby ignoring the larger context in which the bargain was not solely about ROW strip valuation, but about an acceptable enablement of the developer's build-out. Therefore, Mr. Cichowski's continuing attack on a landowner's ability to enter into a settlement with the utility is an apples-versus-oranges comparison.

More importantly, Mr. Cichowski's argument is a red-herring. This is because the true import of the Toutant Ranch et al. ROW consents and donations is that it provides the ability to have routes that do not bisect properties except with the landowner's consent, provide cost savings for those routes from the ROW donations, and eliminate litigation between the landowner and the utility over the routing and condemnation case issues. This is in contrast to another developer, in the Canyon's subdivision, whose property would be adversely impacted by the proposed Segment 38, for which he has not offered any consent.¹¹⁴

Mr. Cichowski once again tries to argue that Segments 38, 39, and 43 should be moved to suit his purposes, despite the lack of consent by the landowners onto whose properties those moved

¹¹² SHLAA Ex. 1 at pp. 8, 21, & 23 (Landowner Dir.); SHLAA Ex. 3 at pp. 4, 10-11, 20-23 (Landowner Cross-Reb.); SHLAA Ex. 4 at p. 9 (Hughes Cross-Reb.); CPS Energy Ex. 12 at Exh. ARM-5R (Marin Reb.).

¹¹³ Bexar Ranch Ex. 6 at pp. 13-14 & Exh. MT-1 (Turnbough Cross-Reb.); CPS Energy Ex. 12 at ARM-6R (Marin Reb.); Tr. at pp. 623, 630-32, & 629-30.

¹¹⁴ Compare SHLAA Ex. 10 (Canyons - Blackbuck Phase 2 Unit 6 Plat per attached 2019 Master Development Plan) and Tr. at pp. 681-82 with Toutant Ranch, et al. Ex. 1 *passim* (Dreiss Dir.).

segments would be located. That issue has been decided adversely to Mr. Cichowski in SOAH Order No. 9 and not overturned by the PUC. Therefore, it should not be considered for purposes of arriving at a Proposal for Decision as to which route the ALJs should recommend be selected.

Mr. Cichowski also claims that Segment 42a should not be built because a large portion of it would be in the floodplain area behind the school.¹¹⁵ He cites to no specific evidence, other than the mere fact that the location of the floodplain is shown on the CPS Energy Amended Application Figure 3-4 Constraints Map (amended). His argument based just on that map is speculative and thus without merit. This is for several reasons.

First, since it is a floodplain area, nothing else should be done with the land, so it is a good place to locate a transmission line.

Second, CPS Energy says that it is experienced at safely constructing, operating, and maintaining transmission lines *in floodplains* (as well as in proximity to other water features).¹¹⁶

Third, CPS Energy also testified that all segments are viable and constructible.¹¹⁷

Fourth, there was no evidence provided in the hearing, and certainly none cited by Mr. Cichowski, which demonstrated that Segment 42a cannot be constructed and maintained in the floodplain behind the school.

Therefore, Mr. Cichowski's argument in brief is not supported by the evidence, and is just speculation.

C. Siegel (Anaqua Springs Resident)

Mr. Siegel lives inside of the Anaqua Springs subdivision.¹¹⁸ He does not live within 300 feet of any of the line segments that are involved in this case.¹¹⁹

He opposes any use of Toutant Beauregard Road, in part because of the McAndrews Elementary School. He also opposes the use of routes with Segments 38 and 43, which would include Routes P, Q1, and R1. He cites to no specific record evidence, just makes arguments, so it is hard to know which assertions are based on evidence and which ones are not.

He does assert that Toutant Beauregard Road is subject to low-water crossing flooding. So too are several areas in the Huntress Lane and Altair areas, as set forth in the SHLAA direct

¹¹⁵ Cichowski Initial Br. at p. 10.

¹¹⁶ CPS Ex. 11 at p. 8 (Lyssy Dir.); CPS Energy Ex. 14 at p. 5 (Lyssy Reb.).

¹¹⁷ *E.g.*, CPS Energy Ex. 14 at pp. 3-4 (Lyssy Reb.).

¹¹⁸ CPS Energy Ex. 18, Inset 1 (landowner maps).

¹¹⁹ CPS Energy Ex. 15 at Exh. LBM-2R entitled "Amended Fig. 4-1R" (Meaux Reb.).

testimony:¹²⁰



6 low water crossings circled

A Huntress Lane low water crossing with flooding (12/2017)



¹²⁰ SHLAA Ex. 1 at Attachments E & H (Landowner Dir.).

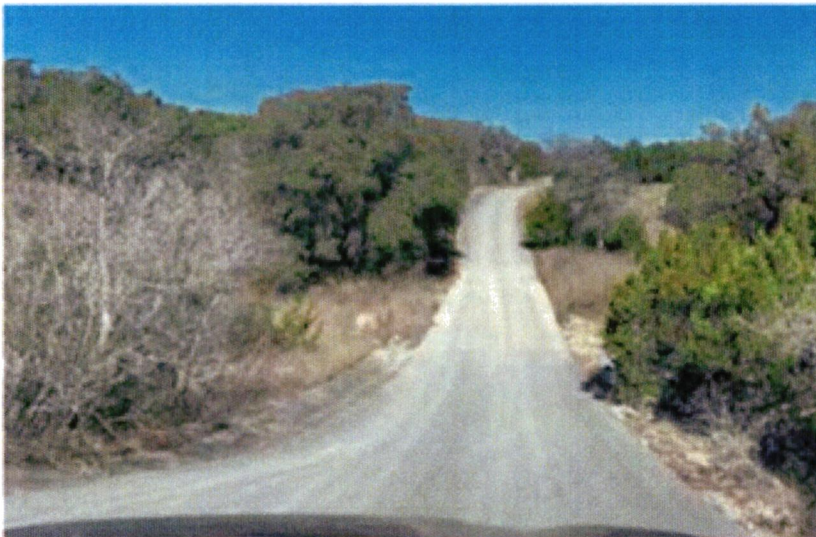
A Huntress lane low water crossing with flooding (9/2018)



A Huntress Lane low water crossing with flooding (Fall 2018)



Low water crossing at the intersection Segments 15, 22, & 26 on 3/1998. First photo is the waterfall on one side of the low water crossing. Second photo is looking down the road toward the low water crossing where the flooding occurs. The waterfall would be occurring toward the right side of that low water crossing.



Huntress Lane low water crossing flooding on 7/2/2002.



Flooding on Huntress Lane low water crossing at Segment 15 on 11/2004



Flooding Over the Altair Road



Flooding Over the Altair Road



CPS Energy says that it is experienced at safely constructing and operating transmission lines in proximity to rivers and streams, ponds, lakes, water features, and associated dams, and all will be avoided or crossed safely.¹²¹ CPSE Energy further says that there are roads throughout CPS Energy's service territory that flood from time to time, but its maintenance crews are familiar with such conditions and can reasonably address any concerns such flooding might cause to the reasonable access of the facilities.¹²² It is also not surprising that there are low water areas in the study area and on several routes, since (as nearly every intervenor has said) the area is "hilly." So without agreeing with CPS Energy, SHLAA would say that what goes for other intervenor concerns about low water crossings goes for the SHLAA low water crossings in their areas, and if CPS Energy is able to deal with them everywhere they occur, then other intervenors cannot rely on those concerns to any greater degree than can the SHLAA members.

As for the school, and the concern expressed about EMF exposures to children, that has been addressed by SHLAA repeatedly, but a short recap here is: (1) Segment 42a is not on school property, does not run along the schools front entrance, is 550 feet away from the school building, and nearly three times the EMF exposure distance in the CPS Energy EMF study from the back edge of the back sports field; and (2) NISD has built multiple new school facilities close to existing high-voltage transmission lines, so NISD's professed concern about EMF rings hollow.

Mr. Siegel also complains about the change in preliminary routes to as-filed routes regarding what was once known as Segment 12, due to issues with the military over consent to use of such a segment. That issue was explored in the route adequacy hearing, and no interim order appeal was taken from the order finding route adequacy. So it is too late now to complain about that no-longer-available segment.

Mr. Siegel further complains about the Toutant Ranch et al. ROW consents and donations regarding its own land. That has also been addressed in two different SOAH ALJ orders, and the PUC Commissioners did not overturn those. So it is too late now to complaint about that matter, as well as the fact that it is indeed something the Commission favors in CNN cases.

D. Craig (Serene Hills Resident)

Paul Craig is a resident of the Serene Hills subdivision, which is the subdivision to the north of the Scenic Hills subdivision. He is located in the northeast portion of the Serene Hills subdivision,

¹²¹ CPS Energy Ex. 14 at p. 5 (Lyssy Reb.).

¹²² CPS Energy Ex. 14 a p. 14 (Lyssy Reb.).

and the nearest potential segment is Segment 13.¹²³

He is not anywhere near any of the routes included in the Focus Routes Map, since Segment 13 is not one of the segments in any of those routes.¹²⁴ Segment 17 does run along the west side of the Serene Hills subdivision, but he is on the east rather than west side of the subdivision, and will not be along Segment 17. Segment 17 is also not a segment included in the Focus Routes Map.¹²⁵

While he says he opposes use of Segments 13, 14, 54, and/or 17, and use of Substation Sites 1 and 7, the only credibility to be given to his position should be with regard to Segments 13 and 17 and to Substation Site 1 – none of which are on the Focus Routes Map. Mr. Craig is located so far away from Segment 54 and Substation Site 7 that his opposition to that segment and site is negated by the more immediate impacts on the members of SHLAA. SHLAA members have property abutting or near Substation Site 7 (yet still support its use), have views of Toutant Beauregard Road (and thus would see the transmission line if Route line Z2 was used, yet still support its use), and drive along Toutant Beauregard when using that major thoroughfare (just like those in the Serene Hills subdivision who drive it, and yet the SHLAA members support Toutant Beauregard use).

E. Herrera (Scenic Hills Resident)

Mr. Herrera is the only Scenic Hills subdivision resident whose property is located next to Toutant Beauregard Road that intervened in this case.¹²⁶ His property is on the *other side of the road* from where the transmission line would be located.¹²⁷

While he says that the “Scenic Loop-Boerne Stage-Toutant Beauregard Road Corridor” is a Texas treasure to “be protected,” the facts are that the Corridor: (1) has no legally protected status preventing any kind of development along it; (2) has all kinds of development along it, including construction activities, electric distribution lines, a tall cell tower, etc.; (3) has as its most historic part Scenic Loop Road since it is the only one with any intact portions of its original road; (4) Substation Site 6 is on Scenic Loop Road; and (5) Substation Site 6 is more publicly visible compared to Substation Site 7 because Substation Site 6 shares a longer border along Scenic Loop Road and has less vegetation to shield the substation facilities.¹²⁸

¹²³ CPS Energy Ex. 15 at Exh. LBM-2R entitled “Amended Fig. 4-1R” (Meaux Reb.).

¹²⁴ CPS Energy Ex. 16 (Focus Routes Map).

¹²⁵ CPS Energy Ex. 16 (Focus Routes Map).

¹²⁶ CPS Energy Ex. 18, Inset No. 2 (intervenor map showing Segment 54).

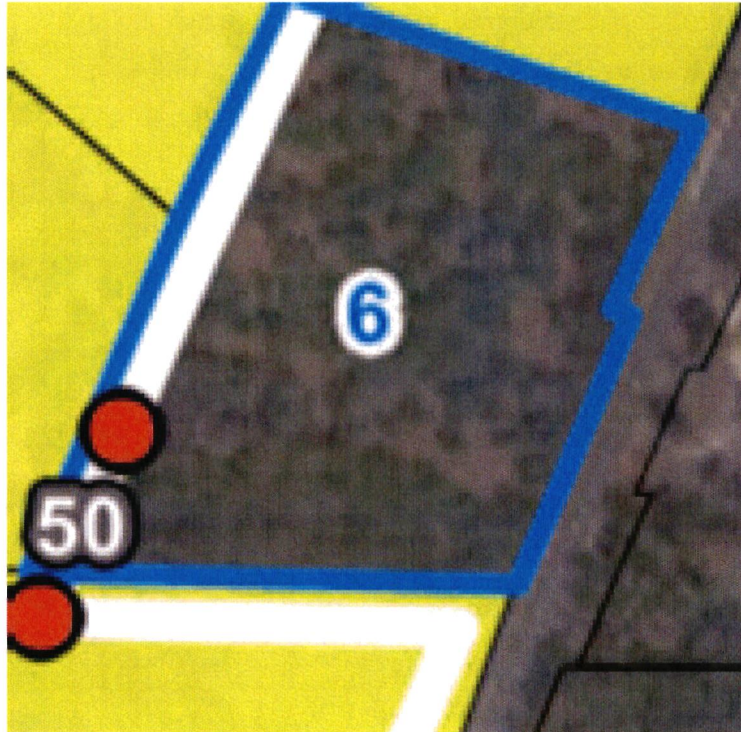
¹²⁷ CPS Energy Ex. 18, Inset No. 2 (intervenor map showing Segment 54).

¹²⁸ SHLAA Ex. 1 at pp. 12-13 (Landowner Dir.); SHLAA Ex. 2 at pp. 14-15 (Hughes Dir.); SHLAA Ex. 3 at pp. 13-17, 31-32, & 34 (Landowner Cross-Reb.); SHLAA Ex. 4 at pp. 10-12 (Hughes Cross-Reb.); Tr. at p. 744.

This difference in vegetation and public visibility is not only evident from the CPS Energy maps which show how much distance along Substation Site 6 and 7 abut public roads, they are also shown by the photograph of Substation Site 6 from the public road and by the aerial photograph showing the preliminary substation layout for Substation Site 7:¹²⁹



¹²⁹ CPS Ex. 14 at Exh. SDL-1R (Lyssy Reb.); CPS Energy Ex. 18 at Inset 2 (intervenor map); Bexar Ranch Ex. 7 at p. 24 (Exh. MB-17).



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



Mr. Herrera also asserts his enjoyment of the flora and fauna in the area. This concern is shared by and thus something which goes the same for those in the SHLAA area, as set forth in the SHLAA testimony.¹³⁰

Finally, he implies a concern about EMF, but the facts are that his house is on the other side of the road from where the transmission line would be located, and almost three times the distance that the CPS Energy EMF study indicates is the EMF exposure distance.¹³¹ Despite his protestations about health risks, he proposes to have the transmission line be routed close to other residents in the

¹³⁰ SHLAA Ex. 1 at pp. 3-4, 9-10, 19-20 (Landowner Dir.).

¹³¹ CPS Energy Ex. 1, Attachment 6, Sheet 8 (showing Segment 54 and Mr. Herrera's habitable structure # 90); CPS Energy Ex. 18, Inset No. 2 (intervenor map regarding Segment 54); SHLAA Ex. 8 at Table 4-31 (CPS Response to SHLAA's 1st RFI); Tr. at pp. 822-24.

CPS Energy study area, including 3 homes within 100 feet of Route W and one home within 100 feet on the other southern routes in the Focus Routes Map – while his home would be well beyond 100 feet from the transmission line if placed along Toutant Beauregard Road.

F. Figueroa (Resident near High Country Ranch)

Mr. Figueroa is located on Segment 46b, which is part of Routes Z1 and Z2 on the Focus Route Maps. His brief cites to no specific record evidence, and just makes arguments, so it is hard to know which assertions are based on evidence and which ones are not.

Nevertheless, based on the Focus Route Map, it appears that CPS Energy could have had the segment simply follow the property line on the north side of his property, rather than taking a jog to come along the south side of his property. Presumably CPS Energy’s placement of Segment 46b was so that the segment would be located further away from his habitable structure.

His structure is also more than 100 feet from Segment 46b (specifically 162 feet).¹³² That is more than the approximately 100 foot EMF exposure distance in the CPS Energy EMF study for a 138 kV transmission line.

Mr. Figueroa describes Segment 46b as surrounding his home “on three sides.” That is a bit of an overstatement: it parallels the west side of his property line (and would be on the adjoining property, not his), it then parallels the south side of his property (and again would be on the adjoining property, not his), and it then veers off to the east away from his property rather than paralleling the east side of his property line.¹³³

Instead of Routes Z1 and Z2, if to avoid being near Mr. Figueroa’s property, Routes AA1 or AA2 could be used, to still utilize the donated and consented ROW of Toutant Ranch et al., parallel and thereby use the public ROW on Toutant Beauregard Road, minimize habitat and private property fragmentation, and hold the transmission line costs down at about \$38 to \$39 million.

VII. The Late-Filed Briefs Should Not Be Considered

The late filed briefs should not be considered by the ALJs or by the Commission, since they are filed days past the deadline. All intervenors who filed briefs including the pro se ones participated in the hearing, heard the judges announce a reminder of the briefing deadline on the record in the hearing, and had the order setting the briefing schedule to which they were subject. In addition, the late filed pro se briefs all essentially repeat arguments already addressed with

¹³² SHLAA Ex. 8 at Table 4-31 in Attachment SHLAA 1-1 (CPS Energy Response to SHLAA’s 1st RFI); Figueroa Initial Br. at p. 1. His brief agrees with that distance, though he expresses it as 54 yards as opposed to 162 feet.

¹³³ CPS Energy Ex. 15 at Exh. LBM-2R entitled “Amended Fig. 4-1R” (Meaux Reb).

regard to other parties' briefs in this case that were timely filed, and, except for attempting to inject extra record information, do not add anything new.

As to the attempt to inject extra record information through briefs, that is obviously a violation of the rules of evidence and the rules of due process in terms of what the Judges and the Commission can consider. It is assumed that the Judges will not consider any such extra-record information and will not make a recommendation that is in any way based upon or influenced by such extra record information.

VIII. Conclusion on Reply: Route Z2 is Still the Best of the Best

Route Z2 remains the best of the best route selections in this case, for all the reasons given above, but especially in light of the following beneficial factors:

Bisecting - None, except by consent.

Homes – Only 1 under CPS Energy's 100 foot EMF distance, the same or better than others.

Cost – The least expensive, by \$5 million or more compared to more "southern" routes.

Length – The shortest.

Cost Certainty #1 – About 40% is locked in by ROW consent/donations.

Cost Certainty #2 – The consent/donations eliminate condemnation proceeding costs thereon.

Community Values #1 – Public meeting feedback had most opposition to the SHLAA area.

Community Values #2 –SHLAA neighborhoods united to all oppose all Substation 6 routes.

IX. Prayer

Accordingly, it is respectfully requested that the Proposal for Decision recommend the selection of Route Z2, or alternatively Route Z1, Route AA1, or Route AA2.

Respectfully submitted,

By: /s/ Thomas K. Anson

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ATTORNEY FOR SAVE HUNTRESS LANE AREA
ASSOCIATION

CERTIFICATE OF SERVICE

Certificate of Service: I certify service under SOAH Order No. 3 this May 28, 2021.

/s/ Thomas K. Anson
Thomas K. Anson