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**Control Number - 51023**

**ItemNumber - 881**

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2  
3 THE TEXAS STATE OFFICE OF ADMINISTRATIVE HEARINGS  
4

5 In re Application of the City of San Antonio,  
6 Acting By and Through the City Public Service  
7 Board (CPS Energy) To Amend its Certificate  
8 of Convenience and Necessity for the Proposed  
9 Scenic Loop 138-kV Transmission Line Project  
10 in Bexar County, Texas

Docket Number: 51023

SOAH Docket No. 473-21-0247

EXCEPTIONS TO THE PROPOSAL FOR  
DECISION

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12  
13  
14 I, Patrick Cleveland, do respectfully file this Exception to the Proposal for Decision in the  
15 above captioned case. I recognize that this case is very complex and I appreciate the difficult  
16 task and the professionalism the Administrative Law Judges (ALJ's) had in sifting through the  
17 enormous amount of evidence. Although I am thankful that the ALJ's did not choose a route that  
18 goes through the middle of High Country Ranch, the chosen route that goes through the northern  
19 part of High Country Ranch is still not the best route.  
20  
21  
22

23  
24 These exceptions follow the headers in the Proposal for Decision. The italicized  
25 paragraphs are the findings from the Proposal for Decision.  
26

27  
28 **I. Jurisdiction, Notice and Procedural History**

*On December 10, 2020, the SOAH ALJs convened a route adequacy hearing. On December 11, 2020, the SOAH ALJs issued an order finding that CPS Energy had provided in the Application an adequate number of reasonably differentiated routes in order for the SOAH ALJs and the Commission to conduct a proper evaluation.*

Exception 1.

I take exception to this finding and continue to object to route adequacy based on testimony in the route adequacy hearing and evidence already in the record.<sup>1</sup>

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<sup>1</sup> See Patrick Cleveland's Statement of Route Adequacy (Doc ID 390); Patrick Cleveland's Reply to CPS Energy's Response to Statement of Route Adequacy (Doc ID 402) and Patrick Cleveland's Amended Reply to CPS Energy's Response to Statements of Route Adequacy (Doc ID 416).

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4 **II. Applicable Law and Focus Routes**

5  
6 **A. Preliminary Order Issue No. 1: Is CPS Energy’s Application to amend its CNN**  
7 **adequate?**

8  
9 *PUC Order No. 5 deemed CPS Energy's Application sufficient and materially*  
10 *complete. No party challenged the sufficiency of CPS Energy's Application. After*  
11 *conducting a route adequacy hearing and considering the evidence and arguments*  
12 *presented, the ALJs conclude that the Application is sufficient and contains an adequate*  
13 *number of reasonably differentiated alternative routes for the Commission to conduct a*  
14 *proper evaluation.*

15  
16 Exception 2.

17 I take exception to the ruling and continue to object to the adequacy of the routes.<sup>2</sup>

18  
19  
20 **IV. ROUTES/PRELIMINARY ORDER ISSUE NO. 497**

21  
22 **Preliminary Order Issue No. 4: Which proposed transmission line route is the best alternative**  
23 **weighing the factors set forth in PURA § 37.056(c) and 16 Tex. Admin. Code (TAC) §**  
24 **25.101(b)(3B)?**

25  
26 *The ALJs find that Route Z2 best balances the factors in PURA§37.056 and 16 TAC §*  
27 *25.101(b)(3)(B) for the reasons explained below. Specifically, Route Z2: runs along the*  
28 *boundaries of neighborhoods rather than cutting through established neighborhoods;*  
*does not bisect private property except with landowner agreement; uses Substation 7,*  
*which has potential to be shielded from view because it is on a larger, heavily-vegetated*  
*lot; reduces the visual disturbance to the study area by using an existing transportation*  
*and utility corridor; has limited impact on the nearby school; meets the Commission's*  
*standards for prudent avoidance; does not cross within 1,000 feet of any parks and*  
*recreational areas; satisfies the TPWD recommendations with the inclusion of Staff's*  
*proposed ordering paragraphs; reduces the impact to modeled Golden- Cheeked Warbler*  
*(GCW) habitat and upland woodlands/brushlands, and protects environmental integrity; has*  
*moderate impact to historic and cultural values; has no unmanageable engineering*  
*constraints; parallels existing ROW and property lines for 71% of its length; takes advantage of*  
*ROW consent and donations by landowners; is the least expensive of all proposed routes; and*  
*is the shortest of all proposed routes.*

Exception 3.

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<sup>2</sup> *Id.*

1 I take exception to this finding based on the following reasons:  
2

3 a. Route Z2 runs through and/or bisects numerous private residential properties that are either  
4 developed, currently under development, or developable, including B006, B029, B017, B037,  
5 B010, C011, C016, C013, C014, C029, C026, C027, C040, C039, A087, A080 and A079.<sup>3</sup> In  
6 addition, Route Z2 runs through the front yards of the following residential properties located in  
7 the Scenic/Serene Hills Subdivision: A047, A048, A067, A071, A044 and A057.<sup>4</sup>  
8

9  
10  
11 b. The ALJ's placed too much weight on whether a "neighborhood" was bisected or not. The  
12 boundaries of a neighborhood are defined by legal description and are irrelevant to an analysis of  
13 how individual properties are affected. For example, if Property A is a part of Clearwater Ranch  
14 and Property B is part of Huntress Lane, but they are adjacent to each other, the fact that they are  
15 located in different neighborhoods is irrelevant to the effect of a transmission line on these  
16 properties. It has no effect on the visibility of the transmission line nor the 48 different  
17 environmental criteria in the environmental assessment. In addition, there is no reference to  
18 whether a neighborhood is bisected or not in the CNN Application or the Commission's routing  
19 criteria in 16 Tex. Admin. Code § 25.101(b). For these reasons, the number of properties  
20 affected should be the focus, not whether a "neighborhood" is bisected.  
21

22 c. It is not accurate to state that Route Z2 has limited impact on the nearby school without  
23 including any comparison to other routes. Route Z2 runs within 280 feet of the playground of  
24 the only school in the entire study area.<sup>5</sup> Route Z2 increases the impact to the Elementary  
25 School and future middle school as compared with 18 other routes that do not run near it.<sup>6</sup> These  
26 routes are A, E, F1, H, K, L, N1, O, P, Q1, R1, S, U1, V, W, X1, BB and CC.  
27  
28

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<sup>3</sup> See CPS Energy Application Attachment 6 (Amended), Sheet 2 (Amended), Sheet 3 (Amended), and Sheet 7 (Amended).

<sup>4</sup> *Id.* Sheet 8.

<sup>5</sup> See CPS Energy's Response to Patrick Cleveland's First Request for Information, Doc ID No. 432.

<sup>6</sup> See Northside ISD Exh. 1 at 8-9 where Mr. Villarreal states that Segment 42a "is not more than 300 feet from the playgrounds and outdoor recreation areas for the school" and it's "closer to the water treatment plant and the school's drain field . . . ." In addition, he stated, "[t]he proximity of 42a is concerning to both the elementary school and middle school properties."

1 d. Route Z2 does not meet the Commission's standards of prudent avoidance as it affects 37  
2 habitable structures, while Routes P and R1 affect 17 and 13 respectively. In addition, Routes P  
3 and R1 are in the top ten most favorable routes with respect to how many properties the route  
4 affects based on the analysis in Patrick Cleveland's Direct Testimony.<sup>7</sup>  
5  
6

7  
8 e. Route Z2 is located on High Country Ranch, which is a recreational area.<sup>8</sup>  
9

10 **IV. ROUTES/PRELIMINARY ORDER ISSUE NO. 497**

11  
12 **B. Community Values**

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14  
15 **1. Maximizing Distances from Residences: Habitable Structures**

16  
17 **c. ALJ's Analysis**  
18  
19

20 *As a preliminary matter, the ALJs do not find persuasive the arguments of*  
21 *Anaqua Springs and Jauer (joined by some other intervenors) that SHLAA's positions*  
22 *deserve less weight because the group is formed of "geographically disparate"*  
23 *interests. The three neighborhoods are contiguous. The Huntress Lane area abuts the*  
24 *Canyons neighborhood, which in turn abuts the Altair subdivision. No party objected to*  
25 *the intervention of this group or its participation in the proceeding prior to closing*  
26 *arguments.*  
27

28 Exception 4.

I take exception to this finding. Although there is no legal basis or objection to prevent groups from joining together, it's simply common sense that if one of the groups is impacted far less than others, then the groups don't have the same interest. Despite the alleged common interests, the Altair, Huntress Lane and Canyons developments have separate and distinct interests, just like most developments in the study area. One only needs to glance at CPS Energy's constraints map and scale to see that the members of Altair are over a mile away from Segments 26a and 15 (segments that are part of Routes P, Q1, U1 and R1). Surely, a route over a mile away from an individual will have less impact than a route through the individual's

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<sup>7</sup> PC Exhibit 28, Direct Testimony of Patrick Cleveland

<sup>8</sup> PC Exhibit 28, Direct Testimony of Patrick Cleveland at 1-5

1 property. Again, this is just good old fashioned common sense that should have been considered  
2 and given appropriate weight.  
3

4  
5 *The northern routes follow neighborhood boundaries and run between*  
6 *established subdivisions, avoiding incursions into neighborhoods and across large*  
7 *sections of individual properties.*  
8

9 Exception 5.

10  
11 I take exception to this finding based on the argument in Exceptions 3a and 3b.  
12  
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14

## 15 **2. Minimizing Visibility of the Line and Structures**

16  
17 *Responding to various intervenor arguments, CPS Energy maintains that all*  
18 *routes are viable. Regarding the "parkland" areas claimed by Anaqua Springs and High*  
19 *Country Ranch, CPS Energy noted that identification of such an area can be subjective,*  
20 *and its witnesses hold a "different subjective belief as to the appropriate requirements*  
21 *for designation as a park and recreational area." Specifically, per CPS Energy witness*  
22 *Ms. Meaux, the EA "does not include private recreational areas in its routing analysis."*  
23 *Thus, the 300-acre common recreational area of High Country Ranch-which is available*  
24 *only to the owners of the 15 lots in the community- is not considered a recreational area.*  
25

26 Exception 6.

27  
28 I take exception to this finding based on the arguments in Exceptions 9 and 10.

*Although many intervenors expressed their appreciation for a "country" or rural*  
*feel in their neighborhoods, the ALJs note that the largest remaining rural properties in*  
*the study area are Bexar Ranch and Guajalote Ranch, followed by the undeveloped*  
*portions of the large-acre lots in Clearwater Ranch and along Huntress Lane.*

Exception 7.

I take exception to this finding because it is not accurate. Clearwater Ranch and Huntress Lane are developments that may have larger lots than surrounding developments, but it is still developed land with residences upon it. Interestingly, many of the Clearwater Ranch residents

1 have admitted that their properties are “fully developed residential property.”<sup>9</sup> In addition,  
2 SHLAA’s testimony stated that “the SHLAA area is largely one of residential development . . .  
3  
4 .”<sup>10</sup>

5 A fully developed residential development should not be considered rural. On the other  
6 hand, High Country Ranch has 300+ acres of purely rural property with no residential homes or  
7 streets upon it.<sup>11</sup> Based on the CPS Energy Constraints Map, this is at least 10 times larger than  
8 any of the lots in Clearwater Ranch or the Huntress Lane area. Thus, the largest remaining rural  
9 properties in the study area are Bexar Ranch, Gaujalote Ranch, High Country Ranch and the  
10 Barrera family properties.  
11

### 12 **3. Proximity to Schools**

13 *The ALJs find Route Z2, which uses Segment 42a, minimizes the impact to the school*  
14 *with respect to community values.*

15 Exception 8.

16 I take exception to this finding based on the argument in Exception 3c.

### 17 **D. Recreational and Park Areas**

18 *In the EA, CPS Energy did not identify any parks and recreational areas crossed by or*  
19 *within 1,000 feet of any alternative route. CPS Energy's witness Ms. Meaux explained that,*  
20 *although some private properties where "recreational activities occur on a regular basis"*  
21 *were identified, POWER did not consider them to meet the requirements of the CCN*  
22 *application. This is because "it would be virtually impossible to build a transmission line of any*  
23 *length in Texas without crossing private property that is used for some type of private*  
24 *recreation."*

25 Exception 9.

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<sup>9</sup> See Direct Testimony of Keck (Clearwater Exh. 13), Van Wisse (Clearwater Exh. 20), Stevens (Clearwater Exh. 21), Ohrmundt (Clearwater Exh. 16), Harris (Clearwater Exh. 11), and Salvatore (Clearwater Exh. 18), to name a few.

<sup>10</sup> See SHLAA Exh. 1 (Direct Testimony of Cynthia Grimes, David Clark, and Jerry Rumpf), at 3.

<sup>11</sup> PC Exhibit 28, para. 17.

1 I take exception to this finding because the testimony of Ms. Meaux is misleading and no  
2 weight should have been given to it. The application question has nothing to do with private  
3 recreation on private property, rather, it requires CPS Energy to identify recreational areas based  
4 on two clear elements: The property must be owned by an organized group and it must be used  
5 for recreational purposes. It's excusable if a recreational area was missed in the initial  
6 application because it wasn't labeled on a map, but when evidence is later submitted that clearly  
7 shows a property to be a recreational area (as has been done in this case), to continue to ignore it  
8 goes against the law and the appropriate weight a recreational area should carry.  
9

10 It seems an elephant is present in the room but CPS Energy refuses to acknowledge it. This  
11 begs the question whether or not it is the type of recreation that's the real issue, especially since  
12 the person who was tasked with identifying recreational areas for CPS Energy has no experience  
13 in hunting, whatsoever.<sup>12</sup>  
14

15 What if a segment was proposed through a 500 member private golf course? No reasonable  
16 person would doubt that this would be considered a recreational area. Just like a golf course,  
17 High Country Ranch's membership is capped at a certain number.<sup>13</sup> And just like a golf course,  
18 when a member leaves, a new member can join.<sup>14</sup> The only difference is the type of recreation  
19 enjoyed on it. Granted, our members don't chase little balls around a manicured fairway in  
20 brightly colored clothing, but we do enjoy it's natural beauty through a variety of other outdoor  
21 recreational activities.  
22  
23  
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*The ALJs do not find fault with the decision to exclude private property from the definition of park and recreational area in this case.*

Exception 10.

I take exception to this finding. Question 26 on CPS Energy's CCN Application states, "*For each route, list all parks and recreational areas owned by a governmental body or an organized group, club, or church and located within 1,000 feet of the center line of the route.*"

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<sup>12</sup> See CPS Energy's Response to Patrick Cleveland's Third Request for Information and the Transcript of the Hearing on the Merits, Doc ID No. 754.

<sup>13</sup> PC Exhibit 28, para. 17.

<sup>14</sup> *Id.* at para. 18.



1 Note that the question states “all” parks and recreation areas, not just parks and recreation areas  
2 open to the public.  
3

4 Even if the ALJ’s don’t find fault with CPS Energy’s tactics, the Public Utility  
5 Commission should. The decision to allow an individual energy company to decide whether to  
6 include public or private recreational areas is a slippery slope that sets a dangerous precedence.  
7 Every utility company should be required to answer the question on the application the way it  
8 is—not the way it desires.  
9

10 The Public Utility Commission record is replete with cases in which privately owned HOA  
11 property was recognized as a park and recreation area. Some examples are as follows:  
12

- 13 - No. 40684; the Forest Ridge Park owned by Forest Ridge HOA Park and the Riata  
14 Terrace HOA Park owned by the Riata Terrace HOA Park
- 15 - No. 44547; Ranch Country Association Park 1 and Ranch Country Association Park 2
- 16 - No. 46249; Unnamed park owned by Village Park #1 HOA and Avondale Park owned by  
17 Avondale Owners Association
- 18 - No. 37956; Sandspur Lake, which was described as a private fishing lake with four  
19 cabins.
- 20 - No. 38140; Property Association with a group owned shooting club
- 21 - No. 38597; Lake Kiowa Country Club owned by Lake Kiowa POA and described as a  
22 gated residential community
- 23 - No. 39572; Owens Corning Activity Center, described as providing indoor recreation  
24 facilities to Owens Corning employees
- 25 - No. 42807; Avondale HOA and Sendera Ranch HOA
- 26 - No. 44060; Kings Garden Amenity Center owned by Kings Garden HOA; Stonewater  
27 Crossing Amenity Center owned by Frisco Stonewater Crossing HOA; Waterford Falls  
28 Amenity Center owned by Waterford Falls HOA; Westfalls Village Amenity Center  
owned by Westfalls Village HOA; Pearson Farms Amenity Center owned by Person  
Farms Community Association
- No. 45170; Providence Commons owned by Providence HOA, Inc. and Providence  
Recreation Club owned by Providence HOA, Inc.

1 No reasonable persons would create an HOA owned recreational area and have it open to the  
2 general public. In addition, some of the examples listed above are clearly not open to the public,  
3 just by their descriptions.  
4

5 Incredibly, even CPS Energy’s witness, Ms. Lisa Meaux has previously identified property  
6 owned by HOA’s as recreational. In No. 45866 she identified at least 24 HOA owned properties.  
7

8 Not only is the decision to exclude HOA owned property that is not open to the public  
9 inconsistent with previous Public Utility Commission cases, it is also contrary to PURA § 37.056  
10 and the Commission’s intent, as there is no mention of an “open to the public” requirement in  
11 either the law or the application question. With the inclusion of the words “church” and “club”  
12 as entities considered, it is clear this question was never intended to exclude group owned  
13 property which is not open to the public. **Furthermore, CPS Energy cites to no law  
14 whatsoever that authorizes it to fabricate criteria above and beyond the criteria in the  
15 application question.**  
16  
17  
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19

20 Allowing a utility company to decide whether to include private or public recreational areas  
21 creates situations where in one case a private recreational area may be protected, but in another it  
22 is not. This is a violation of Article 1, §§ 3, 19 of the Texas Constitution and the 5<sup>th</sup> and/or 14<sup>th</sup>  
23 Amendments of the U.S. Constitution regarding due process and equal rights.  
24

25 Because there is no reasonable interpretation of the application question that would allow  
26 CPS Energy to exclude recreational areas not open to the public, I take exception and  
27 respectfully request that High Country Ranch be recognized for what it clearly is—a recreational  
28 area. Thus, more weight should have been given with respect to avoiding transmission lines  
upon it.

## **F. Environmental Integrity**

*The ALJs find that, in an area that is becoming increasingly populated, it is important to preserve remaining intact areas of wildlife habitat in general, and high-quality GCW modeled habitat of the endangered GCW in particular.*

Exception 11.

I take exception to this finding because although high-quality GCW modeled habitat of the endangered GCW should be an important environmental factor, it should not outweigh all the

1 other environmental factors. Route P (tied with Route BB) is ranked in the top ten most  
2 favorable routes with respect to nine separate environmental categories<sup>15</sup>—**more than any other**  
3 **routes in the study area.**  
4

5  
6 **J. Costs**  
7

8  
9 **1. Accuracy of Cost Estimates for Procuring ROW**  
10

11 *Finally, Mr. Cichowski argues that Segment 46 should not have been*  
12 *characterized as undeveloped land because it had been platted as part of the planned*  
13 *Pecan Springs housing development. Again, however, it is unclear to the ALJs to what*  
14 *extent the land has been developed apart from a plat being filed. The ALJs are not*  
15 *convinced the fact that property has been platted for home sites means that it should be*  
16 *considered "developed" land.*  
17

18 Exception 12.  
19

20 I take exception to this finding because the Pecan Springs housing development is clearly  
21 developed land that should have reflected a higher cost than undeveloped land. In this  
22 proceeding, Taylor Dreiss affirmed that, “Toutant Ranch, Ltd., Pinson Interests Ltd. LLP, and  
23 Crighton Development Co. (collectively ‘Developers’) are in the business of developing large  
24 tracts of unimproved ranchland into residential communities in the northwestern end of the study  
25 area . . . .”<sup>16</sup> In addition, it was affirmed that “[b]efore CPS Energy announced this transmission  
26 project, Developers had already invested significant capital to design, plan, and lay infrastructure  
27 for three new developments- Pecan Springs Ranches Unit 3 and Pecan Springs Units 1 and 2.”<sup>17</sup>  
28 Finally, it was also affirmed that “[a]s a result, Developers are holding many millions of dollars  
of un-sellable inventory, which is stressing Developers' finances and impacting their ability to  
continue building out their planned subdivisions.”<sup>18</sup> Based on these affirmations, it is clear that  
Route Z2 going through Pecan Springs should’ve been characterized as developed land.

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<sup>15</sup> See Initial Brief of Patrick Cleveland at 8. 15 significant environmental categories were counted (insignificant environmental criteria that ranged from 0-2 were not counted).

<sup>16</sup> See Toutant Ranch, Ltd., Pinson Interests Ltd. LLP, and Crighton Development Co.'s Statement on Route Adequacy and Request for Approval of Proposed Agreed Amendments to CPS Energy's Application; Affidavit of Taylor Dreiss.

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

1 **VII. PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDERING**  
2 **PARAGRAPHS**

3  
4 **A. Findings of Fact**

5  
6 *46. The Amended Application provides an adequate number of reasonably*  
7 *differentiated routes to conduct a proper evaluation.*  
8

9 Exception 13.

10 I take exception to this finding based on the argument in Exception 1.  
11  
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14  
15 *106. Routes P and R1 bisect the interior of the SHLAA and Clearwater Ranch*  
16 *neighborhoods and cross through individual properties.*  
17

18 Exception 14.

19 I take exception to this finding because Route R1 doesn't really bisect the Huntress Lane  
20 neighborhood, or any neighborhood for that matter. According to the Merriam-Webster  
21 dictionary, bisect means "to divide into two equal parts." Looking at the intervenor map, one  
22 can see that the route is located in the southern portion of both the Clearwater Ranch  
23 neighborhood and the Huntress Lane neighborhood for most of its length.  
24  
25

26 More importantly, Route P bisects only two properties, F021 owned by Southerland  
27 Properties, LLC<sup>19</sup> and K014, owned by Francis W. and Mariana Van Wisse.<sup>20</sup> Route R1 bisects  
28 only three properties. The first is No. F021, owned by Southerland Properties, LLC<sup>21</sup>. The  
second is F107, owned by Sven and Sophia Keustermann.<sup>22</sup> The third is F135, owned by Randy  
Davila Revocable Trust.<sup>23</sup> (Note, however, that at the eastern end of Huntress Lane, Segment 15  
does dip off the northern property line of F067 and F068, which are owned by the Jerome M. and  
Tammy L. Cohen Living Trust, but this is to avoid a cemetery.)<sup>24</sup>

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<sup>19</sup> See CPS Energy Application Attachment 6 (Amended) Sheet 11 (Amended).

<sup>20</sup> See CPS Energy Application Attachment 6 (Amended) Sheet 7 (Amended).

<sup>21</sup> See CPS Energy Application Attachment 6 (Amended) Sheet 11 (Amended).

<sup>22</sup> *Id.*

<sup>23</sup> See CPS Energy Application Attachment 6 (Amended) Sheet 12.

<sup>24</sup> See CPS Energy Application Attachment 6 (Amended) Sheet 13.

1 *107. Routes P, R1, and W cut across and bisect large portions of the Bexar Ranch, one of the*  
2 *largest intact properties in the study area. Route W also crosses and bisects the Guajalote*  
3 *Ranch, another large and undeveloped tract.*

4  
5 Exception 15.

6 I take exception to this finding because Routes P and R1 do not bisect Bexar Ranch,  
7 rather they utilize segment 43, which is on the northern portion of the property in relation to the  
8 rest of Bexar Ranch and follows the northern property line for much of its length.<sup>25</sup> Route W does  
9 not bisect Guajalote Ranch, rather, this route utilizes segments that follow the northern property  
10 line, and only in the northeast corner does it dip down away from the property lines.<sup>26</sup>  
11  
12  
13  
14

15  
16 *108. Route Z2 addresses community values because it follows neighborhood*  
17 *boundaries and runs between established subdivisions; does not bisect neighborhoods*  
18 *or cross individual properties in those neighborhoods; and does not impact the largest*  
19 *undisturbed tracts of land in the study area.*

20  
21 Exception 16.

22 I take exception to this finding based on the arguments in Exceptions 3a, 3b, and 7. The  
23 “neighborhood” criterion is not an appropriate criterion. Route Z2 bisects and/or crosses  
24 numerous properties. Route Z2 also impacts one of the largest undisturbed tracts of land in the  
25 study area (High Country Ranch).  
26  
27  
28

*121. Route Z2 reduces the impact to the Elementary School and future middle school.*

Exception 17.

I take exception to this finding based on the argument in Exception 3c

*123. Route Z2 addresses community values because it follows neighborhood*  
*boundaries and runs in between established subdivisions; does not bisect*  
*neighborhoods or cross individual properties in those neighborhoods; does not impact*  
*the largest undisturbed tracts of land in the study area; uses an existing transportation*  
*and utility corridor that has already fragmented the visual landscape; utilizes a*  

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<sup>25</sup> See CPS Energy Application Attachment 6 (Amended) Sheet 10.

<sup>26</sup> See CPS Energy Application Attachment 6 (Amended) Sheets 11 and 12.

1 *substation that has heavy vegetation and provides the potential to screen the substation*  
2 *from view; and reduces the impact to the Elementary School and future middle school.*

3  
4 Exception 18.

5 I take exception to this finding based on the arguments in Exceptions 3a, 3b, 3c and 7.  
6  
7  
8

9  
10 *130. All the alternative routes presented in the Amended Application, as well as the*  
11 *additional routes presented in the course of this proceeding, conform to the*  
12 *Commission's policy of prudent avoidance.*

13  
14 Exception 19.

15 I take exception to this finding based on the arguments in Exception 1.  
16  
17  
18

19 *135. Neither the High Country Ranch preserve nor the Anaqua Springs parkland is a*  
20 *park and recreational area required to be considered by the Commission.*

21  
22 Exception 20.

23 I take exception to this finding based on the arguments in Exceptions 9 and 10.  
24  
25  
26

27 *136. Route Z2 has no parks or recreational areas within 1,000 feet of its centerline.*  
28

Exception 21.

I take exception to this finding based on the arguments in Exceptions 9 and 10.

*137. None of the alternative routes for the Project, including Route Z2, is expected to*  
*have a significant impact on the use or enjoyment of a park or recreational area.*

Exception 22.

I take exception to this finding as Route Z2 will go through High Country Ranch, a forty  
four year old recreational area that consists of rural and undisturbed preservation land.

IN CONCLUSION, I appreciate the difficult task the ALJ's encountered in this project  
and I understand they had to weigh many factors in reaching their decision. I am also thankful  
PATRICK CLEVELAND'S EXCEPTIONS TO THE PROPOSAL FOR DECISION- 13

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that the ALJ's wisely decided against a route through the middle of High Country Ranch.  
However, there are better routes than Route Z2 that more closely comply with all the  
environmental factors, and PURA § 37.056 and 16 Tex. Admin. Code § 25.101.

These Exceptions should not be construed to be a waiver of other issues, rather, I rely on  
the record (which includes an abundance of statistics that show that Routes P and R1 are the best  
routes) and reserve my right to appeal any and all issues preserved within it, including, but not  
limited to, route adequacy and evidentiary rulings.

Thank you for your consideration.

Respectfully submitted this 7<sup>th</sup> day of October 2021.

/Patrick Cleveland/

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Patrick Cleveland  
State Bar #24101630  
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CERTIFICATE OF SERVICE

I certify that notice of the filing of this document was provided to all parties of record via electronic mail on October 7, 2021, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/Patrick Cleveland/

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Patrick Cleveland

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