



## Filing Receipt

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

<b>APPLICATION OF THE CITY OF SAN ANTONIO, ACTING BY AND THROUGH THE CITY PUBLIC SERVICE BOARD (CPS ENERGY) TO AMEND ITS CERTIFICATE OF CONVENIENCE AND NECESSITY FOR THE PROPOSED SCENIC LOOP 138-KV TRANSMISSION LINE PROJECT IN BEXAR COUNTY, TEXAS</b>	<b>§ § § § § § § § §</b>	<b>BEFORE THE  PUBLIC UTILITY COMMISSION   OF TEXAS</b>
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**THE SAN ANTONIO ROSE PALACE, INC. AND STRAIT PROMOTIONS, INC., BRAD JAUER AND BVJ PROPERTIES, LLC, AND ANAQUA SPRINGS HOMEOWNERS ASSOCIATION'S JOINT EXCEPTIONS TO THE PROPOSAL FOR DECISION**

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TO THE HONORABLE COMMISSION:

Intervenors The San Antonio Rose Palace, Inc. and Strait Promotions, Inc., **Brad Jauer and BVJ Properties, LLC, and Anaqua Springs Homeowners Association** (collectively, “Filing Parties”) file these Exceptions to the Proposal for Decision (“PFD”) issued July 26, 2021, and respectfully show the following:

**I. SUMMARY OF EXCEPTIONS<sup>1</sup>**

The Filing Parties appreciate the challenges the ALJs faced in presiding and managing a multi-day hearing over Zoom with a large number of parties. But the Filing Parties strongly

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<sup>1</sup> These Exceptions focus only on the Administrative Law Judges’ (“ALJs”) recommendation of route and do not except to jurisdiction, notice, procedural history, applicable law, application, or additional issues. The Filing Parties also incorporate by reference herein as if set out in full their following post-hearing briefs: i) The San Antonio Rose Palace, Inc. and Strait Promotions, Inc.’s Initial Post-Hearing Brief (May 21, 2021); ii) The Initial Post-Hearing Brief of Brad Jauer and BVJ Properties, LLC (May 21, 2021); iii) Joint Reply Brief of Brad Jauer and BVJ Properties, LLC and The San Antonio Rose Palace, Inc. and Strait Promotions, Inc. (May 28, 2021); iv) Brad Jauer & BVJ Properties, LLC and The San Antonio Rose Palace, Inc. & Strait Promotions, Inc.’s Proposed Findings of Fact and Conclusions of Law (May 28, 2021); v) Anaqua Springs Homeowners’ Association Initial Post-Hearing Brief (May 21, 2021); and, vi) Anaqua Springs Homeowners’ Association Post-Hearing Reply Brief (May 28, 2021).

disagree with the PFD for the reasons outlined through testimony, briefing and these Exceptions. In weighing the evidence, it is absolutely critical that the ALJs, and ultimately the Public Utility Commission of Texas (“Commission”), weigh the facts that were actually proven by evidence admitted in the case. The PFD fails to weigh the correct, actually proven record evidence, and as a result, there are errors throughout the PFD,<sup>2</sup> including wholly incomplete, irreconcilable and unreliable cost data uniquely associated with the routes along Toutant Beauregard, including Route Z2 recommended in the PFD. The PFD also creates a new *ad hoc* legal standard to assess the “nature of the impact” on neighborhoods, which cannot withstand scrutiny -- especially to the extent it is used to override promulgated legal standards, such as impacts on habitable structures within 300-feet of a route’s centerline<sup>3</sup> and the Commission’s associated policy of prudent avoidance,<sup>4</sup> as in the present case.

The preponderance of the evidence in the administrative record supports a Scenic Loop Transmission line utilizing any routes served by Substation 6, and Commission Staff is correct that, after weighing all applicable factors, Route P is the superior route that best balances the factors in PURA § 37.056 and title 16 TAC § 25.101(b)(3)(B).<sup>5</sup> The Commission should reject Route Z2 and overturn the PFD.

## II. APPLICABLE LAW

The Commission may change the PFD’s proposed findings of fact or conclusions of law if the ALJs did not properly apply or interpret applicable law, Commission rules or policies or prior administrative decisions, findings are not supported by a preponderance of the evidence or the ALJs incorrectly relied on Commission policy or a prior administrative decision.<sup>6</sup> The PFD improperly weighed the evidence, relied on incompetent evidence (including the irreconcilable cost data for the Toutant Beauregard routes) and created a whole new legal standard not supported

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<sup>2</sup> There are a number of examples of error throughout this case that will not be recounted here. However, one glaring example is the PFD statement on page 75 that the Barreras own property crossed by Segment 36 and they are unopposed. In reality, Segment 36 does **not** cross the Barreras’ property at all, just Jauer and Anaqua Springs property as depicted on CPS Exhibits 15 and 18. On the contrary, the Barreras testified that they oppose the line being located at the node where 36 intersects 42a, 31, and 35, in other words Route Z2.

<sup>3</sup> Title 16 Tex. Admin. Code (“TAC”) § 25.101(b)(3)(B).

<sup>4</sup> 16 TAC § 25.101(b)(3)(B)(iv).

<sup>5</sup> Commission Staff’s Initial Brief at 10 (May 21, 2021).

<sup>6</sup> Tex. Gov’t Code Ann. § 2003.049(g). *See also* Tex. Gov’t Code Ann. § 2001.058(e).

by applicable law, Commission rules or policy, or prior administrative decisions. This new *ad hoc* “nature of the impact to habitable structures” standard was not subject to public notice and opportunity for comment and promulgated as rule. It goes beyond analyzing the number of habitable structures impacted but considers ephemeral and subjective factors like the damage caused by cutting through and bisecting<sup>7</sup> existing “neighborhoods” and the nature of the alleged disruption, not previously recognized by the Commission. Simply put, the standard is the number of habitable structures impacted, not the nature of the impact – but the PFD deviates from the standard typically used in Commission transmission line cases. Insofar as the new “nature of the impact” standard is fundamental to the PFD’s choice of Route Z2, it must be rejected.

### III. EXCEPTIONS

#### A. Community Values

The Filing Parties except to the ALJs’ analysis on community values because it disproportionately weighs some factors to the detriment of others. As a preliminary example, when CPS Energy took the poll relied upon by the ALJs in their analysis of the community values factor, Substation 7 was not yet part of the discussion. CPS held its one and only open house on October 3, 2019, but did not file its application for nine more months on July 22, 2020, which application made major and significant revisions to the proposed segments and substations, including the addition of Substations 6 and 7. Commission rule 16 TAC § 22.52(a)(4) requires a utility to hold *at least* one public meeting prior to application filing while CPS’ own Routing/Substation Siting General Process Manual recommends an additional public meeting in the event of revised routes.<sup>8</sup> If the purpose of the open house was to inform the public to solicit their input about the project as Finding of Fact No. 28 purports, no such meaningful public participation was afforded to intervenors with respect to Substation 7 in this case.

Additionally, although landowners adjacent to all other substations were provided notice, those near Substation 7 were not.<sup>9</sup> While CPS may contend that notice is not required for

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<sup>7</sup> As explained more fully below, Routes R and R1 do not truly “bisect” Bexar Ranch in two equal parts because Segment 43 is actually on the northern side of the property. Similarly, Route W does not “bisect” Gaujalote Ranch because it would utilize segments that skirt only the eastern, northern and northeastern corner of the property. Also where there is any “cutting through the heart of” property, that occurs on southern route tracts which are much larger than northern lots.

<sup>8</sup> Jauer Exhibit No. 16, Attachment AS 2-28, Sec. 7 at 8-9.

<sup>9</sup> Tr. at 343:1-24, 345:14-16, 346:10-13, 402:5-404:3.

landowners outside of 300 feet from centerline, CPS made the affirmative effort to notify all landowners around other substations, whether they were within 300 feet of a route's centerline or not, thereby creating a new standard and depriving Substation 7 adjacent landowners of due process. To add insult to injury, once adjacent landowner Scott Luedke finally became aware of the addition of Substation 7, he was still not allowed to intervene in this docket,<sup>10</sup> even though he agreed to forego "requests for discovery or the ability to provide testimony."<sup>11</sup> Notwithstanding the fact that not all landowners adjacent to Substation 7 were notified, the PFD claims *all* such landowners who are intervenors are members of SHLAA and are unopposed to the selection of Substation 7. Clearly Finding of Fact No. 115 is inaccurate since notice was deficient and Mr. Luedke, at a minimum, was denied party status.

These aforementioned public participation and due process problems demonstrate that the PFD's related findings and conclusions are arbitrary and capricious, but they pale in comparison to the PFD's erroneous analysis of habitable structures and its adoption of a new *ad hoc* legal standard in the process. For the respondents to the open house questionnaire and parties at hearing, the number of habitable structures and their proximity to routes and substation were a top priority.<sup>12</sup> With at least 32 habitable structures within 300 feet of its centerline, ***Route Z2 has more habitable structures than Routes P (17) and R1 (13) – two separate routes - combined.***<sup>13</sup> Route Z2 impacts almost ***2 ½ times*** more habitable structures as Route R1 and almost ***2 times*** as many as Route P.<sup>14</sup> In point of fact, just one segment of Route Z2, Segment 54, has more habitable structures within 300 feet than the entire length of Routes P or R1.<sup>15</sup> Indeed several of these homes along Segment 54 will have Segment Z2 running through their front yards and across their

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<sup>10</sup> Tr. at 254:25-255:3.

<sup>11</sup> See Scott J. Luedke's Motion to Intervene, Sec. 3 at 1.

<sup>12</sup> Proposal for Decision at 27, 29.

<sup>13</sup> New subdivision "Scenic Crest" along Toutant Beauregard and Segment 20 will include 41 homes in phase one and approximately 393 homes ultimately which CPS did not include in its habitable structure count. See Tr. at 555:9-13.

<sup>14</sup> "Route Z2 has 32 habitable structures within 300 feet of its centerline, more than Route P (17 structures) or Route R1 (13 structures)." Proposal for Decision, Sec. IV.B.1.c, at 40.

<sup>15</sup> Tr. p. 407:21-25; Tr. p. 408:9-17.

driveways<sup>16</sup> -- one within 82 feet of its front door.<sup>17</sup> Moreover, Segment 54 wraps around the front door of Serene and Scenic Hills Estates subdivisions, across their entrance off Toutant Beauregard. Now with an angle structure proposed within the road right-of-way adjacent to that entrance and on the curve of Toutant Beauregard, residents will need to navigate (more) safely when entering and exiting the subdivisions.<sup>18</sup>

The PFD discounted the overwhelmingly more habitable structures on Route Z2 and their attendant challenges, in favor of Routes P or R1 due the aforementioned new “nature of impact to habitable structures” test. Although impossible to quantify and not supported by the preponderance of evidence in the record, law or policy, proponents of northern routes claim the amount of harm and “adverse community impact”<sup>19</sup> that a more southern transmission line route would have “cutting through the heart” of the disparate SHLAA neighborhoods outweighs the higher number of habitable structures on the northern routes.<sup>20</sup> It is also worth noting that, relative to the two most heavily supported southern routes in this proceeding – Routes P and R1, two of the three neighborhoods comprising SHLAA (i.e., the Canyons and the Altair subdivisions) are not crossed or directly impacted in any way.<sup>21</sup> In fact, the representative of the Canyons (by far the largest of SHLAA’s neighborhoods)<sup>22</sup> testified under oath that only impact that the relevant segments of Routes P and R1<sup>23</sup> would have on the residents of the Canyons is their possible

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<sup>16</sup> CPS Energy Ex. 15 (Meaux Rebuttal), Exhibit LBM-2R: Amended Figure 4-1R, “Habitable Structures and Other Land Use Features in the Vicinity of the Primary Alternative Routes”; Tr. p. 408:20-410:9.

<sup>17</sup> *I.e.*, Habitable Structure 81. See CPS Energy Exhibit 6, Application Amendment (Dec. 22, 2020), Attachment 4, Table 4-31: Amended Habitable Structures and Other Land Use Features in the Vicinity of the Primary Alternative Route Z1 (including, in part, habitable structures impacted by Segment 54, which also is part of Route Z2, and their distances from its centerline).

<sup>18</sup> CPS Energy Ex. 14, Exhibit SDL-3R: Right of Way Proposed for Segment 54.

<sup>19</sup> The Filing Parties continue to dispute that SHLAA is a neighborhood as referenced in Finding of Fact No. 106, but instead an artificial alignment of people sometimes living miles apart with disparate interests presenting a united front except all but northern focus routes.

<sup>20</sup> In choosing Route Z2, the PFD seems to create another new standard because the northern routes “run between established subdivisions, avoiding incursions into neighborhoods;” however, this standard is not supported by law or policy. See Proposal for Decision at 41 and Finding of Fact No. 108.

<sup>21</sup> See CPS Energy Exhibit No. 18, *Intervenors Map*.

<sup>22</sup> *I.e.*, David Clark, member of the Canyons subdivision board of directors. See SHLAA Exhibit No. 1, Direct Testimony of Cynthia Grimes, David Clark, and Jerry Rumpf on behalf of the Save Huntress Lane Area Association, at 1.

<sup>23</sup> *I.e.*, Segments 15 and 26a.



visibility.<sup>24</sup> And, notably, the Altair subdivision is to the south of the Canyons and even further away from Routes P and R1.<sup>25</sup>

The PFD also erroneously conflates impacts on habitable structures with impacts on *neighborhoods*:

[T]he ALJs conclude that community values require the *nature* of the impact to habitable structures to be scrutinized as well as the sheer *number* of structures affected. On this metric, Routes P and R1 affect fewer habitable structures than other focus routes, but they are for more damaging to the habitable structures they do affect, cutting through and bisecting existing neighborhoods.<sup>26</sup>

First and foremost, there is nothing in the record that suggests that the community at large within the study area considers impacts on neighborhoods to outweigh impacts on *individual* homeowners, particularly homeowners with habitable structures within 300 feet of a route's centerline. The Commission's routing criteria speaks to landowners not neighborhoods.<sup>27</sup> While it is not unusual for neighborhoods to present arguments against routing a transmission line within their boundaries, those arguments are not the values of the community at large. In fact, as in the present case, multiple neighborhoods are usually at odds with each other advocating different irreconcilable positions. The only evidence of the community values of the community at large in the present case are the public feedback and questionnaire responses submitted by the public at and after the community open house conducted pursuant to 16 TAC § 22.52(a)(4), and the letters, emails and additional questionnaires that were received thereafter.<sup>28</sup> By far, the issue that was most important to the community respondents was the proximity of the routes and substation locations to residences.<sup>29</sup> Bisecting neighborhoods is not even referenced in the questionnaire.<sup>30</sup>

Inexplicably, although appearing to adopt this new "quality or quantity" standard, the PFD then completely ignores the extraordinary "nature of the impact" Route Z2 places on the most drastically impacted landowner in this case - Raul Figueroa. Mr. Figueroa's property

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<sup>24</sup> Tr. at 700:9 to 701:8.

<sup>25</sup> See CPS Energy Exhibit No. 18, *Intervenors Map*.

<sup>26</sup> *Id.* at 41 (citations omitted).

<sup>27</sup> 16 TAC § 25.101(b)(3)(B). See also 16 TAC § 25.101(b)(3)(B)(iv) (requirement that routes "conform with the policy of prudent avoidance"). There is no such stipulated factor for neighborhoods.

<sup>28</sup> See CPS Energy Ex. 1 at 6-2.

<sup>29</sup> CPS Energy Ex. 1 at 6-3 to 6-4.

<sup>30</sup> *Id.*

would be surrounded on three sides by a transmission line. The nature of the impact to Mr. Figueroa is so extreme in fact that CPS could not tell him whether his cell phone will work following the construction of the line around his property. But this is wholly ignored by the ALJs who do not discuss the impact to Mr. Figueroa's property at all. In fact, "the nature of the impact" for those effected by Route Z2 is severe, including those 32 homeowners whose houses are within 300 feet of Route Z2's centerline -- almost 1-in-5 of which are within 200 feet, through their front yard and across their driveway.<sup>31</sup> Finding of Fact No. 108 is simply wrong when it states, "Route Z2 addresses community values because it . . . does not . . . cross individual properties."<sup>32</sup> In fact, Z2 crosses almost **2 ½ times** more habitable structures as Route R1 (13) and almost **2 times** more than Route P (17).<sup>33</sup>

Also at odds with the new "nature of the impact" to structures standard is that the ALJs fail to compare the relative size of the impacted properties. For example, the properties crossed by the line in Scenic Hills are small homesites whereas the properties in Clearwater Ranch are large multiacre properties where due to their sheer size, there would be less impact. Thus, in the "context of tough choices" that the PFD states permeates this selection process, the ALJs' analysis is arbitrary, capricious, incomplete and inaccurate.

Impacts on schools is another community value that was identified as the third most important concern on the open house questionnaire. There is only one school in the study area – Dr. Sara B. McAndrew Elementary School – and only one segment, utilized by Route Z2, that is nearby. Specifically, Segment 42a is approximately 150 to 280 feet from the school's sports and recreation areas.<sup>34</sup> Despite that, the PFD discounts this rationalizing that a transmission line is not an attractive nuisance. The PFD further discounts the school as a recreational area despite the obvious use of its sports fields by the school community and the public at large who often use the playground, football field, track and other recreational space outside school hours. Ignoring the impact on schools is contrary to the Commission's historical consideration of community values

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<sup>31</sup> See CPS Energy Exhibit 6, Application Amendment (Dec. 22, 2020), Attachment 4, Table 4-31: Amended Habitable Structures and Other Land Use Features in the Vicinity of the Primary Alternative Route Z1 (including, in part, habitable structures impacted by Segment 54, which also is part of Route Z2, and their distances from its centerline).

<sup>32</sup> Proposal for Decision at 104.

<sup>33</sup> Proposal for Decision, Sec. IV.B.1.c, at 40.

<sup>34</sup> NISD Exhibit No. 1 at 9:6-8; Anaqua Springs HOA/Jauer Exhibit No. 25 at 28:15-19; Exhibit MDA-24 (footnote 25).

as “shared appreciation of an area or other mutual resource by a national, regional, or local community.”<sup>35</sup> The transmission line could avoid impact to the elementary school entirely by choosing Route P, R1 or W.

As to visibility concerns (the second ranked public concern noted on the open house questionnaire), the PFD is wrong that Toutant Beauregard has already fragmented the visual landscape because it runs along the road.<sup>36</sup> First, Toutant Beauregard is not a “major thoroughfare” but a two-lane road with substantial historical significance, having been designated as one of only two historic corridors in the State.<sup>37</sup> Second, the so-called “transportation and utility corridor” along Toutant Beauregard is largely on the surface (i.e., the road, itself) or hidden below the surface (i.e., water and gas pipelines). The only utility structure that is above ground is an electric distribution line, which is not unique to Toutant Beauregard since electric distribution lines run throughout and all over the study area. And, finally, while Substation 7 may be more vegetated, offering “greater visual shielding” than other substations, the PFD disregards the fact that slope, flooding and other environmental risks make Substation 7 a poor and costly choice as explained more fully below.

## **B. Prudent Avoidance**

The Filing Parties except to the PFD’s analysis on prudent avoidance because it disproportionately favors the cost per structure to the exclusion of other important factors. As defined by Commission rules, prudent avoidance is the limiting of exposures to electric and magnetic fields that can be avoided with reasonable investments of money and effort.<sup>38</sup> Not only does Route Z2 impact more habitable structures than Routes P and R1, combined (and even more after the Scenic Crest subdivision is completed along Segment 20), Route Z2 also runs directly along the side of the only elementary school in the area and within less than 300 feet of its

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<sup>35</sup> Proposal for Decision at 27 citing *Joint Application of Electric Transmission of Texas, LLC and Sharyland Utilities to Amend Their Certificates of Convenience and Necessity for the North Edinburg to Loma Alta Double-Circuit 345-kV Transmission Line in Hidalgo and Cameron Counties, Texas, Docket No. 41606, Finding of Fact No. 51* (Apr. 10, 2014).

<sup>36</sup> See Finding of Fact Nos. 116 and 123.

<sup>37</sup> *I.e.*, The Scenic Loop Road – Boerne Stage Road – Toutant Beauregard Road Historic Corridor. See Tex. Gov’t Code Ann., § 442.024.

<sup>38</sup> 16 TAC § 25.101(6).

playground and sports and recreation areas.<sup>39</sup> Yet, while Anaqua Springs witness and practicing pediatrician, Dr. Lauren Pankratz, testified about the negative health effects of EMFs on children and recommended keeping the transmission line away from the elementary school completely,<sup>40</sup> the PFD errs on the side of cost. That is, the PFD rationalizes its selection of Route Z2 near the elementary school and 32 habitable structures because, not only is EMF “found everywhere,” but because the cost per structure on other routes (P and R1) appears to be unreasonably high. However, as set out more fully below, CPS’ cost estimates relative to Route Z2 and the other Toutant Beauregard routes are unreliable and wholly irreconcilable.

### **C. Recreational and Park Areas**

As indicated above, the Filing Parties except to the PFD’s consideration of recreational and park areas to the extent it dismisses the Dr. Sara B. McAndrews Elementary School as a genuine recreational area. What is a school playground and sports and rec area if not a recreational area? And, in this instance, they are less than 300 feet from the centerline of Route Z2.

The Filing Parties also except to the PFD’s total disregard for High Country Ranch preserve and the Anaqua Springs parkland. Beyond CPS’ conflicting testimony that private recreational areas were not included in its routing analysis but also that identification of such areas is “subjective,” the PFD provides no basis for Finding of Fact No. 135.<sup>41</sup>

### **D. Historical and Cultural Values**

As detailed in its Initial Post-Hearing Brief, The San Antonio Rose Palace and Strait Promotions, Inc. (“the Rose Palace parties”) are longtime members of the study area community near and adjacent to Toutant Beauregard. The San Antonio Rose Palace is a destination venue holding numerous equestrian and other events in its 100,000 square-foot equestrian center, two covered arenas and over 200 horse stalls with seating for 4,500 spectators, all which affords it a unique and important community role in this region.<sup>42</sup> In essence, The San Antonio Rose Palace is itself an historic resource. For these reasons, the Rose Palace parties have a special interest in the historical and cultural impacts of the proposed transmission line on their own backyard and

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<sup>39</sup> Anaqua Springs HOA /Jauer Exhibit No. 25, *Revised Direct Testimony of Mark Anderson*, at 18:15-19; Exhibit MDA-24, and related footnote 25.

<sup>40</sup> Anaqua Springs Exhibit No. 3 at 4-5.

<sup>41</sup> CPS Energy Exhibit No. 15 at 15-16.

<sup>42</sup> Rose Palace Exhibit No. 1 at 15-16.

therefore join the Filing Parties in excepting to the PFD's finding that Route Z2 is not expected to adversely affect the archeological or historic resources in this case – The San Antonio Rose Palace, Heidemann Ranch and the Scenic Loop Road-Boerne Stage Road-Toutant Beauregard Historic Corridor (“SBT Historic Corridor”).<sup>43</sup>

Indeed, the Filing Parties strain to understand how the presence of contemporary yard art pieces on Heidemann Ranch or existing (smaller) wooden-poled distribution lines on Toutant Beauregard fragments the visual landscape. Meanwhile, there is virtually no adverse impacts on cultural, aesthetic, historical resources on any southern route<sup>44</sup> while there are clear adverse impacts to The San Antonio Rose Palace, Heidemann Ranch and SBT historic corridor (Toutant Beauregard comprises the entire third leg of the corridor). Additionally, Segment 36 is within 1,000 feet of a National Registry of Historic Places (NRHP) District boundary. Route Z2 transmission lines would be visible from the Heidemann Ranch property, property which was described by witness Anderson as a “national treasure.” Ironically, the PFD appears to espouse witness Turnbough's view that rejecting all northern routes on the basis of cultural, aesthetic, historical criteria would overstate those factors “to the detriment of the multidisciplinary assessment of potential alternative routes.”<sup>45</sup> Yet that is exactly what the PFD does with the issue of the number of habitable structures versus the nature of the impact itself. It puts its thumb on the scale favoring lack of development and preserving “undisturbed land [that] will likely be sanctuaries for wildlife,” not heretofore codified in any rule or statute, while taking the short view that more development along the historic corridor is expected, not prohibited and apparently unimportant.

#### **E. Engineering Constraints**

The Filing Parties except to the PFD's cursory consideration of engineering constraints, particularly along Route Z2 and the other routes along Toutant Beauregard Road, because it relies on prospective “engineering consideration[s]”<sup>46</sup> that are presumed to be addressed at a later date

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<sup>43</sup> The SBT Historic Corridor is the first historic corridor established by the Texas Legislature. *See* Tex. Gov. Code Ann. § 442.024(a).

<sup>44</sup> The White Ranch located along the western boundary of the Bexar Ranch is located entirely out of the study area and although Substation 6 would be located on the SBT corridor, this impact is limited to the substation itself and all other substations are similarly located adjacent to the Scenic Loop.

<sup>45</sup> Proposal for Decision at 74.

<sup>46</sup> CPS Energy's Initial Post-Hearing Brief at 28.

and are not part of the application or CPS's cost analysis and for which there is no evidence in the record.<sup>47</sup> Moreover, the PFD ignores the compelling evidence that *is* in the record regarding significant engineering constraints *uniquely* associated with Route Z2 and the other routes along Toutant Beauregard Road, including the following:

- Substation 7 is within the recently elevated 100-year floodplain of immediately adjacent and flood-prone Leon Creek,<sup>48</sup>
- It is undisputed that the "line of sight" microwave communications of the region's emergency response system<sup>49</sup> on Communications Tower No. 501<sup>50</sup> are at a height and an azimuth that are blocked by the angle structure where Segments 20 and 36 meet;<sup>51</sup>
- Via last-minute errata on the eve of hearing, CPS moved the transmission line and an angle structure into the road right-of-way immediately adjacent to the entrance to Serene and Scenic Hills Estates, posing a safety hazard to residents entering and exiting Toutant Beauregard's most dramatic curve;<sup>52</sup>
- Gas and water pipelines run along Toutant Beauregard and are an unaddressed issue for angle and other structures in the road right-of-way;<sup>53</sup>

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<sup>47</sup> CPS acknowledges that "topography and other unique attributes . . . will require engineering consideration" without identifying any particular instance, much less its associated costs, to assist with the decisions that need to be made in this proceeding. *Id.*

<sup>48</sup> Anaqua Springs HOA/Jauer Exhibit No. 25, Revised Direct Testimony of Mark Anderson, at 24:16-23. Exhibit MDA-18 & Exhibit MDA-19; Jauer Exhibit No. 3, Leon Creek Watershed, Texas Interim Feasibility Report and Integrated Environmental Assessment, Final Report Version, April 2014, U.S. Army Corps of Engineers Fort Worth District (Study Partner: San Antonio River Authority), at 41-42 & Table 2-7; Tr. at 644:23 to 646:11; Jauer Exhibit No. 14, RFI Response 5-1.

CPS's Siting Manual expressly prohibits locating a substation "in existing defined flood hazard areas" and requires a location "sufficiently above existing flood levels so that future development will not cause the flood plain to encroach upon the substation." Anaqua Springs HOA/Jauer Exhibit No. 25, Exhibit MDA-3, Sec. 4.A.2.d(1), at 6. *See also* Anaqua Springs HOA/Jauer Exhibit No. 25, at 25:6-16; Jauer Exhibit No. 25 at 7; Tr. at 424:5-17. Notably, CPS eliminated two of its initial substation sites from consideration for this very reason. The same treatment should be given to Substation 7.

<sup>49</sup> *I.e.*, the Alamo Area Regional Radio System ("AARRS"). AARRS is a network of 28 interconnected tower sites and related communications facilities that provide wireless connectivity to police, fire and other public agencies within the region, as well as the Leon Creek/Toutant Beauregard flood warning system. *See* Jauer Exhibit No. 2, Direct Testimony of Carl Huber at 5:6-11; Tr. at 919:19 to 922:3; Tr. at 923:22 to 924:12.

<sup>50</sup> This emergency radio system also includes the *Leon Creek/Toutant Beauregard flood warning system*. Tr. 919:19 to 922:3; Tr. 923: 3 to 924:12.

<sup>51</sup> Jauer Exhibit No. 2, *Direct Testimony of Carl Huber*, pp. 4:3-5, 6:15 and Exhibit Huber 7.

<sup>52</sup> CPS Energy Exhibit No. 14, *Rebuttal of Scott D. Lyssy, P.E. with errata* at 8; Tr. 397:9-14.

<sup>53</sup> Tr. 850:7-8

- Segment 54, which is a part of Route Z2, may be impacted by necessary widening of Toutant Beauregard,<sup>54</sup> and,
- CPS has given no consideration to the engineering constraints involved with adding new circuits out of Substation 7 along already crowded Toutant Beauregard and *underground* at a cost of ~\$3 million (not included in Substation 7’s cost estimates) along “existing” right-of-way that may not even be usable or available.<sup>55</sup>

The above-referenced engineering constraints are unique to Route Z2 and the other routes along Toutant Beauregard. The other routes, particularly those out of Substation 6 (such as Routes P and R1), have no engineering constraints.

Additional information regarding the engineering constraints associated with Route Z2 and the other Toutant Beauregard routes is provided below:

**1. Substation 7**

Substation 7 poses significant engineering constraints from flooding because a substantial part of the site and layout of the proposed substation are located *below* the 100-year flood line.<sup>56</sup> Nevertheless, CPS added Substation 7 after the open house and *without* adjacent landowner notice:

- Despite having just eliminated 2 of its initial substations from consideration because they “were within the 100-year floodplain”;<sup>57</sup> and
- Despite Substation 7 contradicting its Siting Manual’s prohibition on locating a substation “in existing defined flood hazard areas.”

Notably, the CPS Siting Manual also requires a location that is “sufficiently above existing flood levels so that future development will not cause the flood plain to encroach upon the substation,”<sup>58</sup> yet Substation 7 is in a rapidly developing area where increasing impervious cover will only exacerbate this problem. In fact, the new development that is currently under development, including 393 homes in the Scenic Crest development, 280 homes in Pecan Springs, and the roads,

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<sup>54</sup> Tr. 591:17 to 592:3.

<sup>55</sup> Tr. 416:22 to 420:16; 418:8 to 420:15; 848:18 to 850:4. *See also* Jauer Exhibit No. 15, *Anaqua Springs RFI 1-16*, “Attachment AS 1-16 Notes” pp.28/29 & 106/107 (Bates 0000004).

<sup>56</sup> *Anaqua Springs HOA/Jauer Exhibit No. 25, Revised Direct Testimony of Mark Anderson*, p. 24, l. 16-23 and Exhibits MDA-18 & MDA-19.

<sup>57</sup> Jauer Exhibit No. 15, CPS Energy’s Response to *Anaqua Springs’ 1<sup>st</sup> RFIs*, Response to RFI No. 1-10.

<sup>58</sup> *Anaqua Springs HOA/Jauer Exhibit No. 25, Exhibit MDA-3, Sec. 4.A.2.d(1)* at 6. *See also* *Anaqua Springs HOA/Jauer Exhibit No. 25* at 25: 6– 16; Jauer Exhibit No. 25 at 7; Tr. at 424:5–17.

parking lots and other structures that come with them, are all upstream from Substation Site 7.<sup>59</sup> Witness Anderson noted that flooding has already occurred with the development that is prompting this Scenic Loop project.<sup>60</sup> Finding of Fact No. 167 also ignores the fact that with a 54 foot elevation change, Substation 7 is not a flat site and oil spills from a transformer failure will undoubtedly flow toward and impact Leon Creek.

## **2. Emergency Broadcast Network on Communications Tower No. 501**

The PFD similarly ignores the significant engineering constraints associated with AARRS's regional emergency response system installed on Communications Tower No. 501, which utilizes "line of site" microwave broadcasts that can be impaired by structures erected within their azimuth's "line of site." Witness Huber's<sup>61</sup> uncontroverted testimony shows that the azimuths of the microwave antennae installed on Communications Tower No. 501 would experience interference from Route Z2 and any other route utilizing Segments 20, 36, or 32.<sup>62</sup> CPS did not respond with *any* evidence whatsoever regarding this issue of potential life and death importance to the local community. CPS did not rebut Mr. Huber, nor did it propose a solution that would "engineer away" the constraint. Instead, CPS responded – as it did regarding most of the engineering constraints and related cost issues related to Route Z2 and the other Toutant Beauregard routes – by indicating that the precise size, location, and/or design of the structure would be determined later, *after* this proceeding is concluded and the ultimate route is selected.<sup>63</sup> As result, the PFD dismissed Mr. Huber's uncontroverted testimony on the basis that it "lacked information necessary to determine precise angles from the tower to the transmission structures that would cause interference."<sup>64</sup> Since when did the burden regarding engineering constraints and cost – *two of the three sets of issues expressly required to be addressed in an application for a new transmission line by the Commission's Substantive Rules*<sup>65</sup> – shift away from the Applicant?

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<sup>59</sup> Brittany Sykes Exhibit No. 1, *Direct Testimony and Exhibits of Brittany Sykes*, Exhibit A ("Scenic Crest Master Development Plan").

<sup>60</sup> Anaqua Springs HOA/Jauer Exhibit No. 25 at 12–14.

<sup>61</sup> Carl Huber was the only professional radio tower operator to testify in this case.

<sup>62</sup> Jauer Exhibit No. 2, *Direct Testimony of Carl Huber* at 6:2–11.

<sup>63</sup> See Proposal for Decision at 80.

<sup>64</sup> *Id.*

<sup>65</sup> 16 TAC § 25.101(b)(3)(B).



The testimony of Mr. Huber, the only professional radio tower operator to testify in this case, remains uncontroverted, and the cost of safeguarding the emergency communications from Communications Tower No. 501 that are directly within the “line of site” of Route Z2 and the other Toutant Beauregard routes remains wholly unaddressed.

### **3. Other Engineering Constraints Along Toutant Beauregard Road**

CPS’s abdication of its responsibility to address engineering constraints and costs also pertains to its last-minute extension of Route Z2 and the other Toutant Beauregard routes into the road right-of-way. The PFD embraces CPS’s abdication, rather than require compliance with its clearly stated responsibility as proscribed in the Commission’s Substantive Rules. Finding of Fact No. 183 blanketly states, “There are no significant engineering constraints along any of the alternative routes that cannot be adequately addressed by utilizing design and construction practices and techniques usual and customary in the electric utility industry.”<sup>66</sup> However, CPS’ last minute errata discredits the indiscriminate conclusion set forth in Finding of Fact No. 183, as CPS found it necessary, on the eve of hearing, to move Route Z2 and the other Toutant Beauregard routes into the road right-of-way with an indicated angle structure *within* road right-of-way<sup>67</sup> aside the entrance to Serene and Scenic Hills Estates and in front of Habitable Structure 88. This was after representing repeatedly to the contrary throughout discovery and case preparation.<sup>68</sup> This presents an obvious vehicular safety issue<sup>69</sup> particularly since gas and water utilities exist in the area of the angle structure,<sup>70</sup> and their proximity may hinder the construction, maintenance, repair, and operation of the angle structures and the transmission line. To make matters worse, CPS plans to extend multiple distribution circuits out of Substation Site 7, with two circuits running along each side of Toutant Beauregard. This will further congest the already congested right-of-way along Toutant Beauregard. Complicating matters even further, CPS Witness Lyssy conceded that currently two-lane Toutant Beauregard will likely require expansion, which will undoubtedly impact Segment 54 and its poles.<sup>71</sup> Certainly, these issues present engineering constraints, and

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<sup>66</sup> Proposal for Decision at 112.

<sup>67</sup> Tr. at 397:9-14; CPS Energy Exhibit No. 14, Rebuttal of Scott D. Lyssy, P.E. with errata, Exhibit SDL-3R at 8.

<sup>68</sup> *Id.*

<sup>69</sup> See Anaqua Springs HOA/Jauer Exhibit No. 25, Revised Direct Testimony of Mark Anderson at 21:1-8.

<sup>70</sup> Tr. at 850:7-8.

<sup>71</sup> Tr. at 591:7-592:3.

each solution certainly has a cost.<sup>72</sup> However, no evidence as to any of these problems was admitted into the record. Certainly no discovery was allowed as to these issues, since discovery was closed by the time the errata was filed and the multi-party Motion for Continuance to allow for such discovery was denied.

#### **F. Costs**

The Filing Parties except to the PFD's consideration of costs – oddly one of the shortest sections in the PFD for one of the most important factors. Finding of Fact No. 199 finding that Route Z2 is the lowest cost route is not supported by the preponderance of evidence for the simple reason that it is based on CPS' cost estimates relative to the Toutant Beauregard segments which are inconsistent and unreliable in a number of ways, as evidenced by the following:

- The Application states that the approved route will “occupy a right-of-way (ROW) approximately *100 feet* in width.”<sup>73</sup>
- In response to multiple discovery requests from Anaqua Springs HOA inquiring about right-of-way widths of segments along Toutant Beauregard (e.g., Segments 54, 36 and 20), CPS repeatedly affirmed that “the transmission line facilities will be constructed utilizing a right-of-way width of approximately *100 feet*.”<sup>74</sup>
- Subsequently, Brad Jauer served discovery on CPS asking that it “Please clarify” why its *Scenic Loop CE Spreadsheet Final 12-18-2020* (made available to the parties on a Sharefile site) indicated a ROW width for Segment 54 of *75 feet*, rather than 100 feet as averred by CPS in its discovery responses to Anaqua Springs HOA, to which CPS again responded, “all of the routes presented . . . and all of the measurements presented . . . assume a *100 foot* right of way.”<sup>75</sup>

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<sup>72</sup> Similar constraints exist on Segment 20, which runs adjacent to the Scenic Crest subdivision that is under active development. This may certainly result in changes to width and cost of the right-of-way not contemplated by CPS' original costing table and not taken into account by the PFD. Tr. at 555:7–9. See Jauer Exhibit No. 26, CPS's Amended Application, “Scenic Loop CE Spreadsheet Final 12-18-2020-1,” Sheet 1, Row 14, Columns E & G.

<sup>73</sup> CPS Energy Exhibit No. 1, The Application, Attachment 1, Sec. 1.1, p. 1-1 [Bates 000060] (*emphasis added*). CPS's response to Question 6 of the Application similarly states, “The typical ROW width for the Proposed Project is estimated to be *100 feet*.” CPS Energy Exhibit No. 1, Sec. 6, p. 6 [Bates 000006] (*emphasis added*).

<sup>74</sup> Jauer Exhibit No. 17, CPS Energy's Response to Anaqua Springs' 2<sup>nd</sup> RFIs, Response to RFI Nos. 2-5, 2-7, 2-8, 2-9, 2-10, 2-11 & 2-12.

<sup>75</sup> Jauer Exhibit No. 8, CPS Energy's Response to Brad Jauer's and BVJ Properties, LLC's 2<sup>nd</sup> RFIs, Response to RFI No. 2-2. See also Jauer Exhibit No. 8, CPS Energy's Response to Brad Jauer's and BVJ Properties, LLC's 2<sup>nd</sup> RFIs, Response to RFI No. 2-5.

- However, the above-referenced *Scenic Loop CE Spreadsheet Final 12-18-2020*<sup>76</sup> (hereinafter the “ROW Costing Table” *because it calculates the right-of-way costs for each segment and ultimately each route*) clearly reflects ROW easement widths of **75 feet** for the “routes” and “measurements” along Toutant Beauregard.<sup>77</sup> In fact, the ROW Costing Table shows 100% of Segments 54 and 36 to use **75-foot ROW**.<sup>78</sup> This is important, because a narrower ROW is less expensive than a 100-foot ROW, and by far the largest percentage of 75-foot ROW on the ROW Costing Table is associated with the Toutant Beauregard routes, including Route Z2.<sup>79</sup>
- Nevertheless, throughout the course of this proceeding, including the filing of CPS’s rebuttal testimony on April 7, 21, CPS maintained “**the right of way proposed for the Project is 100 feet**” and “**[a]ll measurements included in the Application . . . are based on a right of way width of 100 feet.**”<sup>80</sup>
- Then, *less than a week before the hearing on the merits*, CPS filed a set of errata altering its position that 100-foot ROW should be assumed for the entire study area:
  - now claiming “most” rather than “all” measurements are based on a ROW width of 100 feet;
  - acknowledging for the first time that road right-of-way will be utilized along Toutant Beauregard;
  - asserting that **less than 100 feet of ROW will be used along Segment 54 “for approximately 1,300 feet”**,<sup>81</sup> and
  - asserting that, **along Segment 36, “less than a full 100 feet of right of way will be required on some locations”**.<sup>82</sup>

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<sup>76</sup> Jauer Exhibit No. 27.

<sup>77</sup> *Id.*

<sup>78</sup> *Id.*

<sup>79</sup> *Id.*

<sup>80</sup> Rebuttal Testimony of Scott Lyssy at 9:13-16 (*emphasis added*).

<sup>81</sup> Jauer Exhibit No. 10, CPS Energy’s 2<sup>nd</sup> Supplemental Response to Brad Jauer’s and BVJ Properties, LLC’s 2<sup>nd</sup> RFIs, Supplemental Response No. 2-2 (April 26,2021); Jauer Exhibit No. 17, CPS Energy’s Supplemental Response to Anaqua Springs HOA’s 2<sup>nd</sup> RFIs, Supplemental Response Nos. 2-5, 2-7, 2-8, 2-10, 2-11, 2-12 & 2-15 (April 26,2021); Errata to Rebuttal Testimony of Scott Lyssy at 5:18-19 (*emphasis added*). *See also* CPS Energy Exhibit No. 14, Rebuttal Testimony of Scott D. Lyssy, P.E. (w/ Errata) at 9:18-19.

<sup>82</sup> Jauer Exhibit No. 17, CPS Energy’s Supplemental Response to Anaqua Springs HOA’s 2<sup>nd</sup> RFIs, Supplemental Response Nos. 2-7, 2-8, 2-10, 2-11 & 2-12 (April 26,2021). The same assertion also is made relative to Segments 14 and 20 in the errata to the foregoing RFI responses.

- Notably, even after these prejudicial, last-minute errata, CPS’ evidence is *still* inconsistent and unreliable, as evidenced by the fact that CPS’ ROW Costing Table still reflects **75-foot** ROW for Segment 54 for its entire length of 3,612 linear feet -- **almost 3 times the 1,300 feet asserted in CPS’ errata.**<sup>83</sup> Similarly, the ROW Costing Table also continues to reflect **75-foot** ROW for Segment 36 for its entire length, which is considerably more than “*some locations.*”<sup>84</sup> The record is wholly unclear as to which of these “measurements” is correct, and the record is devoid of any updated cost information based upon the changes attempted in the errata.
- Finally, it is important to realize that the errata and the foregoing inconsistencies **only pertain to the Toutant Beauregard routes.** As a result, the record is *uniquely* inconclusive, inconsistent and unreliable as to the actual costs of the Toutant Beauregard routes, including Route Z2 recommended in the PFD. As a result, the PFD’s reliance on cost estimates associated with Route Z2 is unsupportable and misplaced.

In addition to the above, CPS could not present one witness who could competently explain the substantive changes contained in its errata<sup>85</sup> and why they contradict the ROW Costing Table. In fact, Mr. Lyssy, who purportedly populated the ROW Cost Tables, admitted that he based them on estimates provided by other people<sup>86</sup> (some of whom were two steps removed<sup>87</sup> and none of whom were presented as witnesses). As a result, there was no way to cross examine a CPS witness on key factors related to the right-of-way cost estimates that CPS set forth in the Application.

Not only are the right-of-way costs irreconcilable and unreliable, as described above, but they also do not reasonably distinguish between the cost of developed lots versus the cost of rural land.<sup>88</sup> For example, CPS’ right-of-way unit costs for Segment 20<sup>89</sup> are based on values at the

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<sup>83</sup> Jauer Exhibit No. 27.

<sup>84</sup> *Id.*

<sup>85</sup> Mr. Lyssy, who populated CPS’s cost tables, admitted that he based them on estimates provided by other people – none of whom were presented as witnesses. Tr. at 492:15-22 and Tr. at 505:18-22.

<sup>86</sup> Tr. at 492:15-22; Tr. at 505:18-22.

<sup>87</sup> Tr. at 505:18-22.

<sup>88</sup> Tr. at 492:21-22.

<sup>89</sup> The same issue applies to Segment 36 where 60+ homes are slated for property Brad Jauer purchased from the developer of Anaqua Springs; *See* Jauer Exhibit No. 1, Revised Direct Testimony of Brad Jauer at 3:13-20.

lower, undeveloped end of the range (e.g., \$1.50/sq ft),<sup>90</sup> even though the property is now under active development (i.e., Scenic Crest subdivision). CPS even acknowledged that this disparity is something “for the Commission to look at and evaluate.”<sup>91</sup>

Similar inconsistencies also exist for cost estimates for Substation Site 7. As reflected on Sheet 2 of the “costing tables,”<sup>92</sup> the cost estimate for each substation is predicated on its “Estimated Value Per Sq. Ft.” However, there are *two completely different* “estimated values” given for Substation Site 7: i) \$2.00/sq ft in the small table between Rows 35 and 42; and ii) \$3.00/sq ft in the larger table at the top. Yet again, CPS treats no other substation in this manner. Throughout this case, Substation 7, and therefore, the Toutant Beauregard routes which it uniquely serves, including Route Z2, have been treated differently. The PFD does not explain this arbitrary treatment.

Topographic characteristics is another area where CPS’ cost estimates are suspect – they are simply ignored.<sup>93</sup> In fact, Table 4 of Attachment 3 of the Application, entitled “Substation Facilities Total Estimated Costs”<sup>94</sup> clearly indicates that CPS assumed the same amount of “Engineering and Design” costs for each substation, irrespective of their size or their topographic and other differences. This one-size-fits-all approach is especially inappropriate given Substation 7’s dramatic 54-foot change in elevation and proximity to Leon Creek.<sup>95</sup> CPS’s substation cost estimates simply contain no costs relative to the real potential for flooding at Substation Site 7. Similarly absent are costs associated with San Antonio and Bexar County’s “no rise” ordinance.<sup>96</sup> Another unresolved issue related to the cost of Substation Site 7 is the \$2,920,000 estimated cost of possible underground construction for 2 circuits to exit the back of the substation and how it might impact the engineering solutions ultimately needed to address the topographic and flood

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<sup>90</sup> See Jauer Exhibit No. 26, CPS’s Amended Application, “Scenic Loop CE Spreadsheet Final 12-18-2020-1,” Sheet 1, Row 14, Column J.

<sup>91</sup> Tr. at 555:7-9.

<sup>92</sup> Jauer Exhibit No. 26.

<sup>93</sup> *Id.*

<sup>94</sup> CPS Energy Exhibit 6, Attachment 3, “Cost Estimates” Sheet, Table 4.

<sup>95</sup> Jauer Exhibit No. 14, RFIs 5-1 through 5-4. Note, Substation 6 only has a 20-foot elevation difference and no threat of flooding.

<sup>96</sup> See Jauer Exhibit No. 3 at 41 & 140. The “no rise” ordinance seeks to prevent increased runoff resulting from the proposed development and requires either on-site detention or a “fee in lieu of” payment.

vulnerability issues discussed above.<sup>97</sup> And, Table 4 of Attachment 3 of the Application<sup>98</sup> reflecting a “ROW & Land Acquisition” cost of \$627,264 for Substation 7 is also suspect because it is based on \$2/sq ft. “estimated value”<sup>99</sup> not \$3/sq ft., as indicated for Substation Site 7 in the cost table of the Primary Alternate Routes<sup>100</sup> resulting in a significant difference of \$313,632.<sup>101</sup>

Finally, CPS made ***no*** effort to address and the record is ***devoid*** of any information regarding the costs associated with the unique engineering constraints associated with Route Z2 and the other Toutant Beauregard routes that are itemized in the “Engineering Constraints” section above.

In light of this and all the other inconsistent and irreconcilable cost information cited above, CPS’ cost estimates regarding Route Z2 and the other Toutant Beauregard routes are underestimated, cannot be relied upon and must be dismissed. To do otherwise, would be arbitrary and capricious as was done in the PFD.

#### IV. CONCLUSION

For these multiple, compelling and substantive reasons, intervenors, The San Antonio Rose Palace, Inc. and Strait Promotions, Inc., **Brad Jauer and BVJ Properties, LLC, and Anaqua Springs Homeowners Association** urge the Commission to overturn the PFD, reject the recommendation of Route Z2, and choose a Scenic Loop Transmission line that utilizes any routes served by Substation 6, either Route P or R1.

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<sup>97</sup> Tr. at 848:18-850:4. *See also* Jauer Exhibit No. 15, Anaqua Springs RFI 1-16, “Attachment AS 1-16 Notes” at 106/107 (Bates 000004). Tr. at 416:22-420:16. *See also* Jauer Exhibit 15, Anaqua Springs RFI 1-16, “Attachment AS 1-16 Notes” p. 28/29 (Bates 000004).


<sup>98</sup> CPS Energy Exhibit 6, Attachment 3, “Cost Estimates” Sheet, Table 4.

<sup>99</sup> Jauer Exhibit No. 26, CPS’s Amended Application, “Scenic Loop CE Spreadsheet Final 12-18-2020-1.”

<sup>100</sup> *Id.*, Sheet 2, Column O, Cells O25 to O32 (*i.e.*, the “estimated value per sq. ft. of Substation Site 7). *See Id.*, Sheet 2, Column L, Cells L25 to L32 (confirmation that the \$3.00 “estimated value per sq. ft.” pertains to Substation Site 7).

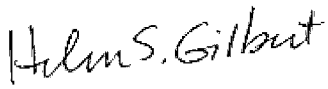
<sup>101</sup> *See Id.*, Sheet 2, Rows 25 to 32, Column P.

Respectfully submitted,

By: 

Lynn Sherman  
State Bar No. 18243630  
[lsherman@h2otx.com](mailto:lsherman@h2otx.com)  
P.O. Box 5605  
Austin, Texas 78763  
(512) 431-6515

**ATTORNEY FOR BRAD JAUER &  
BVJ PROPERTIES, L.L.C**

By: 

Helen S. Gilbert  
State Bar No. 00786263  
[hgilbert@bartonbensonjones.com](mailto:hgilbert@bartonbensonjones.com)  
Sydnee R. Garcia  
State Bar No. 24092400  
[sgarcia@bartonbensonjones.com](mailto:sgarcia@bartonbensonjones.com)  
BARTON BENSON JONES PLLC  
745 E. Mulberry Ave, Suite 550  
San Antonio, Texas 78212  
(210) 640-9174  
(210) 600-9796 (fax)

**ATTORNEYS FOR THE SAN ANTONIO  
ROSE PALACE, INC. AND STRAIT  
PROMOTIONS, INC.**

By: /s/ Mark Siegel  
Mark Siegel  
Mark.siegel411@gmail.com  
Anaqua Springs Homeowners' Association  
11430 Anaqua Springs  
Boerne, Texas 78006-8495  
(818) 825-6209

**REPRESENTATIVE FOR ANAQUA  
SPRINGS HOMEOWNERS ASSOCIATION**

**CERTIFICATE OF SERVICE**

I hereby certify that on this 8<sup>th</sup> day of October, 2021, notice of the filing of this document was provided to all parties of record via the PUC Interchange in accordance with SOAH Order.

*Helen S. Gilbert*

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Helen Gilbert