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**SOAH DOCKET NO. 473-21-0247
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APPLICATION OF THE CITY OF SAN ANTONIO TO AMEND ITS CERTIFICATE OF CONVENIENCE AND NECESSITY FOR THE SCENIC LOOP 138-KV TRANSMISSION LINE IN BEXAR COUNTY	§ § § § § §	BEFORE THE STATE OFFICE OF ADMINISTRATIVE HEARINGS
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**TOUTANT RANCH, LTD AND ASR PARKS, LLC'S EXCEPTIONS TO THE
PROPOSAL FOR DECISION**

October 8, 2021

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LOOP 138-KV TRANSMISSION LINE	§	ADMINISTRATIVE HEARINGS
IN BEXAR COUNTY	§	

**TOUTANT RANCH, LTD AND ASR PARKS, LLC’S EXCEPTIONS TO THE
PROPOSAL FOR DECISION**

I. INTRODUCTION

Toutant Ranch, Ltd., Pinson Interests Ltd. LLP, ASR Parks, LLC, and Crighton Development Co. (collectively “Companies”) are in the business of developing large tracts of unimproved ranchland into residential communities. The Proposal for Decision (PFD) selected Route Z2, which would travel through the Companies’ ongoing development projects. As such, the Companies would be significantly impacted if the Commission were to approve the PFD’s selected route.

As discussed in the testimony of the Companies’ witness, Mr. Tom Dreiss, starting shortly after CPS announced this project to the community, the presence of multiple potential routes through or around the Companies’ planned developments was preventing them from selling completed home sites and continuing to advance their projects.¹ To mitigate these issues and obtain some level of certainty, the Companies worked with CPS Energy to develop an alternative path that travels along the northern and eastern edges of its communities rather than through the middle of its development area.² As part of the Companies’ agreement with CPS Energy, they agreed that if the Commission selected a route that crosses the Companies’ property, the Companies would support the use of a path that begins at the node that interconnects Segments 41, 42a, 46, and 46a and travels to the west across the Companies’ properties. While any path that

¹ Dreico Companies’ Exhibit 1, Direct Testimony of Tom Dreiss (Dreiss Dir.) at 5-6.

² *Id.* at 6-7.

crosses the Companies' properties would have significant financial consequences, Route Z2 follows the path that would be the least harmful from the Companies' perspective.

Importantly, while the Companies would be willing to support Route Z2 insofar as it takes the "least bad" negotiated path across their properties, the Companies would not oppose the Commission routing the line along a different path that would avoid their properties and ongoing development projects, as that result would undoubtedly be better for the Companies' developments from a business perspective.³ As Mr. Dreiss explained at the hearing "[the Companies are] not in the business of selling right-of-way to make money,"⁴ and "we don't want the power line more than anybody else."⁵

As explained in greater detail below, the primary purpose of these Exceptions is to clarify the record with respect to certain statements the PFD made regarding a modification proposal raised by Northside ISD along Segment 42a.⁶ While the PFD did not adopt that proposed modification, the Companies believe that it is important to emphasize that (1) Segment 42a is located entirely on property that the Companies own and control, and (2) the Companies do not and will not consent to move Segment 42a any closer to their ongoing development projects.⁷ Accordingly, the Commission should not consider Northside ISD's proposed modification.

³ *Id.* at 5-6.

⁴ Tr. 960:2-3.

⁵ Tr. 940:22-25.

⁶ PFD at 53.

⁷ *See* Companies' Reply Br. at 1-2 (May 28, 2021).

V. ROUTES/PRELIMINARY ORDER ISSUE NO. 4

B. Community Values

3. Proximity to Schools

In briefing, Northside ISD suggested that the Commission could modify Segment 42a to shift it further from the McAndrews Elementary School property.⁸ While the PFD does not substantively discuss or adopt this proposal, it does note that “CPS Energy’s witness Mr. Lyssy testified that no constructability issues would prevent Segment 42a being moved further away from the school properties.”⁹ However, there are other issues that definitely preclude that proposed modification. In particular, the Companies own the property underlying Segment 42a and strongly oppose shifting that segment closer to their ongoing development projects. Per established Commission precedent—including a SOAH order issued earlier in this proceeding¹⁰—every directly impacted landowner must consent to a proposed route modification. Accordingly, because the Companies do not and will not support moving Segment 42a closer to their ongoing development projects, the Commission should not adopt the Northside ISD’s proposed modification, notwithstanding the absence of constructability issues.

VI. CONCLUSION

In sum, the Companies do not want to be impacted by this transmission line more than any other party, but they would be willing to accept Route Z2 as the “least bad” negotiated path across their properties if the Commission ultimately selects that route. Additionally, to the extent that the Commission adopts a route that uses Segment 42a, it should not incorporate Northside ISD’s proposed modification to that segment over the Companies’ objections.

⁸ Northside ISD Initial Br. at 5 (May 21, 2021).

⁹ PFD at 53.

¹⁰ E.g. Docket No. 51023, SOAH Order No. 9 Addressing “Route R-1 Modified” Issues at 1 (Mar. 8, 2021) (“*Commission precedent is clear that the ALJs cannot devise new or modified segments not included in the application and opposed by affected landowners.*”) (emphasis added).

Respectfully submitted,

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**ATTORNEYS FOR TOUTANT RANCH, LTD.
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CERTIFICATE OF SERVICE

I, Michael A. McMillin, Attorney for Toutant Ranch, Ltd. And ASR Parks, LLC, hereby certify that a copy of the foregoing document was served on all parties of record in this proceeding on this 8th day of October 2021 by hand-delivery, facsimile, electronic mail and/or First Class, U.S. Mail, Postage Prepaid.

/s/ Michael A. McMillin

Michael A. McMillin