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3 THE TEXAS STATE OFFICE OF ADMINISTRATIVE HEARINGS
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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
11

Docket Number: 51023

SOAH Docket No. 473-21-0247

REPLY TO RAUL FIGUEROA'S
EXCEPTIONS TO THE PROPOSAL FOR
DECISION AND MOTION TO STRIKE

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14 I, Patrick Cleveland, do respectfully file this Reply to Raul Figueroa's Exceptions to the
15 Proposal for Decision filed on October 8, 2021 in the above captioned case.
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18 1. The information referencing Carrie Joe Braden, Ph.D. in Section III(c) and the attached letter
19 from same contained in Mr. Figueroa's Exceptions to the Proposal for Decision are hearsay and
20 an attempt to add new evidence to the proceeding after deadlines for doing so have passed. In
21 addition, Ms. Braden is not an intervenor and therefore any comments allegedly made by her
22 should not be considered as evidence. I respectfully move that such information be stricken and
23 disregarded.
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28 2. Mr. Figueroa states that I'm doing everything possible to keep the transmission line as far
away from my home as possible. This is not true. My main objective is and always has been to
stop a transmission line from being built anywhere on the High Country Ranch recreational and
nature preserve area, especially through the middle of it. The impact of Route AA1 on my home
is trivial compared to the impact it would have on our common recreational area that has, thus
far, been preserved for over 40 years. Such impact would be devastating to the natural beauty of
the land, our recreational activities, and the flora and fauna upon it.

3. Mr. Figueroa's statements regarding the directional location of Segment 46b are inaccurate.
In addition, Segment 46b does not surround Mr. Figueroa's property on three sides. It is located

1 on Dr. Alan Hibberd's property¹ and runs adjacent to Mr. Figueroa's southern property line. If
2 we assume the segment is coming from the east, it crosses the main High Country ranch road,
3 then turns in a northerly direction on the west side of the road. So, on the west side the segment
4 is across the road from his property. The distance from this part of the segment to Mr.
5 Figueroa's home is well over 300 feet.² In addition, there is no part of the segment that follows
6 his eastern property line. Finally, no part of the segment follows his northern property line.
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11 4. Segment 46b should not impact Mr. Figueroa's water well, as Segment 46b is not even on his
12 property. It may be true that Segment 46b is near the common ranch well, but CPS Energy is
13 mandated to "cooperate with directly affected landowners to implement minor deviations from
14 the approved route to minimize the disruptive effect of the proposed transmission line project."³
15 Therefore, if the transmission line is projected to be too close to the well, CPS Energy can
16 simply build it a little further away.
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21 5. Route AA1 does not meet all the factors in the Public Utility Regulatory Act, as stated by Mr.
22 Figueroa. In fact, it goes against them. The only difference between Route AA1 and Z2 is that
23 Route AA1 utilizes Segment 49a and Route Z2 utilizes Segment 46b. Segment 49a in Route
24 AA1 does not use an existing compatible right of way for electrical facilities, it does not parallel
25 or utilize other existing rights of way, including roadways or highways, it parallels a short length
26 of property lines, and it does not conform with the policy of prudent avoidance compared to
27 Routes P and R1.⁴ On the other hand, 83% of Segment 46b follows roadway and property line
28 ROW.⁵

¹ See CPS Energy Exh. 6 Application Amendment, Attachment 5 - Application Attachment 6 Amended Sheets 2-7, Sheet 2, Property ID B-037

² See CPS Energy Exh. 6 Application Amendment, Attachment 5 - Application Attachment 6 Amended Sheets 2-7, Sheet 2. Based on the scale provided in that map, Mr. Figueroa's home is approximately 367 feet from the proposed transmission line.

³ Proposal for Decision at 118.

⁴ The amended environmental Table 4-1 indicates that a miniscule length of Segment 49a follows property lines and a small length of roadways, but one only has to view Amended Sheet 2 map to see that it follows property lines in the area of the Pinson Interests donated land and it follows no roadways (although it does follow an unimproved dirt path for some of its length). Even considering this, the total ROW followed for Segment 49a is only 27%.

⁵ See CPS Energy Exh. 6 Application Amendment, Table 4-1.

1 6. Routes AA1 and AA2 follow ROW for only 56% and 53% of their lengths, which make them
2 the worst performing routes out of all the focus routes.⁶
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5 7. Route AA1 and AA2 are also unfavorable because Segment 49a runs directly over existing
6 Harvester ant dens.⁷ According to Texas Parks and Wildlife, “[a] useful indication that the
7 Texas Horned Lizard may occupy [an] area is the presence of Harvester ant nests as they are the
8 primary food source of horned lizards.”⁸ Because the Texas Horned Lizard is a threatened
9 species, TPWD has recommended avoiding constructing power lines over Harvester ant colonies
10 in its letter to CPS Energy.⁹
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15 8. Routes AA1 and AA2 are also unfavorable because they go near rare occurring and mature
16 black walnut trees and it appears that many will need to be cleared for the route.¹⁰
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19 9. Segment 49a may or may not be visible from Toutant Beauregard Road, but it would be
20 visible to many of the hundreds of homes in the Pecan Springs Development, Anaqua Springs
21 Development and the Canyons Development.¹¹
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25 10. With respect to the 15¹² significant environmental factors, the following table shows how
26 each route compares. The X indicates which one is favored with respect to each factor:
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	Route Z2	Route AA1
Length	X	
Habitable Structures		X
Total Length ROW	X	
Percent Length ROW	X	

⁶ *Id.*

⁷ See PC Exhibit 28 at 3 and PC Exhibit 12

⁸ See CPS Energy’s Response to Patrick Cleveland’s First Request for Information, Attachment 1-9.

⁹ *Id.*

¹⁰ See PC Exhibit 28 at 3 and PC Exhibits 13 and 14.

¹¹ See PC Exhibits 10 and 11.

¹² The insignificant environmental categories are those where all the routes are zero or range from 0-2 as described in PC Exhibit 28.

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Pasture	Tie	Tie
Woodlands/Brush	X	
Wells	Tie	Tie
GCW High	X	
GCW Low	X	
Stream Crossings	X	
Streams Parallel	X	
Edwards Aquifer	X	
100 Year Flood Plain		X
Cultural Sites	Tie	Tie
Archeologic	X	

With regard to the only two environmental factors favoring Route AA1, Z2 barely edges out AA1 by one habitable structure and 0.03 miles of floodplain. Therefore, the environmental factors clearly favor Route Z2 over Route AA1.

11. Route AA1 is also less favorable than Route R1 with respect to the environmental factors as shown in the table below.

	Route R1	Route AA1
Length	X	
Habitable Structures	X	
Total Length ROW	X	
Percent Length ROW	X	
Pasture	X	
Woodlands/Brush		X
Wells		X
GCW High		X
GCW Low	X	
Stream Crossings	X	

Streams Parallel	X	
Edwards Aquifer	X	
100 Year Flood Plain	X	
Cultural Sites		X
Archeologic	X	

Therefore, Route AA1 is clearly not the most favorable route, rather, it is probably the *least favorable* route out of all the focus routes.

IN CONCLUSION I am thankful that the ALJ's wisely decided against Route AA1 which goes through the middle of the High Country Ranch preserve. Although Route Z2 is clearly more favorable than Route AA1, it is still not the most favorable route in the study area based on all the environmental factors, and PURA § 37.056 and 16 Tex. Admin. Code § 25.101. The most favorable routes are Routes P and R1.

Thank you for your consideration.

Respectfully submitted this 15th day of October 2021.

/Patrick Cleveland/

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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 15th, 2021, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/Patrick Cleveland/

Patrick Cleveland