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**APPLICATION OF THE CITY OF § BEFORE THE STATE OFFICE
SAN ANTONIO, ACTING BY AND §
THROUGH THE CITY PUBLIC §
SERVICE BOARD (CPS ENERGY) §
TO AMEND ITS CERTIFICATE OF § OF
CONVENIENCE AND NECESSITY §
FOR THE SCENIC LOOP 138-KV §
TRANSMISSION LINE IN BEXAR §
COUNTY, TEXAS § ADMINISTRATIVE HEARINGS**

**REPLY TO EXCEPTIONS TO THE PROPOSAL FOR DECISION
BY CLEARWATER RANCH POA**

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**ATTORNEYS FOR
CLEARWATER RANCH POA**

October 15, 2021

COME NOW, Clearwater Ranch POA (“Clearwater Ranch”), and files this Reply to the Exceptions to the Administrative Law Judge’s (“ALJ”) Proposal for Decision (“PFD”) in the above-styled and numbered cause.

I. Introduction.

Clearwater Ranch is a large-acre neighborhood nestled in the Texas Hill County, where landowners enjoy the native wildlife and rural lifestyle. The vast majority of the landowners in Clearwater Ranch actively manage their properties to preserve wildlife or have agricultural valuations.¹ Segments 37, 26a, 32, and 25 would devastate this tranquil reprieve and split the neighborhood in half. More devastatingly, Segment 37 bisects Mariana and Francis Van Wisse’s homestead,² zig zags through Alejandro Medina’s bird sanctuary ecological preserve,³ and runs within 100 feet of Joe Acuna’s house that is currently being built.⁴ In addition to their negative impact to Clearwater Ranch, Routes P and R1 are longer, more expensive, have inadequate paralleling, and damage the environment. In contrast, Routes Z1, Z2, AA1, and AA2, which utilize segments along Toutant Beauregard Road, perform better under Public Utility Regulatory Act (“PURA”) § 37.056(c) and the routing criteria in 16 TAC § 25.101(b)(3)(B).

¹ See generally, Clearwater Exs. #1-23.

² Clearwater Ex. #20, p. 6:23-25.

³ Clearwater Ex. #14, p. 6:19-20, p. 7:11

⁴ Clearwater Ex. #1, p. 6:8-9.

II. Replies to Exceptions.

COMMUNITY VALUES – *Reply to Exceptions by San Antonio Rose Palace, Inc. and Strait Promotions Inc., Brad Jauer and BVJ Properties LLC, Anaqua Springs Homeowners Association, Patrick Cleveland, Lauren Pankratz, Ronald Schappaugh, Steven Herrera, and PUC Staff.*

Various parties have argued utilizing Segment 42a goes against community values due to its proximity to Sara McAndrew Elementary. However, when asked to rank the importance of transmission lines' proximity to schools, places of worship, cemeteries, in the surveys conducted by CPS, only 2% (4 out 186) of the of the respondents indicated it was the “most important factor.”⁵ Additionally, Segment 41 --which crosses Northside Independent School District's property-- and Segment 35 across from the school on Toutant Beauregard did not receive any negative concerns in the community values survey.⁶ Segment 42a does not cross Northside Independent School District property.⁷ Additionally, the transmission line is 280 feet away from the play areas of the school, making it not an EMF concern because it is further than 100 feet.⁸ Lastly, other Northside ISD schools have transmission lines in close proximity.⁹

Parties argues Route P comports with community values because there are only 17 habitable structures within 300 feet of the centerline. Staff stated the most important criterion to members of the community was “maximizing distances from residences.”¹⁰ Staff gleaned this from the responses that “impact to residences” was the highest ranked concern.¹¹ However, in addition to this ranking question in the survey, respondents were also asked to identify the most preferred

⁵ CPS Energy Ex. 1, Attachment 1 at 189-191.

⁶ *Id.*; CPS Ex. 16.

⁷ CPS Energy Ex. 16.

⁸ SHLAA Ex. 3 at p. 20-22; CPS Energy Ex. #12 at ARM-5R; HOM Transcript 763:22-25.

⁹ CPS Energy Ex #12, p. 15:5-23.

¹⁰ Commission Staff Initial Brief at p. 5.

¹¹ CPS Energy Ex. 1, Attachment 1 at 000302.

and least preferred route segments. The least preferred were Segments 15, 26, 16.¹² Of these least preferred segments, Route P utilizes two of them - 15 and 26.¹³ Clearwater Ranch understands the desire to limit the amount of habitable structures impacted by the transmission line route, but to do so by utilizing the *least desirable segments from the community values survey* demonstrates that Route P does not comport with community values of the study area. Even more so, none of the segments along Toutant Beauregard ranked in the least preferred segments.¹⁴

RECREATIONAL AND PARK AREAS –*Reply to Exceptions by Patrick Cleveland and San Antonio Rose Palace, Inc. and Strait Promotions Inc., Brad Jauer and BVJ Properties LLC, and Anaqua Springs Homeowners Association.*

Clearwater Ranch takes no position on the inclusion of the High Country Ranch’s “common recreation area” in CPS’ Environment Assessment. This criteria is but one factor in many that the Commission must consider under Public Utility Regulatory Act (“PURA”) § 37.056(c) and the routing criteria in 16 TAC § 25.101(b)(3)(B). However, on balance, the exclusion of High Country Ranch’s private, recreational area that only serves 15 residents,¹⁵ does not outweigh the other factors that favor Z2 or the other routes along Toutant Beauregard.

HISTORICAL AND AESTHETIC VALUES –*Reply to Exceptions by San Antonio Rose Palace, Inc. and Strait Promotions Inc., Brad Jauer and BVJ Properties LLC, Anaqua Springs Homeowners Association and PUC Staff.*

None of the alternative routes has right-of-way within the foreground visual zone categories in the Environmental Assessment.¹⁶ This leads the ALJs to consider more qualitative aspects of the project in terms of aesthetic values. The PUC has previously opined, “[a]esthetic

¹² CPS Energy Ex. 1, Attachment 1 at 189-191.

¹³ *Id.*; CPS Energy Ex. 16.

¹⁴ *Id.*

¹⁵ High Country Ranch Ex. 28, at 2, para.5.

¹⁶ CPS Energy Ex. 17.

impacts to visual resources exist when the right-of-way, lines and/or structures of a transmission line system create an intrusion into, or substantially alter, the character of the existing view.”¹⁷ In determining this impact, the PUC advises, “[t]he significance of the impact is directly related to the quality of the view in natural scenic areas, [and] the importance of the existing setting in the use and enjoyment of an area.”¹⁸ Based on this guidance, the ALJs should analyze and compare the current view versus one with a transmission line in terms of aesthetics.

Route P creates a substantial intrusion into the existing view for Clearwater Ranch (and that of Bexar Ranch and SHLAA), particularly because Segment 37 completely bisects the neighborhood. Clearwater Ranch went to great lengths to bury their distribution lines in order to lessen the disturbance to the wildlife. In contrast, running a 138-kV line along Toutant Beauregard, where there is already a distribution line, does not substantially alter the existing view. As noted in Docket No.47192, the Commission held a route “primarily being built within the exact same corridor as the existing 69-kV transmission line...and other linear corridors, including...distribution lines” would not be “inconsistent with existing features in the area.”¹⁹ Certainly a transmission line will have an aesthetic impact, but when it parallels an existing linear corridor, which has already been cleared because of a road and distribution lines, that impact is less than cutting through neighborhoods and undeveloped ranch land. By paralleling Toutant

¹⁷ Docket No. 45866, *Application of LCRA Transmission Services Corporation to Amend a Certificate of Convenience and Necessity for the Round Rock - Leander 138-Kv Transmission Line in Williamson County*, Final Order (June 6, 2017) at 29, para. 60.

¹⁸ *Id.*

¹⁹ Docket No. 47192, *Application of Pedernales Electric Cooperative, Inc. to Amend a Certificate of Convenience and Necessity for the Highway 32 to Wimberley Transmission Line Rebuild and Upgrade Project in Hays County*, Final Order (Jan.30, 2018) at 16, para.77-78.

Beauregard, Routes Z1 or Z2 “will not present a view dissimilar to other linear rights-of-way throughout the area following completion of construction and restoration activities.”²⁰

ENVIRONMENTAL INTEGRITY – *Reply to Exceptions by Patrick Cleveland and PUC Staff.*

The Toutant Beauregard Routes perform best in terms of environmental integrity. Routes Z1, Z2, AA1 and AA2 cross lower amounts of upland woodlands/brushlands (the only ones lower are Routes DD and Y).²¹ As noted in the POWER Environmental Assessment, routes crossing “upland woodlands/brushlands... can represent the highest degree of habitat fragmentation by converting the area within the ROW to an herbaceous habitat.”²² Preventing this kind of habitat fragmentation is another reason why routes along Toutant Beauregard best meets the routing criteria. Additionally, the Toutant Beauregard Routes respectively cross only 11.12, 8.92, 9.6 and 11.81 acres of the Golden Cheeked Warbler modeled habitat at Moderate High to High.²³ This compares to the 25.11 acres of Route P and the 19.03 acres of R1, the highest and 3rd highest amount in the study area.²⁴

PRUDENT AVOIDANCE – *Reply to Exceptions by San Antonio Rose Palace, Inc. and Strait Promotions Inc., Brad Jauer and BVJ Properties LLC, Anaqua Springs Homeowners Association, Lauren Pankratz, Ronald Schappaugh, Steven Herrera, and PUC Staff.*

Prudent avoidance is not simply picking the route with fewest habitable structures. If that were the case, only routes with the fewest number of habitable structures would comply with the policy. While the habitable structure count can serve as an easy data point to measure prudent avoidance, these numbers do not account for the electro-magnetic field range from the

²⁰ Docket No. 47192 at p.16, para 78.

²¹ *Id.*

²² CPS Energy Ex. #6, Attachment #2 at 00064, Section 4.1.9 Impacts to Wildlife.

²³ CPS Energy Ex. #17.

²⁴ CPS Energy Ex. #17

transmission line. The 300-foot distance from the centerline of the transmission line is a notice requirement under § 25.101(b)(3)(B), not a scientific measurement of the risks of EMF exposure. As CPS testified, the EMF range for this particular line is approximately 100 feet on each side of the transmission line.²⁵ This means habitable structures further than 100 feet away from the centerline are at little risk of electric and magnetic exposure. Route P only has one single-family residence within 100 feet of its centerline.²⁶ But also, Routes Z1 and Z2 only have one single-family residence within 100 feet of its centerline.²⁷ The most impacted neighborhood by Route Z1 or Z2 is Scenic Hills.²⁸ This is mainly due to the 18 habitable structures that face onto and are accessed by Toutant Beauregard on Segment 54.²⁹ For the majority of those 18 homes in Scenic Hills, the proposed transmission line runs across the street from them. Of those residences, only one property owner intervened in these proceedings, Mr. Steven Herrera.³⁰ With Routes P, Z1, and Z2 all only having one home within 100 feet of the centerline, the main difference between these routes is cost. For approximately \$5 million more, Route P is not limiting any more EMF exposure to homes than Z1 or Z2.³¹ This is not a reasonable investment of money under the policy of prudent avoidance.

²⁵ CPS Energy Ex. #12 at ARM-5R; HOM Transcript at p. 815-17.

²⁶ CPS Energy Ex. 16; CPS Energy Ex.12 at ARM-6R; SHLAA Ex. #8.

²⁷ *Id.*

²⁸ While Serene Hills enters through Scenic Hills, there are no properties within 300 feet of the centerline of Route Z1 or Z2.

²⁹ CPS Energy Ex. 16; CPS Energy Ex. 17.

³⁰ CPS Energy Ex. 16.

³¹ CPS Energy Ex. 17.

III. Conclusion

FOR THESE REASONS, Route P and R1 are not the best-meets route under PURA § 37.056(c)(4) and 16 TAC § 25.101(b)(3)(B). Routes Z1 and Z2, cost less, are shorter, have better use of compatible right-of-way, preserve environmental integrity, maintains aesthetic and community values, and comports with prudent avoidance. Clearwater Ranch respectfully requests that the Proposal for Decision recommend Route Z2, or alternatively Route Z1, Route AA1, or Route AA2 as the route(s) that best meet(s) the overall routing criteria.

Respectfully Submitted,

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**ATTORNEYS FOR CLEARWATER
RANCH POA**

CERTIFICATE OF SERVICE

I certify that on this 15th day of October 2021, a true and correct copy of the foregoing document was transmitted to the parties of record in accordance with the Second Order Suspending Rules issued in Project No. 50664.

/s/Patrick L. Reznik

Patrick L. Reznik