the school and the hundreds of children, teachers, and parents [who] study, work and attend functions at the school aligns with the community values expressed at the open house."[263]

Intervenors supporting northern routes and CPS Energy provided responses to these concerns. CPS Energy's witness Mr. Marin testified that at least two other NISD schools were constructed "adjacent to existing transmission lines."[264] In Mr. Marin's experience, school districts "regularly locate and develop school properties adjacent or in close proximity to existing transmission facilities."[265] He testified that there are numerous instances in the CPS Energy service area of school campuses and facilities, such as parking areas, athletic fields, and running tracks, being located in the ROW of the transmission lines.[266] Bexar Ranch's witness Dr. Turnbough testified that he reviewed the locations of other schools in NISD and found eight elementary schools that had electric transmission lines "at distances comparable to the distance of proposed Route Z-1 to the Elementary School."[267] One school had "not only multiple electric transmission lines in relative proximity to the school property [but] also a substation."[268] To further address NISD's concerns, CPS Energy's witness Mr. Lyssy testified that no constructability issues would prevent Segment 42a being moved further away from the school properties.[269] Mr. Lyssy said he is aware of no instance in which a child or other member of the public was injured as a result of the construction of a CPS Energy transmission line.[270] And, after construction, the monopole structures planned for the Project "do not lend themselves to any practical means of climbing," whether by adults or children.[271]

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[263] Anaqua Springs Initial Brief at 14.

[264] CPS Energy Ex. 12 (Marin Rebuttal) at 15.

[265] CPS Energy Ex. 12 (Marin Rebuttal) at 15.

[266] CPS Energy Ex. 12 (Marin Rebuttal) at 15.

[267] Bexar Ranch Ex. 6 (Turnbough Cross-Rebuttal) at 13-14.

[268] Bexar Ranch Ex. 6 (Turnbough Cross-Rebuttal) at 14.

[269] Tr. at 322-23.

[270] CPS Energy Ex. 14 (Lyssy Rebuttal) at 6-7.

[271] CPS Energy Ex. 14 (Lyssy Rebuttal) at 6.

As to community values, Bexar Ranch pointed out that the respondents to the open house questionnaire ranked impact to residences as the most important issue (58%) by a vastly higher percentage than proximity to schools, places of worship, and cemeteries (2%).[272] SHLAA added that the concerns about the Elementary and Middle Schools overlook the fact that some "members of SHLAA homeschool their children" so the school facility is not an exclusive location for education.[273] Moreover, residents of Clearwater Ranch whose children attend the Elementary School stated that they do not have the same concerns about Segment 42a as they do about other routes close to the school. Several of those residents testified that, "while [their] children attend McAndrew Elementary, [Segment 42a] does not cross the entrances/exit, is behind the school, and [is] away from where the children play."[274]

The ALJs find Route Z2, which uses Segment 42a, minimizes the impact to the school with respect to community values. The attractive nuisance theory is refuted by Mr. Lyssy's expert testimony. Moreover, there are numerous instances of NISD schools and schools in the CPS Energy service area being located close to transmission lines and even to a substation, but there is no record evidence of children attempting to play on or being injured by those structures. The fact that parents of children currently attending the school are comfortable with Segment 42a is an indication that Route Z2 (as well as AA1, AA2, and Z1) would address the community's legitimate concerns about the school. Avoiding the school entirely by using Routes P, R1, or W is undesirable for the impact to other community values, as discussed above.

C. Prudent Avoidance

Many intervenors in this case expressed grave concern about the health effects of being exposed to EMF. The Commission's rules define "prudent avoidance" as a means of limiting

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[272] Bexar/Guajalote Ranches Initial Brief at 16-17.

[273] SHLAA Reply Brief at 18.

[274] Clearwater Ranch Ex. 13 (Keck Direct) at 9; *see also* Clearwater Ranch Ex. 5 (Garcia Direct) at 9; Clearwater Ranch Ex. 17 (Rohlmeier Direct) at 10.

exposures to EMF that can be avoided with reasonable investments of money.[275] Thus, routing a transmission line should include consideration of population centers. The number, and in some instances, the type of habitable structures within 300 feet of the proposed route's centerline provide some objective guidance on this issue as well, because 300 feet is the distance at which the CCN Application form instructs applicants to notify landowners.[276]

Staff witness Mr. Poole testified that EMF exposure can be limited primarily by proposing alternative routes that would minimize, to the extent reasonable, the number of habitable structures located in close proximity to the routes.[277] He noted that Route P is tied as having the fourth-lowest number of habitable structures within 300 feet of the centerline.[278]

As previously discussed, the number of habitable structures along the routes presented by CPS Energy ranges from a low of 12 (Routes Q1 and U1) to a high of 72 (Route A). The average number for all routes is 37 habitable structures within 300 feet of the route centerline. Of the focus routes, TPWD-recommended Route DD has the highest habitable structure count (33), the lowest is on Route R1 (13), followed by Route P (17), which is recommended by Staff, Jauer, Strait/Rose Palace and some other intervenors. The remaining routes are fairly comparable: the ALJs' recommended Route Z2 has 32 habitable structures within 300 feet of the centerline, Routes Z1 and AA1 each have 31, Route AA2 has 30, and Route W, preferred by Anaqua Springs, has 29.

Intervenors expressed concerns about EMF exposure to their families and to children, faculty, visitors, and others at the Elementary School. Dr. Lauren Pankratz, a resident of and witness for Anaqua Springs, is a pediatric endocrinologist. She testified that influences on child development are "complex and not completely understood," but noted that some studies suggest "long term exposure to electromagnetic fields emitted by high voltage transmission (HVT) lines

[275] 16 TAC § 25.101(a)(6).

[276] Staff Ex. 1 (Poole Direct) at 41; 16 TAC § 22.52(a)(3).

[277] Staff Ex. 1 (Poole Direct) at 41.

[278] Staff Ex. 1 (Poole Direct) at 41.

may negatively impact a child's health."[279] Dr. Pankratz stated that, while the studies have their limitations, "there are no studies that prove HVT lines are 100% safe for children."[280] She therefore suggested keeping the transmission line away from the Elementary School altogether. She also noted that a northern line could run very close to the Anaqua Springs guardhouse, which is staffed 24 hours per day.

Mr. Herrera, whose home in Scenic/Serene Hills is on Toutant Beauregard, said that as much as he treasures the views and setting of his home, he values his health and that of his children above all. He stated that it "does not matter how beautiful and majestic your view may be from your front porch, if [you're] too sick to enjoy it."[281] Intervenors in every part of the study area strenuously voiced similar concerns.

CPS Energy's witness Mr. Marin testified that EMF is "found everywhere, especially where electricity is used, and emanates from many sources including household appliances, electrical equipment, communications equipment, and power lines."[282] He noted that CPS Energy within its service area "safely operates a number of transmission facilities that are in close proximity to hospitals and other healthcare facilities, park and recreational areas, and numerous commercial and residential developments."[283] Mr. Marin said that Project engineers calculated that the maximum magnetic field of the Project is "less than the median magnetic field produced by a microwave oven from six inches away."[284] Specifically, the magnetic field with the line operating at maximum load is 130 milliGauss (mG) at the centerline, 25.7 mG at 50 feet from the centerline, and 7.7 mG at 100 feet from the centerline.[285] The magnetic field produced by a microwave oven

[279] Anaqua Springs Ex. 3 (Pankratz Direct) at 4.

[280] Anaqua Springs Ex. 3 (Pankratz Direct) at 5.

[281] Herrera Initial Brief at 1.

[282] CPS Energy Ex. 12 (Marin Rebuttal) at 12.

[283] CPS Energy Ex. 12 (Marin Rebuttal) at 13.

[284] CPS Energy Ex. 12 (Marin Rebuttal) at 29 (ARM-5R).

[285] CPS Energy Ex. 12 (Marin Rebuttal) at 28-29 (ARM-5R).

from six inches away is 200 mG.[286] A hair dryer at six inches away produces a magnetic field of 300 mG.[287] The ALJs note that the comparison has limitations, because people do not commonly stand six inches in front of an operating microwave oven for many hours at a time. Thus, the exercise of prudent avoidance is advisable.

The Commission's definition of prudent avoidance is not to avoid EMF exposure at all costs; rather, it requires avoidance to be achieved through "reasonable investments" of money. The ALJs note that Route W has three habitable structures within 100 feet of its centerline, and has a projected cost of $52.87 million. All of the other focus routes have only one structure within 100 feet of the centerline.[288] If maximum avoidance of EMF is the goal, Route W is less attractive than the other focus routes.

Among the remaining routes, the ALJs compared the cost per structure avoided, using Route Z2 as the baseline. The chart below illustrates these calculations (Route DD is not included because it has more habitable structures within 300 feet of the centerline than does Route Z2).[289]

Route	Cost $M	Cost over Route Z2 ($M or $K)	Habitable Structures (HS) w/in 300 feet	Z2 HS minus HS of comparison route	Cost/structure avoided ($M or $K)
Z2	$37.64M	n/a	32	n/a	n/a
Z1	$38.48M	$840K	31	1	$840K
AA1	$38.30M	$660K	31	1	$660K
AA2	$39.05M	$1.41M	30	2	$705K
W	$52.87M	$15.23M	29	3	$5.08M
P	$43.41M	$5.77M	17	15	$385K
R1	$43.52M	$5.88M	13	19	$309K

The best comparison to Route Z2 is Route R1 for cost per structure avoided. Route R1 has 19 fewer structures and costs $5.88 million more than Route Z2. That means the 19 additional

[286] CPS Energy Ex. 12 (Marin Rebuttal) at 28-29 (ARM-5R).

[287] CPS Energy Ex. 12 (Marin Rebuttal) at 26 (ARM-5R).

[288] SHLAA Ex. 8; CPS Energy Ex. 17.

[289] CPS Energy Ex. 17.

structures avoided by Route R1 are avoided at an average cost of $309,000 per structure. SHLAA's witness Mr. Hughes, who has testified in a number of CCN cases before the Commission, compared Route P to Route Z1 and calculated that 18 habitable structures on Route Z1 could be avoided at a cost of $274,110 per structure.[290] Mr. Hughes opined, "I do not think that spending over a quarter of a million dollars per avoided structure meets the Commission's definition of prudent avoidance; i.e., limiting of exposures to electric and magnetic fields that can be avoided with *reasonable investments of money* and effort."[291] The ALJs concur with his reasoning, and do not find R1–or any other focus route–to be superior to Route Z2 in light of the other negative impacts of the routes and the cost required to avoid additional habitable structures.

D. Recreational and Park Areas

In the EA, CPS Energy did not identify any parks and recreational areas crossed by or within 1,000 feet of any alternative route.[292] CPS Energy's witness Ms. Meaux explained that, although some private properties where "recreational activities occur on a regular basis" were identified, POWER did not consider them to meet the requirements of the CCN application.[293] This is because "it would be virtually impossible to build a transmission line of any length in Texas without crossing private property that is used for some type of private recreation."[294] However, she said that CPS Energy attempted to avoid and minimize impacts to such properties "where practical, considering other environmental and land use restraints, when delineating the primary alternative route Segments."

Regarding the High Country Ranch recreational area (approximately 300 acres in which the owners of 15 residential lots own undivided interests), Ms. Meaux said that the area is available

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[290] SHLAA Ex. 4 (Hughes Cross-Rebuttal) at 8. Mr. Hughes was using an estimate of 12 habitable structures on Route P, prior to an update. Therefore, if the most recent estimate of 17 structures on Route P is used. Mr. Hughes's calculation would show that Route P avoids 14 habitable structures over Route Z1, at a cost of roughly $352,000 each.

[291] SHLAA Ex. 4 (Hughes Cross-Rebuttal) at 8 (emphasis in original).

[292] CPS Energy Ex. 2 (Meaux Direct) at 15.

[293] CPS Energy Ex. 2 (Meaux Direct) at 15-16.

[294] CPS Energy Ex. 15 (Meaux Rebuttal) at 16.

for use only to the lot owners and thus is not public. She opined that a transmission line would not interfere with the activities that High Country Ranch residents pursue in the recreation area, pointing out that "numerous transmission lines are located in and near park and recreational areas throughout the State of Texas."[295]

Ms. Meaux acknowledged that Mr. Anderson, the expert witness for Anaqua Springs and Jauer, criticized the omission of the Elementary School as a park and recreational area. She said that the Elementary School is not identified as a park and recreational area because it is identified as a school, and designation as a school is more comprehensive.[296]

The ALJs do not find fault with the decision to exclude private property from the definition of park and recreational area in this case. Mr. Cleveland argues in briefing that the High Country Ranch recreational area is "open to the public in that any time a lot owner sells, anyone can buy the lot and become a member."[297] However, the High Country Ranch area is not generally available for public recreational use at any time, and remains a privately-held, privately-controlled resource. As for the contention by Anaqua Springs and Mr. Cichowski that the "acreage on either side of the guardhouse is dedicated parkland," the ALJs do not see any evidence that the "dedicated parkland" is open to the public for recreational activities. It is still a private asset.

The ALJs agree with CPS Energy that the Elementary School is properly designated as a school, not as a park and recreational area. As Ms. Meaux testified, the ALJs and Commissioners "are familiar with recreational activities that occur on school properties," but the primary purpose of the facility is educational.[298] CPS Energy correctly determined that no alternative route crosses or passes within 1,000 feet of a park and recreational area.

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[295] CPS Energy Ex. 15 (Meaux Rebuttal) at 16.

[296] CPS Energy Ex. 15 (Meaux Rebuttal) at 18.

[297] Cleveland Reply Brief at 4.

[298] CPS Energy Ex. 15 (Meaux Rebuttal) at 18.

E. Preliminary Order Issue No. 7: Texas Parks and Wildlife Department[299]

On August 1, 2019, TPWD provided information and recommendations regarding the preliminary study area to POWER on August 1, 2019.[300] On September 16, 2020, TPWD filed a letter containing its comments and recommendations regarding the Project.[301] On February 18, 2021, after CPS Energy filed the amended Application, TPWD filed a second letter with updated comments and recommendations.[302]

TPWD's updated comments found Route DD best-suited for the Project based on its total length; percentage of route across upland woodlands/bushlands; relatively high percentage of ROW parallel to other existing ROW; relatively low amount of areas of ROW across Golden-Cheeked Warbler (GCW) modeled habitat designated as 3-Moderate High and 4-High Quality; and its location in Karst Zone 5, which does not contain endangered karst invertebrate species.[303]

TPWD included in its letters comments and recommendations regarding the Project and potential impacts on sensitive fish/wildlife resources, habitats, or other sensitive natural resources.[304] Specifically, TPWD recommended that, pursuant to the federal Migratory Bird Treaty Act, if ROW clearing occurs during bird nesting season (March 15 to September 15), a nest survey be conducted and a minimum 150-foot buffer of vegetation be left undisturbed until eggs have hatched and nestlings have fledged.[305] TPWD stated that all routes in the study area cross

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[299] Preliminary Order Issue No. 7 reads as follows:

> On or after September 1, 2009, did the Texas Parks and Wildlife Department provide any recommendations or informational comments regarding this application in accordance with section 12.0011(b) of the Texas Parks and Wildlife Code? If so, please address the following issues[.]

There are four subparts to the question; each is addressed in the subsections that follow.

[300] CPS Energy Ex. 1 at Bates 000264-78.

[301] Staff Ex. 1 (Poole Direct) at Attachment JP-3.

[302] Staff Ex. 1 (Poole Direct) at Attachment JP-4.

[303] Staff Ex. 1 (Poole Direct) at Attachment JP-4.

[304] Staff Ex. 1 (Poole Direct) at Attachments JP-3 and JP-4.

[305] Staff Ex. 1 (Poole Direct), Attachment JP-3 at Bates 000051-52.

potential suitable habitat as defined by the Diamond (2010) Model C for the GCW, and recommended contacting the U.S. Fish and Wildlife Service (USFWS) and considering the Southern Edwards Plateau Habitat Conservation Plan and the Bandera Corridor Conservation Bank for mitigation requirements.[306]

CPS Energy states that, along with POWER, it has already taken into consideration several of the recommendations offered by TPWD.[307] CPS Energy asserts that it can address TPWD's comments by complying with the Commission's standard ordering paragraphs in transmission line cases.[308] Staff cited recommended ordering paragraphs from Mr. Poole's testimony:[309]

1. CPS Energy shall conduct surveys, if not already completed, to identify pipelines that could be affected by the transmission lines and coordinate with pipeline owners in modeling and analyzing potential hazards because of alternating-current interference affecting pipelines being paralleled.

2. CPS Energy must follow the procedures to protect raptors and migratory birds as outlined in the following publications: *Reducing Avian Collisions with Power Lines: The State of the Art in 2012*, Edison Electric Institute and Avian Power Line Interaction Committee, Washington, D.C. 2012; *Suggested Practices for Avian Protection on Power Lines: The State of the Art in 2006*, Edison Electric Institute, Avian Power Line Interaction Committee, and the California Energy Commission, Washington, D.C. and Sacramento, CA 2006; and *Avian Protection Plan Guidelines*, Avian Power Line Interaction Committee and United States Fish and Wildlife Service, April 2005. CPS Energy must take precautions to avoid disturbing occupied nests and take steps to minimize the burden of construction on migratory birds during the nesting season of the migratory bird species identified in the area of construction.

3. CPS Energy must exercise extreme care to avoid affecting non-targeted vegetation or animal life when using chemical herbicides to control vegetation within rights-of-way. CPS Energy must ensure that the use of chemical herbicides to control vegetation within the rights-of-way complies with

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[306] Staff Ex. 1 (Poole Direct), Attachment JP-3 at Bates 000052.

[307] CPS Energy Ex. 15 (Meaux Rebuttal) at 11-12.

[308] CPS Energy Initial Brief at 35.

[309] Staff Ex. 1 (Poole Direct) at 13-15. One of Mr. Poole's recommendations, concerning archeological artifacts or cultural resources, is discussed separately in the relevant section, below

rules and guidelines established in the Federal Insecticide Fungicide and Rodenticide Act and with Texas Department of Agriculture regulations.

4. CPS Energy must minimize the amount of flora and fauna disturbed during construction of the transmission lines, except to the extent necessary to establish appropriate right-of-way clearance for the transmission lines. In addition, CPS Energy must revegetate, using native species and must consider landowner preferences and wildlife needs in doing so. Furthermore, to the maximum extent practical, CPS Energy must avoid adverse environmental influence on sensitive plant and animal species and their habitats, as identified by the TPWD and the United States Fish and Wildlife Service (USFWS).

5. CPS Energy must implement erosion control measures as appropriate. Erosion control measures may include inspection of the right-of-way before and during construction to identify erosion areas and implement special precautions as determined necessary. CPS Energy must return each affected landowner's property to its original contours and grades unless otherwise agreed to by the landowner or the landowner's representative. CPS Energy is not required to restore the original contours and grades where a different contour or grade is necessary to ensure the safety or stability of the project's structures or the safe operation and maintenance of the lines.

6. CPS Energy must use best management practices to minimize the potential impacts to migratory birds and threatened or endangered species.

7. CPS Energy must cooperate with directly affected landowners to implement minor deviations from the approved route to minimize the burden of the transmission lines. Any minor deviations from the approved route must only directly affect landowners who were sent notice of the transmission line in accordance with 16 TAC § 22.52(a)(3) and landowners that have agreed to the minor deviation.

8. CPS Energy must report the transmission line approved by the Commission on its monthly construction progress reports before the start of construction to reflect the final estimated cost and schedule in accordance with 16 TAC § 25.83(b). In addition, CPS Energy must provide final construction costs, with any necessary explanation for cost variance, after completion of construction when all costs have been identified.

TPWD recommended Route DD because it "appears to be the route that causes the least adverse impact to natural resources" by minimizing "the fragmentation of intact land."[310] That

[310] Staff Ex. 1 (Poole Direct), Attachment JP-4 at Bates 000059.

recommendation was based solely on environmental factors and did not consider such factors as route cost or impacts on habitable structures.[311] CPS Energy witness Ms. Meaux testified that TPWD's recommendations "only used 18 of the 48 evaluation criteria" applicable in this case.[312]

The ALJs find this limitation significant because Route DD has 33 habitable structures within 300 feet of the ROW centerline (one more than Route Z2); uses Segment 41 that is most objectionable to NISD because it crosses very close to the planned Middle School; and is estimated to cost $39 million, or about $1.36 million more than the estimated cost of Route Z2. The ALJs find that if the ordering paragraphs recommended by Staff's witness Mr. Poole are incorporated, TPWD's goals in selecting Route DD can also be met by Route Z2, which is superior on other measures.

F. Environmental Integrity

The EA evaluates the potential environmental effects of the construction, operation, and maintenance of the Project.[313] Specifically, the EA includes data obtained from a variety of sources, including available Geographic Information System (GIS) coverage with associated metadata; review of maps and published literature; information obtained from local, state, and federal agencies; aerial photography; and field reconnaissance.[314]

The Project is anticipated to cause only short-term or minor impacts on the physiographic or geologic features and resources of the area.[315] Potential soil impacts include erosion and compaction, which will be addressed by mitigation measures during construction, including re-vegetation and implementation of soil berms or interceptor slopes as needed.[316] No impacts to

[311] CPS Energy Ex. 15 (Meaux Rebuttal) at 12.

[312] CPS Energy Ex. 15 (Meaux Rebuttal) at 12.

[313] CPS Energy Ex. 1 at 4-1.

[314] CPS Energy Ex. 1 at 2-2.

[315] CPS Energy Ex. 1 at 4-1.

[316] CPS Energy Ex. 1 at 4-9.

surface waters are expected, because none of the alternative routes crosses open water.[317] However, the entire study area is within the Edwards Aquifer Contributing Zone. CPS Energy states it will consult with the Texas Commission on Environmental Quality (TCEQ) and take necessary precautions to avoid and minimize potential contamination of water resources.[318]

None of the alternative routes crosses critical habitat of 40 federally- or state-listed endangered or threatened (or candidate) species that may occur in Bexar County.[319] The study area is outside the recognized/known distributions of the San Marcos salamander, Texas blind salamander, Braken Bat Cave meshweaver, Cokendolpher Cave harvestman, Government Canyon Bat Cave meshweaver, Government Canyon Bat Cave spider, Robber Baron Cave meshweaver, Peck's Cave amphipod, fountain darter, sharpnose shiner, smalleye shiner, Comal Springs dryopid beetle, Comal Springs riffle beetle, golden orb, Guadalupe orb, Texas fatmucket, and Texas pimpleback.[320] The lack of potential suitable habitat makes it unlikely that the interior least tern and piping plover will occur in the study area. No impacts to these species are anticipated to occur from the Project.

POWER's analysis indicated that some endangered plant or animal species could occur in the study area if suitable habitat is available. With respect to plant species, Texas wild-rice is not expected to occur in the study area due to the lack of suitable habitat. The Bracted twistflower may occur if suitable habitat is available; CPS Energy will coordinate with USFWS if necessary.[321] If suitable cave/karst habitat is present and available, the study area may contain the Madla Cave meshweaver, two unnamed beetles (*Rhadine exilis* and *Rhadine infernalis*), and the Helotes mold beetle.[322] CPS Energy will conduct a site-specific karst survey prior to construction.[323]

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[317] CPS Energy Ex. 1 at 4-10.

[318] CPS Energy Ex. 1 at 4-10.

[319] CPS Energy Ex. 1 at 4-15.

[320] CPS Energy Ex. 1 at 4-14 to 4-15.

[321] CPS Energy Ex. 1 at 4-14.

[322] CPS Energy Ex. 1 at 4-15.

[323] CPS Energy Ex. 1 at 4-19.

Whooping cranes may potentially occur temporarily as a rare transient during migration if suitable foraging habitat is available, but no adverse impact is expected to whooping crane nesting habitat.[324] As discussed in greater detail below, the study area contains many tracts that are potential habitat, of varying quality, for the GCW.

State-listed species such as the wood stork and Cagle's map turtle are not expected to occur within the study area due to lack of potential suitable habitat. Bald eagles and their nests may be present in the study area if suitable habitat is available. CPS Energy will coordinate with TPWD and USFWS to determine avoidance and mitigation measures if bald eagle nests or individuals are observed during the field survey of the approved route.[325] Other avian species that may occur if suitable habitat is available in the study area are the reddish egret, tropical parula, white-faced ibis, and zone-tailed hawk.[326] CPS Energy proposes to conduct ROW clearing activities in conformance with state and federal regulations and to have a qualified biologist conduct surveys for active nests prior to vegetation clearing.

If suitable aquatic habitat is available, the Cascade Caverns salamander, Texas salamander, toothless blindcat, and widemouth blindcat may occur in the study area.[327] CPS Energy proposes to span all surface waters crossed by the approved route and to implement sedimentation prevention measures.

Minor temporary disturbance during construction may occur if suitable habitat is available and species such as the Mexican treefrog, Texas horned lizard, Texas tortoise, American black bear, and white-nosed coati are present.[328] CPS Energy does not expect significant adverse impacts to these species' populations.

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[324] CPS Energy Ex. 1 at 4-19.

[325] CPS Energy Ex. 1 at 4-19.

[326] CPS Energy Ex. 1 at 4-19.

[327] CPS Energy Ex. 1 at 4-16.

[328] CPS Energy Ex. 1 at 4-16.

GCW habitat was a specific focus of intervenors in this proceeding. The Diamond Model C (2010) habitat model was used by POWER to tabulate the approximate area of proposed ROW across potential GCW habitat.[329] Areas were designated 1-Low Quality, 2-Moderate Low Quality, 3-Moderate High Quality, and 4-High Quality for potential suitable habitat. POWER further updated the areas of suitable habitat based on 2019 aerial imagery.[330] TPWD recommended Route DD in part because it was tied for fifth least amount of area of ROW across "golden-cheeked warbler modeled habitat designated as a 3-Moderate High and 4-High Quality, at 9.47 acres."[331]

Bexar Ranch's witness Dr. Turnbough testified that two general hypotheses can be discerned from the GCW models: larger patch sizes of moderate-to-high quality habitat are preferable to smaller patch sizes, and less fragmentation of such moderate-to-high quality patches provides better sustained habitat quality.[332] He noted that the Bexar Ranch "has significant coverage and density of Moderate to High Quality GCW Habitat." Michael Bitter, a co-owner of Bexar Ranch, testified that, based on a 2008 CPS Energy Golden Cheeked Warbler Study Habitat report and the Diamond Model C, he believes Bexar Ranch "has significant confirmed warbler sightings."[333]

Mr. Jauer testified that the front of his property has a "growth of mature Ashe juniper trees, or 'cedar trees' as we call them here in Texas," that are known to be suitable GCW habitat.[334] Mr. Cleveland stated that the High Country Ranch has an extensive mix of trees along its intermittent stream that provides "prime habitat" for the GCW.[335] Clearwater Ranch residents pointed out that their large-acre properties are managed for wildlife exemptions and the

[329] CPS Energy Ex. 1 at 4-16.

[330] CPS Energy Ex. 1 at 4-15.

[331] Staff Ex. 1 (Poole Direct), Attachment JP-3 at Bates 000051.

[332] CPS Energy Ex. 1 at 4-10.

[333] Bexar Ranch Ex. 7 (M. Bitter Cross-Rebuttal) at 5.

[334] Jauer Ex. 1 (Jauer Direct) at 7.

[335] Cleveland Ex. 28 (Cleveland Direct) at 3.

development of neighboring areas will mean the remaining undisturbed tracts will become increasingly important sanctuaries.[336] Residents Peggy and Max Garoutte testified that "high-density housing [is] increasingly encroaching on our animal and wildlife refuge[, and animals] and birds are being driven to our wildlife-friendly properties from the surrounding communities.[337]

The intervenors in this case debated the weight to give to the modeled potential habitat. Staff's witness Mr. Poole conceded that Route P "does cross 25.11 acres of golden-cheeked warbler modeled habitat designated 3-Moderate High and 4-High Quality which is the worst of any route."[338] However, Mr. Poole noted that potential habitat is not equivalent to actual sightings of the birds in on-the-ground surveys.[339] Mr. Andrews countered on behalf of the Chandler/Putnam Interests that, although the mapping is of modeled habitat, the GCW "is listed as endangered by both the TPWD and the United States Fish and Wildlife Service and care should be taken to minimize potential impact to this endangered species."[340]

The ALJs note that a second factor discussed by the parties—length of ROW across upland woodlands/brushlands—is related to the question of modeled GCW habitat. The GCW typically nests "in mature oak-juniper woodland areas with a moderate to high density of mature Ashe juniper trees mixed with deciduous trees (e.g., oaks) creating dense foliage in the upper canopy."[341] The EA notes that all routes "cross areas of upland woodlands/brushlands, which can represent the highest degree of habitat fragmentation by converting the area to an herbaceous habitat."[342] Crossing upland woodlands or brushlands requires cutting and clearing of trees and foliage, even though CPS Energy "does not intend to 'clear cut' all vegetation" and will work with landowners

[336] Clearwater Ranch Ex. 6 (Garoutte Direct) at 9.

[337] Clearwater Ranch Ex. 6 (Garoutte Direct) at 9.

[338] Staff Ex. 1 (Poole Direct) at 32.

[339] Staff Ex. 1 (Poole Direct) at 32; Staff Reply Brief at 4.

[340] Chandler/Putnam Interests Ex. 1 (Andrews Direct) at 27.

[341] CPS Energy Ex. 1 at 3-26.

[342] CPS Energy Ex. 1 at 4-12.

"to minimize the impact to existing trees and vegetation[.]"[343] The impact of crossing upland woodlands/brushlands is felt by all wildlife species, not just the GCW.[344]

In general, "TPWD's primary recommendation to the PUC is to select a route that minimizes the fragmentation of intact lands because such a route should have the least adverse impact to natural resources."[345] TPWD believes that "the State's long-term interests are best served when new utility lines and pipelines are sited where possible in or adjacent to existing utility corridors, roads, or rail lines instead of fragmenting intact land."[346] TPWD recommended Route DD in part because of its limited impact on GCW modeled habitat, but also because it was the fourth-shortest route across upland woodlands/brushlands.[347]

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. The chart below indicates the acreage of ROW for each of the focus routes across 1-Low Quality and 2-Moderate Low Quality, and 3-Moderate High Quality and 4-High Quality areas of modeled GCW habitat, as well as the length of ROW (in miles) that crosses upland woodlands/brushlands.[348]

[343] CPS Energy Ex. 14 (Lyssy Rebuttal) at 4.

[344] CPS Energy Ex. 1 at 4-12.

[345] Staff Ex. 1 (Poole Direct), Attachment JP-4 at Bates 000059.

[346] Staff Ex. 1 (Poole Direct), Attachment JP-4 at Bates 000059-60.

[347] Staff Ex. 1 (Poole Direct), Attachment JP-3 at Bates 000051.

[348] CPS Energy Ex. 17.

Route	Acreage across moderate-high quality GCW habitat	Acreage across low-moderate quality GCW habitat	Length of ROW across upland woodlands/brushlands (miles)
P	25.11	12.04	4.42
R1	19.03	13.33	4.35
W	2.95	16.59	6.03
Z1	11.12	11.02	3.60
Z2	8.92	11.78	3.53
AA1	9.6	14.56	3.81
AA2	11.81	13.80	3.88
DD	10.74	10.93	3.12

As Mr. Poole indicated, Route P has the worst impact on modeled moderate-high quality GCW habitat not just among focus routes, but among all 33 routes. Route W performs very well, affecting only 2.95 acres of moderate-high quality habitat (tied for the lowest acreage of all 33 routes). The next closest focus routes in terms of limited impact on moderate-high quality habitat are Route Z2 (8.92 acres), Route AA1 (9.6 acres) and TPWD's recommended Route DD (10.74 acres). With respect to low-moderate quality habitat, Route W crosses the most acreage at 16.59 acres. The lowest is Route DD (10.93 acres), followed by Routes Z1 (11.02 acres), Z2 (11.78 acres), and P (12.04 acres). The remaining focus routes cross 13 acres or more of low-moderate quality habitat. Finally, on the metric of crossing upland woodlands/brushlands, TPWD's Route DD performs the best among the focus routes, crossing 3.12 miles. Here, Route W has the worst impact among focus routes, crossing nearly twice as much upland woodlands/brushlands at 6.03 miles. Routes Z1, Z2, AA1, and AA2 are all within one-half mile of Route DD, while Route P crosses 4.42 miles and Route R1 crosses 4.35 miles.

The selection of a route that best balances these considerations is not simple. Route DD performs well by crossing the lowest mileage of ROW across upland woodlands/brushlands, and the fourth-lowest acreage of modeled moderate-high quality GCW habitat. But, as discussed above, it has the most negative impact on NISD's site for the Middle School and affects more habitable structures than any other focus route. Route W performs best among focus routes on crossing the lowest acreage of modeled moderate-high quality GCW habitat, but worst on length of ROW across upland woodlands/brushlands, which affects all wildlife. Route W is also a less

attractive choice because it has the most habitable structures (three) within 100 feet of its centerline, and is the most expensive of the focus routes.

Route P is undesirable because it is the worst performing among all routes on modeled moderate-high quality GCW habitat. Mr. Poole is correct that a predictive model is not the same as surveys that confirm bird presence. However, the survey will occur only after the route is selected. Even though CPS Energy will take mitigation measures if the survey identifies GCW presence, the potential harm can be reduced by choosing a route with less severe expected impact. In addition, Routes P and R1 fragment the largest tracts of undisturbed land in the study area by crossing Bexar Ranch. Route W is worse in that it crosses both Bexar Ranch and Guajalote Ranch.

The ALJs find Route Z2 favorable because it has the second-lowest impact on moderate-high quality GCW habitat and the second-lowest length of ROW across upland woodlands/brushlands in addition to the positive attributes discussed previously (avoids cutting into established neighborhoods or bisecting property without permission, presents the possibility of shielding Substation 7 from view, and reduces visual impact by using an established corridor).

On the evidence presented, the Project will cause only short-term impacts to soil, water, and ecological resources. If Staff's ordering paragraphs are included and followed, all of the primary alternative routes are environmentally acceptable and satisfy the criteria in PURA § 37.056(c)(4)(A)–(D) and 16 TAC § 25.101(b)(3)(B). The ALJs recommend Route Z2 for its relatively limited impact to environmental integrity in the study area.

G. Historical and Cultural Values

To develop data necessary to evaluate the impact on historical and cultural resources, POWER contacted the Texas Historical Commission (THC);[349] reviewed Texas Archeological

[349] CPS Energy Ex. 1 at 1-15.

Research Laboratory records to identify known locations of cultural resource sites;[350] obtained information from THC's Texas Archeological Sites Atlas and Texas Historical Sites Atlas;[351] reviewed the Texas Department of Transportation (TxDOT) historic bridges database;[352] and consulted National Parks Service databases and the National Registry of Historic Places (NRHP).[353] POWER also documented high potential areas (HPAs) for occurrence of historic and cultural resources not yet identified.

POWER identified 36 previously-recorded archaeological sites and 11 cemeteries in the study area.[354] Three NRHP-listed resources are in the study areas: the R. L. White Ranch Historic District; the Heidemann Ranch Historic District; and the Maverick-Altgelt Ranch and Fenstermaker-Fromme Farm Historic District (MA Ranch/FF Farm).[355] One Official Texas Historical Marker (OTHM) is within the study area, commemorating the Scenic Loop, Boerne Stage, and Toutant Historic Corridor (Historic Corridor). The three roads bearing these names intersect near the marker.[356] The marker recognizes the "exceptional and historic rural atmosphere, vistas, waterways, wildlife, and natural features" of the area.[357]

Using GIS software and aerial photography, as well as data obtained from state and federal resources, POWER mapped the distance between segments and cultural resources.[358] Seventeen archaeological sites are within 1,000 feet of the alternative routes, and four of these sites are crossed by routes.[359] Almost half of the alternative routes cross the R. L. White Ranch, but they

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[350] CPS Energy Ex. 1 at 1-15.

[351] CPS Energy Ex. 1 at 3-44.

[352] CPS Energy Ex. 1 at 3-44.

[353] CPS Energy Ex. 1 at 3-50.

[354] CPS Energy Ex. 1 at 3-51, 3-53.

[355] CPS Energy Ex. 1 at 3-51.

[356] CPS Energy Ex. 1 at 3-53.

[357] CPS Energy Ex. 1 at 3-53.

[358] CPS Energy Ex. 1 at 4-25.

[359] CPS Energy Ex. 1 at 4-28.

extend less than 105 feet into the eastern boundary of the NRHP boundary and connect to an existing transmission line that runs north to south along the NRHP border.[360] The centerlines of two routes (not among the focus routes) are 50 feet from the Heidemann Ranch District and between 86 and 216 feet away from three contributing elements on the ranch.[361] The centerlines of six alternative routes (not among the focus routes) are 50 feet from the MA Ranch/FF Farm, but over 2,000 feet from the nearest archeological component.[362] CPS Energy expects no adverse impacts to known elements of any of the three NRHP-listed sites.[363]

All 33 routes cross HPAs for cultural resources. The lowest ROW mileage across HPAs for cultural resources is 1.44 miles (Routes H and X1) and the most is 4.77 miles (Route U1).[364]

Testifying for Strait/Rose Palace, Jason Buntz stated that the resources consulted by POWER were appropriate, but POWER neglected TxDOT's Historic Districts and Properties GIS map.[365] That database would have shown that TxDOT considers the Boerne Stage Route a historic resource eligible for NRHP listing.[366] Mr. Buntz described the Historic Corridor and the Old Spanish Trail as resources not adequately investigated by CPS Energy and POWER.[367] He explained that in 2009, the Legislature established the Texas Historic Roads and Highways Program.[368] In 2011, the Scenic Loop, Boerne Stage, and Toutant Beauregard roads were designated as a Texas Historic Highway.[369]

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[360] CPS Energy Ex. 1 at 4-28.

[361] CPS Energy Ex. 1 at 4-28.

[362] CPS Energy Ex. 1 at 4-28.

[363] CPS Energy Ex. 1 at 4-28.

[364] CPS Energy Ex. 17.

[365] Strait/Rose Palace Ex. 1 (Buntz Direct) at 5.

[366] Strait/Rose Palace Ex. 1 (Buntz Direct) at 5.

[367] Strait/Rose Palace Ex. 1 (Buntz Direct) at 6.

[368] Strait/Rose Palace Ex. 1 (Buntz Direct) at 6 (citations omitted).

[369] Strait/Rose Palace Ex. 1 (Buntz Direct) at 7.

Mr. Buntz testified that the Historic Corridor began as trails used by Native American tribes. Prehistoric archaeological sites in the area illustrate the consistent use of the paths over time.[370] In 1851, the San Antonio to El Paso Mail stagecoach line began operating along part of the Historic Corridor. Mr. Buntz said this stagecoach line was a "critical link in the first American transcontinental mail and passenger service in 1857."[371] He added that Boerne Stage Road is an important segment of the Old Spanish Trail, one of the nation's earliest transcontinental highways. The Old Spanish Trail today "generally follows Interstate 10 and the original routes that still exist within Texas, like the Boerne Stage route, mostly parallel the interstate."[372]

Mr. Buntz opined that the EA overstated the impact to the R. L. White Ranch Historic District because the contributing structures are "over one mile away from the alternative routes."[373] By contrast, he said, the impact to the Heidemann Ranch was not properly explained. Mr. Buntz said that routes utilizing Segment 36 (all of the northern routes and Route DD) are "not only within 1,000 feet of the NRHP District boundary," but the transmission line would "clearly be visible not only from the Heidemann Ranch grounds [but also] from the historic buildings on the property."[374] Heidemann Ranch is "significant for its architecture and rural landscape," both of which would suffer considerably in Mr. Buntz's opinion.[375]

In addition, Mr. Buntz said the Rose Palace should be credited as a historic and community resource. It is a "destination venue" for a number of "western-style events" and has numerous "equine-related facilities, such as a 100,000 square-foot equestrian center, two covered arenas, over 200 horse stalls, and seating for 4,500 spectators to watch events such as the annual George Strait Team Roping Classic."[376] Mr. Buntz conceded that it is unlikely any Rose Palace structures

[370] Strait/Rose Palace Ex. 1 (Buntz Direct) at 8.
[371] Strait/Rose Palace Ex. 1 (Buntz Direct) at 8.
[372] Strait/Rose Palace Ex. 1 (Buntz Direct) at 10.
[373] Strait/Rose Palace Ex. 1 (Buntz Direct) at 13.
[374] Strait/Rose Palace Ex. 1 (Buntz Direct) at 14.
[375] Strait/Rose Palace Ex. 1 (Buntz Direct) at 14.
[376] Strait/Rose Palace Ex. 1 (Buntz Direct) at 15-16.

are more than 50 years old, making them ineligible for NRHP listing. However, he said, the facility should have been considered in the context of community resources and community values.

Anaqua Springs adopted the arguments presented by Strait/Rose Palace with respect to historical values in the northern part of the study area.[377] Mr. Anderson testified that the northern routes travel much too close to the Heidemann Ranch and said there "is simply no reason for such an encroachment on a national treasure on the National Register of Historic Places."[378]

SHLAA's witness Mr. Hughes contended that the testimonies of Mr. Buntz and Mr. Anderson were "directly conflicting." Mr. Hughes noted that Mr. Buntz sought to protect the "rural nature of Toutant Beauregard" but Mr. Anderson described the same road as "a narrow, constrained transportation and utility corridor with relatively sharp curves."[379] Therefore, Mr. Hughes said, Mr. Buntz and Mr. Anderson each "undermin[e] the other's ability to opine on the suitability of a transmission line paralleling Toutant Beauregard Road."[380]

Testifying on behalf of Bexar Ranch, Dr. Turnbough stated that Mr. Buntz provided "comprehensive and informative" descriptions of the historical resources in the northern part of the study area.[381] However, Dr. Turnbough pointed out that, in Mr. Buntz's own words, designation as a historic highway "does not prevent development along the route."[382] Dr. Turnbough said that if the northern routes are all rejected as recommended by Mr. Buntz, historical and cultural criteria would be overstated to the detriment of the required "multi-disciplinary assessment of potential alternative routes."[383] Dr. Turnbough added that the Bexar Ranch used to be part of the same ranch as the NRHP-designated R. L. White Ranch.

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[377] Anaqua Springs Reply Brief at 4.

[378] Anaqua Springs/Jauer Joint Ex. 26 (Anderson Direct) at 33.

[379] SHLAA Ex. 4 (Hughes Cross-Rebuttal) at 7.

[380] SHLAA Ex. 4 (Hughes Cross-Rebuttal) at 8.

[381] Bexar Ranch Ex. 6 (Turnbough Cross-Rebuttal) at 17.

[382] Bexar Ranch Ex. 6 (Turnbough Cross-Rebuttal) at 18 (citations omitted).

[383] Bexar Ranch Ex. 6 (Turnbough Cross-Rebuttal) at 18.

Mr. Hughes testified that the Historic Corridor was designated in 2009 and included only the Scenic Loop and Boerne Stage Corridor. Toutant Beauregard was added to the designation in 2011. Therefore, Mr. Hughes said, the impact to Scenic Loop Road should be of as much concern to Mr. Buntz as Toutant Beauregard, because Substation 6 fronts onto Scenic Loop Road and is more visible from the road than Substation 7 would be, relative to its surroundings.[384] In joint landowner testimony, SHLAA members noted that one of the three NRHP-listed properties, the MA Ranch/FF Farm, is along a section of Toutant Beauregard that is not utilized by any focus route.[385] The SHLAA landowners also discounted Mr. Buntz's concern about Segment 36, stating that the Barrera Interests are the owners of the property actually crossed by Segment 36, and they did not oppose that Segment.[386]

The ALJs compared the focus routes on measures related to historical and cultural sites, as indicated below.[387]

Route	# recorded cultural sites crossed by ROW	# additional recorded cultural sites w/in 1,000 ft. of centerline	# NRHP-listed properties crossed by ROW	# additional NRHP-listed properties w/in 1,000 ft. of centerline	Length of ROW across HPA (miles)
P	1	10	1	0	2.49
R1	2	12	1	0	2.65
W	1	1	1	0	2.75
Z1	0	2	0	1	3.01
Z2	0	2	0	1	3.16
AA1	0	2	0	1	3.35
AA2	0	2	0	1	3.19
DD	0	2	0	1	2.34

[384] SHLAA Ex. 4 (Hughes Cross-Rebuttal) at 10-11.

[385] SHLAA Ex. 3 (Landowner Cross-Rebuttal) at 18

[386] SHLAA Ex. 3 (Landowner Cross-Rebuttal) at 18.

[387] CPS Energy Ex. 17.

Based on this data, the ALJs note that Routes P and W have ROW across one recorded cultural resource site, cross one NRHP-listed property; and have no other NRHP-listed properties within 1,000 feet of the centerline. Route R1 has ROW across two recorded cultural resource sites; crosses one NRHP-listed property; and has no other NRHP-listed properties within 1,000 feet of the centerline. The northern routes (including Route DD) do not have ROW across any recorded cultural resource sites; cross no NRHP-listed properties; and have one NRHP-listed property within 1,000 feet of the centerline.

Route DD is the best-performing in terms of the least mileage of ROW across HPA, at 2.34 miles. Routes P, R1, and W are close behind, at 2.49, 2.65, and 2.75 miles, respectively. The four northern routes all have 3 miles or more of ROW across HPA, with the highest being Route AA1 at 3.35 miles. One point of distinction is the number of additional recorded cultural sites within 1,000 feet of the centerline. The northern routes each have two such sites within 1,000 feet, but Route P has 10 and Route R1 has 12. Route W stands out because it has only one.

Route W appears to perform best overall of the focus routes. It crosses: one recorded cultural site, one additional recorded cultural site within 1,000 feet of the centerline, and one NRHP-listed property. The focus routes on average have 2.87 miles of ROW across HPA; Route W is just under that at 2.75 miles, and is less than all the northern routes. And, as Mr. Buntz pointed out, the NRHP-listed site crossed by Route W is the R. L. White Ranch, which does not suffer significantly from the "crossing." Route W would keep the transmission line well out of view from the Heidemann Ranch Historic District.

These positive attributes of Route W must be weighed against its drawbacks. Route W fragments and bisects two of the largest tracts of undisturbed land and wildlife habitat in the study area—Bexar Ranch and Guajalote Ranch. It has the longest length of ROW across upland woodlands/brushlands, at 6.03 miles. Also, Route W costs more than any other focus route and has three habitable structures within 100 feet of its centerline.

Although the northern routes run within sight of the Heidemann Ranch, there is an existing distribution line in the same sightline. As noted previously, there are multiple contemporary yard art pieces on the Heidemann Ranch along Toutant Beauregard that detract from the rural landscape. Mr. Buntz stated that the Old Spanish Trail today generally follows Interstate 10 and Boerne Stage Road mostly parallels the interstate. Thus, it appears that present-day tourism of the trails and historic corridor is already subject to some visual impact from transportation corridors. And, there is no evidence that designation as a historic highway prevents development along the route. As for the Rose Palace, it is not unusual for a venue of its size and capacity to be accessed by traveling along an established transportation corridor, such as Toutant Beauregard. A transmission line along such a corridor is not unexpected, given the existing visual and environmental fragmentation. The ALJs find that a northern route best balances the various factors the Commission must consider. Among the northern routes, Route Z2 is preferable based on cost, length, and the other factors discussed herein.

The ALJs recommend that regardless of the route selected, the Commission include the ordering paragraph suggested by Staff's witness Mr. Poole:

> If CPS Energy encounters any archeological artifacts or other cultural resources during project construction, work must cease immediately in the vicinity of the artifact or resource, and the discovery must be reported to the Texas Historical Commission. In that situation CPS Energy must take action as directed by the Texas Historical Commission.

H. Engineering Constraints

The intervenors highlighted a number of concerns that the ALJs consider possible engineering constraints. Each issue is addressed separately below.

1. Risk of Flooding

Intervenors argue that some portion of Substation 7's site is within a floodplain or is otherwise at risk of flooding.[388] In support of their position, Anaqua Springs and Jauer point to a plat of the area dated June 5, 1978.[389] The plat includes a legend that identifies a 100-year flood line; however, it is unclear to the ALJs exactly where that line is located[390] and whether or not a flood line that existed in 1978 should be considered relevant today.

Intervenors also point to Jauer Exhibit 3, which is a feasibility report and environmental assessment of the Leon Creek watershed that was produced by the U.S. Army Corps of Engineers. The report is 719 pages and addresses flooding, among other topics. The report was not referenced by or interpreted by Anaqua Springs's and Jauer's expert Mr. Anderson. Although counsel for Jauer asked CPS Energy witnesses to read portions of the report into the record, no witness specifically interpreted the numbers that were quoted in the report and referenced by Jauer in its briefing.[391] The ALJs are unable to tell from the report's map (which shows a relatively large area) just how close the reference point discussed in the Jauer briefing is to the Substation 7 site. Thus, the ALJs conclude that the report is of little utility in determining the risk or extent of flooding to the Substation 7 site. On re-direct, CPS Energy witness Mr. Lyssy testified that he reviewed the report and that it did not change his mind that the Substation 7 site is a viable location for a substation.[392]

Mr. Lyssy testified that he consulted the Federal Emergency Management Agency's (FEMA) flood insurance rate maps and that the FEMA maps had not changed in the time since the

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[388] Jauer Initial Brief at 14-18.

[389] Anaqua Springs/Jauer Ex. 25 (Anderson Direct) at Ex. MDA-18, MDA-19 (an enlarged portion of the plat).

[390] Mr. Anderson's testimony states that the flood plain "appears to be slightly above elevation 1250." Anaqua Springs/Jauer Ex. 25 at 25. However, the ALJs are unclear where this information was obtained because the referenced plat is unclear as to where the flood line is located.

[391] Jauer Initial Brief at 14-18. The briefing suggests that Substation 7 is near the report's Leon Creek Reach 7 reference point and performs calculations based on data quoted in the report for that reference point.

[392] Tr. at 624.

Corps of Engineers report was issued.[393] He also testified that he spoke to the landowner of the Substation 7 site, who informed him that no flooding had occurred on the site in the 38 years that the landowner had owned the property.[394] Mr. Lyssy concluded that there is no risk of flooding to the Substation 7 site.[395]

In considering the limitations in the utility of the 1978 plat and the Corps of Engineers report, the ALJs find that a risk of flooding to the Substation 7 site is not an engineering constraint that should prevent it from being considered as a possible location for a substation.

2. Adequacy of the Size of Substation 7's Site and Potential Congestion

Anaqua Springs and Jauer's witness Mr. Anderson stated that the Substation 7 site is not large enough to accommodate the required substation components.[396] Mr. Lyssy testified that Mr. Anderson's testimony addresses a 4-unit substation; whereas CPS Energy is proposing a 3-unit substation that will require an approximately 330 foot by 330 foot area, for a total surface area of approximately 2.5 acres. He added that the Substation 7 site is approximately seven acres in size and provides adequate space for the planned facilities.[397] The ALJs conclude that the Substation 7 site contains sufficient space to accommodate the required facilities.

Jauer argues in its briefing that the number of circuits to be added to Substation 7 will result in congestion with existing infrastructure that will create an engineering constraint.[398] The ALJs conclude that this argument is not supported by the evidence. CPS Energy engineers concluded that the Substation 7 site, along with all other potential substation sites, are viable alternatives that

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[393] Tr. at 657-58 (review of FEMA maps), 626 (no changes to the FEMA maps).

[394] Tr. at 652.

[395] Tr. at 654.

[396] Anaqua Springs/Jauer Ex. 25 (Anderson Direct) at 25.

[397] CPS Energy Ex. 14 (Lyssy Rebuttal) at 13.

[398] Jauer Initial Brief at 19-20.

can be constructed and operated in a safe and reliable manner.[399] Therefore, the ALJs find that the Substation 7 site is a viable site that includes no engineering constraints that would preclude the operation of substation facilities.

3. Potential Interference with Communication Tower 501

Item 22 of the Commission's CCN application asks applicants to identify (among other things) all microwave relay stations or similar electronic installations located within 2,000 feet of the centerline of any route. CPS Energy identified Communications Tower 501 as being 279 feet from the nearest segment, which is Segment 32.[400] Communications Tower 501 is a Federal Communications Commission-registered tower that includes microwave antennae to provide wireless connectivity to police, fire, and other public safety users.[401] Jauer argues microwave communications from the tower, which are limited to "line of sight" transmissions, would be degraded by transmission lines and structures placed on Segments 20, 32, and 36.[402] Jauer witness Carl Huber testified as to specific angles at which structures on Segments 36 and 32 would interfere with communications. Mr. Huber also testified that large cranes need access to the property containing the tower and that placement of transmission line structures could impede or endanger access.[403]

CPS Energy responds that because the precise size, location, and design of the structures will not be determined until a particular route is approved, Mr. Huber lacked information necessary to determine precise angles from the tower to the transmission structures that would cause interference.[404] Additionally, CPS Energy points out that the property on which the tower is

[399] CPS Energy Ex. 14 (Lyssy Rebuttal) at 13; CPS Energy Ex. 12 (Marin Rebuttal) at 9-10.

[400] CPS Energy Ex. 6, Attachment 2 at 75.

[401] Jauer Ex. 2 (Huber Direct) at 4-5

[402] Jauer Initial Brief at 21; Jauer Ex. 2 (Huber Direct) at 5-6.

[403] Jauer Ex. 2 (Huber Direct) at 6.

[404] CPS Energy Reply Brief at 32.

located, including its access road, is already crossed by distribution lines.[405] CPS Energy witness Adam Marin testified that CPS Energy safely operates transmission facilities that are collocated with or in close proximity to communications facilities and that he does not have concerns regarding the proximity of the tower to any proposed transmission facilities.[406]

Jauer admits that microwave antennae "can be in close proximity to a transmission line or even co-located on it, so long as its line-of-sight is not obstructed."[407] The property on which the tower is located already includes electric distribution lines (which are located directly above the access road to the property) and structures and there is no evidence in the record that these structures impact the access to or operation of the tower.[408] Therefore, the ALJs conclude that transmission facilities located on Segments 20, 32, and 36 will not interfere with the operation of Communication Tower 501 or the access to the property.

4. Natural Gas and Water Pipelines

Jauer and Anaqua Springs argue that CPS Energy was unaware of its own natural gas pipelines running along the north side of Toutant Beauregard and therefore made routing decisions with inaccurate information.[409] Jauer also argues that the presence of natural gas and water lines near the proposed transmission line will hinder the ability of the other utilities to operate and maintain their pipelines.[410]

Metallic pipelines are registered with the Railroad Commission of Texas (RRC) and identified by independent services such as PLATTs. Local, low pressure natural gas distribution

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[405] CPS Energy Reply Brief at 32; CPS Energy Ex. 12 (Marin Rebuttal) at ARM-2R (photograph showing distribution lines across the access gate to the tower and the tower itself).

[406] CPS Energy Ex. 12 (Marin Rebuttal) at 8.

[407] Jauer Reply Brief at 21.

[408] CPS Energy Ex. 12 (Marin Rebuttal) at Ex. ARM-2R.

[409] Anaqua Springs Initial Brief at 9; Jauer Initial Brief at 19; Anaqua Springs/Jauer Ex. 25 (Anderson Direct) at 31-32.

[410] Jauer Initial Brief at 19; Anaqua Springs/Jauer Ex. 25 (Anderson Direct) at 31-32.

facilities constructed of plastic materials are not registered with the RRC or listed by PLATTs.[411] CPS Energy's discovery responses indicated that no pipelines were listed on the PLATTs or RRC databases for the study area. CPS Energy later clarified that it has 6-inch and 8-inch plastic natural gas lines within the ROW of Toutant Beauregard.[412] The Commission's standard ordering paragraphs regularly include language requiring utilities to identify metallic pipelines that could be affected by the transmission line approved by the Commission and to cooperate with pipeline owners in analyzing any potential hazards due to alternating-current interference affecting metallic pipelines that are being paralleled.[413]

Mr. Lyssy testified that the natural gas distribution lines, water lines, communication lines, and electric distribution lines are not located in an area of the road ROW that will impact proposed segments.[414] Specifically, these neighborhood distribution level service facilities will generally be at least 25 feet from the proposed transmission line centerline along roadways. CPS Energy witness Adam Marin also testified that it is common for gas and water pipelines as well as electric distribution and communication facilities to be located within road ROW and that he does not anticipate any interference between the gas pipelines and the proposed transmission line facilities.[415] The weight of the evidence provided by expert engineers with significant experience in the designing, construction, and operation of transmission lines facilities in Bexar County is that the transmission line segments proposed in this proceeding following any of the roadways of the study area will not impact or be impacted by the typical neighborhood distribution level service facilities, including plastic natural gas and water pipelines.[416]

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[411] *See* Jauer Ex. 8 at 19-20.

[412] Jauer Ex. 8 at 19-20, Jauer Ex. 9.

[413] *See Application of AEP Texas Inc. to Amend its Certificate of Convenience and Necessity for the Brackettville to Escondido 138-kV Transmission Line in Kinney and Maverick Counties*, Docket No. 50545, Order at 24, Ordering Paragraph No. 4 (May 25, 2021).

[414] CPS Energy Ex. 14 (Lyssy Rebuttal) at 10-11.

[415] CPS Energy Ex. 12 (Marin Rebuttal) at 17.

[416] CPS Energy Ex. 14 (Lyssy Rebuttal) at 10-11.

5. Concerns Regarding Routing Along Roadways

Several intervenors expressed concerns regarding the presence of a transmission line along Toutant Beauregard using Segment 54. Specifically, these intervenors argue that the transmission line poles will present an increased risk of vehicle collisions, will present dangers if a pole is knocked down because the pole would block Toutant Beauregard, and will inhibit the ability of Bexar County to expand Toutant Beauregard in the future.[417]

CPS Energy witness Lyssy responded that the transmission poles would be placed outside the existing roadway ROW and that the pole spacing will be greater than the spacing of existing distribution lines along Toutant Beauregard, which are located within the roadway ROW. Therefore, the proposed transmission line poles will not pose any greater risk to vehicles than existing distribution poles. Additionally, Mr. Lyssy testified that because the poles will be located outside the roadway ROW, they are unlikely to affect future road widening projects. Mr. Lyssy further stated that CPS Energy operates many transmission line facilities along roadways and has worked with Bexar County in the past regarding accommodating adjacent projects. Thus, Mr. Lyssy sees no impacts between the proposed line and roadway projects.[418]

For the reasons articulated by Mr. Lyssy, the ALJs conclude that routing transmission facilities along Toutant Beauregard does not present an engineering constraint that warrants removing Segment 54 from consideration.

I. Routing Along Existing Corridors

The ALJs and the Commission must examine the extent by which the routes parallel or utilize existing compatible ROW for electric facilities and other existing compatible ROW, such

[417] Jauer Initial Brief at 18-19; Anaqua Springs/Jauer Ex. 25 (Anderson Direct) at 20-22.

[418] CPS Energy Ex. 14 (Lyssy Rebuttal) at 10-12.

as roadways.[419] Additionally, whether the routes parallel property lines or other natural or cultural features must be examined.[420] CPS Energy's Exhibit 17 is a spreadsheet that provides this data for all routes. The highest percentage of paralleling of ROW and property lines is Route A at 83% and the lowest is Route S at 49%.[421] For the focus routes, the data is as follows:

Route[422]	ROW Parallel to Existing Roadway ROW	ROW Parallel to Property Lines	Sum of Paralleling Distances	Total Length of Route	Percent of Route Paralleling Existing ROW + Property Lines
P	0.85	2.62	3.47	4.89	71%
R1	0.85	2.21	3.06	4.76	64%
W	2.60	1.03	3.63	6.25	58%
Z1	1.60	1.49	3.09	4.53	68%
Z2	1.60	1.58	3.18	4.46	71%
AA1	1.85	0.87	2.72	4.82	56%
AA2	1.85	0.74	2.59	4.89	53%
DD	1.88	1.39	3.27	4.64	70%

Of the focus routes, the ALJs' recommended Route Z2 ties with Route P for the highest percentage of paralleling of existing ROW and property lines.

J. Costs

CPS Energy developed cost estimates for each of the potential routes using a variety of factors that were calculated separately, including: (1) ROW and land acquisition, (2) engineering and design (performed by the utility), (3) engineering and design (performed by contractors, (4) procurement of material and equipment, (5) construction of facilities (by the utility),

[419] 16 TAC § 25.101(b)(3)(B)(i)-(ii).

[420] 16 TAC § 25.101(b)(3)(B)(iii).

[421] CPS Energy Ex. 17.

[422] No route parallels or uses existing transmission line ROW, so that information is omitted from this summary table. Additionally, all distances are listed in miles. All data comes from CPS Energy Exhibit 17.

(6) construction of facilities (by contractors), and (7) other.[423] Several intervenors dispute the reliability of the cost estimates, as discussed further below; however, the ALJs conclude that the cost estimates were reasonable for this stage of the process. The cost estimates for the focus routes are as follows, listed in order of least to most expensive:

Route	Total Estimated Cost[424]
Z2	$37.64 million
AA1	$38.30 million
Z1	$38.48 million
DD	$39.00 million
AA2	$39.05 million
P	$43.41 million
R1	$43.52 million
W	$52.87 million

The route recommended by the ALJs, Route Z2, is the least expensive of the focus routes and the least expensive when considering all potential routes. Route O is the most expensive, at $56.1 million.[425]

1. Accuracy of Cost Estimates for Procuring ROW

Several intervenors argue that CPS Energy's cost estimates for acquiring certain ROW are inaccurate for certain segments.[426] Generally speaking, the intervenors argue that ROW over developed and developing land is more expensive than on raw land and admit that "for the most part" CPS Energy's Application "recognizes this fact."[427] However, intervenors contend property along Segments 20, 36, and 46 should not have been characterized as raw/rural land and that valuing the land accordingly underestimates the cost of acquiring ROW on those segments.[428]

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[423] CPS Energy Ex. 6, Attachment 3 at Table 2.

[424] CPS Energy Ex. 17.

[425] CPS Energy Ex. 17.

[426] *See* Anaqua Springs Initial Brief at 10-11; Cichowski Initial Brief at 7-8; Jauer Initial Brief at 22-23.

[427] Anaqua Springs Initial Brief at 11.

[428] Jauer Initial Brief at 22-23 (regarding Segments 20 and 36); Cichowski Initial Brief at 7-8 (regarding Segment 46).

Jauer argues that Segment 20 along Toutant Beauregard "is now under active development;"[429] however, there is no evidence in the record as to when that development began and to what stage it has progressed. Similarly, Jauer argues that a tract of land along Segment 36 was acquired by its current owner, Mr. Brad Jauer, at great expense "to prevent development and to ensure conservation."[430] Therefore, although Jauer admits that the land is properly characterized as raw or rural land, Jauer contends that the cost of ROW across it was underestimated. Finally, Mr. Cichowski argues that Segment 46 should not have been characterized as undeveloped land because it had been platted as part of the planned Pecan Springs housing development.[431] Again, however, it is unclear to the ALJs to what extent the land has been developed apart from a plat being filed. The ALJs are not convinced the fact that property has been platted for home sites means that it should be considered "developed" land.

CPS Energy witness Mr. Lyssy sponsored the evidence regarding the estimated cost of acquiring ROW. Mr. Lyssy explained that he relied upon information from CPS Energy real estate professionals and an outside real estate appraiser who developed per square foot cost estimates based on the size, location, and type of property.[432] The type of property designation for each segment became an issue at the hearing when Mr. Lyssy was asked why certain segments were characterized and valued similarly to or differently than others.[433] Mr. Lyssy is not himself a real estate expert and could not speak to the specific decisions made by the real estate professionals he relied upon. Further, the only evidence in the record as to the different valuations assigned to the various segments on a square foot basis is an attachment to the direct testimony of Anaqua Springs/Jauer witness Mark D. Anderson.[434] The attachment is purportedly a confidential spreadsheet obtained from CPS Energy, but is not included in the Application itself. Further, Mr. Anderson's testimony refers to the attachment in the context of the amount of ROW that

[429] Jauer Initial Brief at 22.

[430] Jauer Initial Brief at 22.

[431] Cichowski Initial Brief at 7.

[432] CPS Energy Ex. 11 (Lyssy Direct) at 10.

[433] *See, e.g.*, Tr. at 507.

[434] Anaqua Springs/Jauer Joint Ex. 25 (Anderson Direct) at Ex. MDA-17 (confidential).

CPS Energy plans to acquire from landowners whose land parallels a roadway, which is discussed further below, not in the context of how property along each segment should be characterized and valued.

The ALJs conclude that the cost estimates for acquiring ROW were reasonable for this stage of the Project. The evidence showed that CPS Energy took into consideration the level of development of property when assigning a range of values on a per square foot basis for ROW procurement. The ALJs are unaware of any instance in which the Commission has required a full appraisal of the value of ROW for each possible segment at the time a CCN application is filed.[435] Indeed, the appropriate compensation for the ROW acquired was specifically listed by the Commission as an issue not to be addressed in this proceeding because the Commission does not have the authority to adjudicate or set such values.[436]

2. Reduction of Acquisition Costs Due to Roadway ROW

Intervenors also complained that CPS Energy presented confusing information as to the width of ROW it needed to acquire from land adjacent to roadways, resulting in inaccurate cost estimates for land along Toutant Beauregard.[437] Mr. Lyssy's rebuttal testimony noted that a 100-foot ROW would be used for the majority of the Project and clarified that for property along roadways, CPS Energy would only acquire 75 feet of ROW from landowners and use the road ROW for clearance purposes to make up the remainder of the ROW needed.[438] Although certain parties complained that the 75-foot ROW along roadways was a surprise that was clarified less than a week before the hearing,[439] the 75-foot easement was specifically cited by

[435] Given the length and number of routes, such a requirement would be costly.

[436] Preliminary Order (Sep. 29, 2020) at 6.

[437] Jauer Initial Brief at 24 ("In light of all the uncertain, unsubstantiated, inconsistent and irreconcilable information that CPS has provided about right-of-way and the cost along Toutant Beauregard, it is impossible to determine with any degree of certainty either the extent or the cost of the right-of-way needed for the Toutant Beauregard segments (i.e., Segments 54, 36 and 20).").

[438] CPS Energy Ex. 14 (Lyssy Rebuttal) at 9.

[439] Jauer Initial Brief at 5; Anaqua Springs Initial Brief at 12.

Anaqua Springs/Jauer witness Mr. Anderson in his direct testimony originally filed on February 22, 2021.[440] Further, the confidential attachment to Mr. Anderson's testimony discussed above includes separate columns for 100 linear feet easements and 75 linear feet easements, and those segments along roadways included data for 75 linear feet easements.[441]

The ALJs find the evidence provided reasonable estimates of the costs for 75-foot ROW for land adjacent to roadways.

V. ADDITIONAL ISSUES

A. Preliminary Order Issue No. 5: Are there alternative routes or facilities configurations that would have a less negative impact on landowners? What would be the incremental cost of those routes?

In addition to the 49 segments and 31 primary alternative routes proposed in the Application, additional alternative routes comprised of segments listed in the Application have been proposed by intervenors and are available for consideration in this proceeding. Specifically, Routes Z2 and AA2 have been identified by intervenors and reviewed by CPS Energy. These two additional alternative routes are composed of segments listed in the Application and CPS Energy has determined that they are feasible and constructible.[442] As shown on Bexar Ranch Exhibits 12 and 14, Route Z2 has an estimated total cost of $37,638,580 and Route AA2 has an estimated total cost of $39,048,155. The environmental data for these two additional routes are included on CPS Energy Exhibit 17.

Intervenors Anaqua Springs and Steve and Cathy Cichowski request that if a route using Segments 38, 39, and 43 is chosen, those segments be moved 100 feet to the south of their current locations to moderate the impact on the homes in the southern portion of the Anaqua Springs

[440] Anaqua Springs/Jauer Ex. 25 (Anderson Direct) at 22, Ex. MDA-17 (confidential).

[441] Anaqua Springs/Jauer Ex. 25 (Anderson Direct) at Ex. MDA-17 (confidential).

[442] Tr. at 161, 199.

development.[443] At this point the landowners on which Segments 38, 39, and 43 are located have not agreed to Anaqua Springs' and the Cichowskis' requests. Apart from minor deviations, addressed below in proposed Ordering Paragraph Nos. 15-16,[444] the ALJs may not order the movement of noticed segments unless the affected landowners agree to the movement of those segments and no new landowners would be affected.

As previously discussed in Section IV.A of this PFD, the Dreiss Interests entered into an agreement with CPS Energy wherein, as the Dreiss Interests requested, certain segments located entirely within their property would be adjusted. Details of that agreement are discussed below in the discussion of Preliminary Order Issue No. 6.

B. Preliminary Order Issue No. 6: Questions if alternative routes or facility configurations are considered due to individual landowner preference.[445]

1. Have the affected landowners made adequate contributions to offset any additional costs associated with the accommodations?

CPS Energy's agreement with the Dreiss Interests was filed of record in this case on November 24, 2020.[446] The agreement altered Segments 42, 46, and 49, and eliminated Segment 48. The agreement also provided mechanisms wherein the Dreiss Interests would donate ROW such that resulting routes would result in no net cost increase and would maintain existing cost differentials as a result of utilizing altered segments to build the line. Each mechanism depends upon the route ultimately selected by the Commission. Additionally, the agreement provides a set

[443] Anaqua Springs Initial Brief at 24-25; Cichowski Initial Brief at 11.

[444] Proposed Ordering Paragraph Nos. 15-16 state as follows:

1. CPS Energy must cooperate with directly affected landowners to implement minor deviations from the approved route to minimize the disruptive effect of the proposed transmission line project. Any minor deviations in the approved route must only directly affect the landowners who were sent notice of the transmission line in accordance with 16 TAC § 22.52(a)(3) and landowners who have agreed to the minor deviation.
2. The Commission does not permit CPS Energy to deviate from the approved route in any instance in which the deviation would be more than a minor deviation without further amending its CCN.

[445] The two subparts of Preliminary Order Issue No. 6 are addressed in the two subsections below.

[446] Dreiss Interests' Statement on Route Adequacy and Request for Approval of Proposed Agreed Amendments to CPS Energy's Application (Nov. 24, 2020) at Ex. 1.

value of ROW for any portion of ROW across the Dreiss Interests' property that is not donated pursuant to the terms of the agreement. This term will avoid a contested condemnation process to determine the value of and acquire any of the Dreiss Interests' property.[447] Because the agreement between the Dreiss Interests and CPS Energy requires donation of ROW to offset any additional costs associated with the requested changes to Segments 42, 46, and 49, the ALJs conclude that the Dreiss Interests have made adequate contributions for the accommodations.[448]

Apart from their agreement with CPS Energy, the Dreiss Interests argue that Segment 46 rather than Segment 46a should be selected because Segment 46a bisects lots platted on the Dreiss Interests' property.[449] The Dreiss Interests highlight the benefits of Segment 46 as follows: it is straight, such that additional turning structures would not be required; it is less costly than Segment 46a by $840,000; it is 0.07 miles shorter than Segment 46a; it parallels property lines and compatible ROW for an additional 0.09 miles; and it contains 2.2 fewer acres of moderate to high quality GCW habitat.[450] The ALJs recommended route, Route Z2, utilizes Segment 46 for these reasons.

2. Have the accommodations to landowners diminished the electric efficiency of the line or reliability?

There is no evidence that any proposed landowner accommodations would diminish the electric efficiency or reliability of the transmission line.

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[447] Dreiss Interests Ex. 1 (Dreiss Direct) at Ex. 1.

[448] The ALJs note that some parties have alleged that the Dreiss Interests were coerced into entering the agreement with CPS Energy. The ALJs find no evidence of coercion. Tom Dreiss testified unequivocally that he was "not forced to buy into it." Tr. at 908.

[449] Segment 46a curves to the south to maintain a 300-foot distance from the boundaries of a tract crossed by Segment 46. Dreiss Interests Initial Brief at 3-4.

[450] Dreiss Interests Initial Brief at 4-6; *see also* CPS Energy Ex. 17.

C. Preliminary Order Issue No. 8: Are the circumstances for this line such that the seven-year limit discussed in Section III of the Preliminary Order should be changed?

CPS Energy stated that it has not requested a change to the seven-year limit set out in the Commission's Preliminary Order in this docket, and has not presented evidence meriting a change to the time limit.[451] No party disputed this assessment.

VI. SUMMARY OF ALJS' ANALYSIS AND RECOMMENDATION

The ALJs recommend that the Commission approve Route Z2, using Substation 7 and Segments 54-20-36-42a-46-46b. Route Z2: runs along the 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 park or recreational areas; satisfies the TPWD recommendations with the inclusion of Staff's proposed ordering paragraphs; reduces the impact to modeled GCW habitat and upland woodlands/brushlands, and otherwise 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.

[451] CPS Energy Initial Brief at 35.

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

In support of the determinations and recommendations above, the ALJs propose the following findings of fact, conclusions of law, and ordering paragraphs:

A. Findings of Fact

Applicant

1. The City of San Antonio, acting by and through the City Public Service Board (CPS Energy) is a municipally owned utility as defined in Public Utility Regulatory Act (Texas Utilities Code §§ 11.001-66.016 (PURA)) § 11.003(11) and 16 Texas Administrative Code (TAC) § 25.5(71), as well as a transmission service provider as defined in 16 TAC § 25.5(141) and a distribution service provider as defined in 16 TAC § 25.5(33).

2. CPS Energy owns and operates facilities to transmit electricity in the Electric Reliability Council of Texas (ERCOT) region.

3. CPS Energy provides electric service under Certificate of Convenience and Necessity (CCN) No. 30031.

Application

4. On July 22, 2020, CPS Energy filed with the Public Utility Commission of Texas (Commission) an application (Application) to amend CCN No. 30031 in order to build, own, and operate a new double circuit 138-kilovolt (kV) transmission line in Bexar County connecting a new substation to the electric grid (Project).

5. The Application was assigned Docket No. 51023.

6. CPS Energy retained POWER Engineers, Inc. (POWER) to prepare an Environmental Assessment (EA) and routing analysis for the proposed transmission line, which was included as part of the Application.

7. On August 21, 2020, the Commission's Administrative Law Judge (ALJ) issued Order No. 5 finding the Application to be sufficient and materially complete.

8. State Office of Administrative Hearings (SOAH) Order No. 5, issued on December 11, 2020, required CPS Energy to file an amendment to the Application on or before December 23, 2020. On December 22, 2020, CPS Energy filed amendments to the Application and the EA (Amended Application).

9. No party challenged the sufficiency of the Application or the Amended Application.

Description of Proposed Transmission Facilities

10. The proposed new transmission line will connect a new load-serving electric substation (Scenic Loop Substation) located in the vicinity of the intersection of Scenic Loop Road and Toutant Beauregard Road in northwestern Bexar County to the existing Ranchtown to Menger Creek 138-kV transmission line to the west.

11. The Project will be constructed on double circuit 138-kV steel monopole structures for typical tangent, angle, and dead-end structures. The heights of typical structures proposed for the Project range from 70 to 130 feet above ground.

12. CPS Energy will design, operate, maintain, and own all of the proposed transmission line facilities including conductors, wires, structures, hardware, and easements. CPS Energy will also design, operate, maintain, and own the new electric load-serving Scenic Loop Substation that will be constructed in conjunction with the Project.

13. The Application included 29 primary alternative routes composed from 48 route Segments.

14. The Amended Application includes 31 primary alternative routes composed from 49 route Segments.

15. During this proceeding, two additional alternative routes configured from route Segments proposed by CPS Energy in the Amended Application (Routes Z2 and AA2), were determined to be viable and were proposed and supported by some intervening parties.

16. The primary alternative routes range from approximately 4.46 to 6.91 miles in length.

17. The route alternatives under consideration in this proceeding have an estimated total cost ranging between approximately $37.6 million and approximately $56.1 million for transmission and substation facilities.

18. In the Application, CPS Energy identified Route Z as the route that best addresses the requirements of PURA and the PUC Substantive Rules.

19. In the Amended Application, Route Zl functionally replaced Route Z.

20. The routes for the Project are based on a typical ROW width for operational clearances of approximately 100 feet.

Public Input

21. CPS Energy held the public open house meeting for the Project on October 3, 2019, at the Cross Mountain Church Student Center in the study area.

22. CPS Energy mailed written notices of the open house meeting to all owners of property within 300 feet of the centerline of each preliminary alternative Segment.

23. CPS Energy also mailed or hand delivered notices of the open house meeting to local public officials and various state and federal officials, including the United States Department of Defense Siting Clearinghouse (DOD).

24. In total, CPS Energy mailed 592 meeting notices for the open house meeting.

25. Notice of the open house meeting was additionally published in the *San Antonio Express News*, a newspaper of general circulation in the Project area county on September 22, 2019, and September 29, 2019.

26. A total of 172 people signed in as attending the open house meeting.

27. Attendees were provided questionnaires, and CPS Energy received a total of 186 completed questionnaires, of which 72 were submitted at the open house meeting and 114 were submitted after the open house meeting.

28. The purpose of the open house meeting was to solicit input from landowners, public officials, and other interested persons about the Project, the preliminary alternative route Segments, and the alternative substation sites. Further, the open house meeting was designed to promote a better understanding of the Project, including the purpose, need, potential benefits and impacts, and Commission certification process; inform the public with regard to the routing procedure, schedule, and route approval process; and gather and understand the values and concerns of the public and community leaders.

29. The public feedback received by CPS Energy was evaluated and considered in determining the routes to be included in the Application. Based on input, comments, information received at and following the open house meeting, and additional analyses conducted by CPS Energy and POWER, some preliminary alternative route Segments were modified, some preliminary alternative route Segments were deleted, and additional alternative route Segments were added. One substation alternative was relocated and two additional substation options were added.

30. Written information was provided to DOD about the study area and the nature of the Project.

31. On September 11, 2019, DOD reported that the Project will have minimal impact on military operations conducted in the area.

Notice of Application

32. On July 22, 2020, CPS Energy:

    a. mailed by first class mail or hand-delivered direct written notice of the filing of the Application to each owner of land directly affected by the construction of the Project, as determined by review of the Appraisal District tax data for Bexar County;

    b. mailed by first class mail or hand-delivered direct written notice of the filing of the Application to the county government of Bexar County, as well as the municipalities of the City of San Antonio, the City of Fair Oaks Ranch, the City of Grey Forest, and the City of Helotes as the municipalities located within five miles of the requested facilities;

    c. mailed by first class mail or hand-delivered direct written notice of the filing of the Application to the following neighboring utilities providing electric utility service within five miles of the requested facilities: Pedernales Electric Cooperative (PEC) and Bandera Electric Cooperative (BEC). CPS Energy also sent notice of the Application to LCRA Transmission Services Corporation (LCRA TSC); and

    d. mailed by first class mail or hand-delivered written notice of the filing of the Application to other interested entities, including the Office of Public Utility Counsel (OPUC), the Texas Department of Transportation (TxDOT), the Northside Independent School District (NISD); and the DOD, and provided a copy of the Application via FedEx to the Texas Parks and Wildlife Department (TPWD).

33. Attachment 12 to the Application is a copy of the letter provided to TPWD in conjunction with delivery of the Application.

34. On July 28, 2020, CPS Energy published public notice of the Application in the *San Antonio Express News*, a newspaper of general circulation in Bexar County, Texas.

35. On August 11, 2020, CPS Energy filed an affidavit attesting to, among other things, the provision of notice of the Application to OPUC; and notice of the Application to cities, counties, neighboring utilities, the DOD, and directly affected landowners.

36. On August 11, 2020, CPS Energy filed an affidavit attesting to published notice of the Application in the *San Antonio Express News*, a newspaper of general circulation in Bexar County, Texas.

37. On August 21, 2020, the Commission ALJ issued Order No. 5 approving CPS Energy's provision of notice of the Application in this proceeding.

Intervenors

38. On August 19, 2020, the Commission ALJ issued Order No. 4 granting the motions to intervene filed by Bexar Ranch L.P., Jerry Rumpf, Monica Gonzalez De La Garza, Patrick Cleveland, Monica Esparza, Lucia Zeevaert, and Clint and Mary Hurst.

39. On August 25, 2020, the Commission ALJ issued Order No. 7 granting the motions to intervene filed by Peter Eick, Jay and Amy Gutierrez and The Gutierrez Management Trust, Clearwater Ranch Property Owners Association (Clearwater POA), Toutant Ranch, Ltd. and ASR Parks, LLC, and Lisa and Clinton Chandler.

40. On September 17, 2020, the Commission ALJ issued Order No. 8 granting the motions to intervene filed by Nick Valenti, Jeff Audley and Darrell Cooper, Islam Hindash, Laura Rendon, Elis Latorre-Gonzalez, Brad Jauer, BVJ Properties LLC, Hamzeh Alrafati, Adrianna Rohlmeier, Anton Shadrock, Byron Eckhart, Carlos Garcia, Casey and Molly Keck, Francis Van Wisse, Kurt and Brenda Ohrmundt, Max and Meg Garoutte, Michael and Rosalinda Sivilli, Paolo Salvatore and Clear Run LLC, Samer and Elizabeth Ibrahim, Lonnie Arbuthnot, Gregory Hamon, Miao Zhang, Ronald Meyer, Ed Chalupa, Sophia Polk, The San Antonio Rose Palace, Inc. and Strait Promotions, Inc., Margaret Couch, Sunil Dwivedi, Brandon McCray, Steven Herrera, Gregory Altemose, Mark Dooley, Jesse Delee, Raul and Katie Garcia, Adam Schrage, Adam Sanchez, Lori Espinoza, Vic Vaughan, Primarily Primates, Inc., Clifford Stratton, Scott Lively, Beatriz Odom, Bernd Vogt and Inge Lechner-Vogt, Gail Ribalta, Kenneth Mark and Tawana Timberlake, Thomas Parker, Douglas Comeau for the Comeau Family Trust, Steve and Cathy Cichowski, Olytola Adetona, Vincent Billingham, Alfred and Janna Shacklett, Ruben and Kristin Mesa, Don Durflinger, Robert Ralph, Paul Rockwood, Anaqua Springs Homeowners Association (Anaqua Springs HOA), Layna Biemer, Joan Arbuckle and John Huber, Lawrence Barocas, Roy Barrera III, Brittany Sykes, Aline Knoy, Roy Barrera, Jr., Cynthia Rocha, Charlene Jean Alvarado Living Trust, Robert Barrera, Brian Woods for NISD, Eric and Laurie White, Sanjay Kumar, Martin Salinas, Jr., Lynn Ginader, Lauren Pankratz, Michael Berry, Guillermo Cantu, Jr , and Amanda Barrella.

41. On September 28, 2020, the Commission ALJ issued Order No. 9 granting the motions to intervene filed by Save Huntress Lane Area Association, Stephen Rockwood, Mark Barrera, Henry and Rosan Hervol, Jennifer Royal, Michael Wilburn, Burdick-Anaqua Homes, Ltd, Armando Valdez, James Lee, Francisco and Barbara Arroyo, Anne Warner, Doug Boazman, Paul Craig, Adrian and Catherine Chavez, Richard Olivarez, Eloy Olivarez, Dora Broadwater, Guajalote Ranch, Inc., Yvette Reyna, Lawrence Kroeger, Mike Swientek, Carmen Ramirez, Roy Barrera Sr., Robert and Leslie Bernsen, Russell and Brook Harris, Raul Martinez, Chip and Pamela Putnam, John Taylor, Brian Lee, Linda Hansen, Charles Rockwood, Melissa and Michael Rosales, Philip and Yajaira Paparone, Alejandro Medina, Robert Freeman, Duaine and Joann Smith, Kristy Woods, John Jared Phipps, Charlie Zimmer, and Andrew and Yvonne Krzywonski.

42. On December 1, 2020, the SOAH ALJs issued SOAH Order No. 3 granting the motions to intervene filed by Chris and Michelle Booth, Geoffrey Grant, Kristina and Christopher Stroud, Kim Ury, Monica and Chris Casady, James Brigham, Mike Leonard, David Burke, Elizabeth and John Kupferschmid, Rodolfo Santoscoy, Joy and Michael Escriva, Mark and Maricela Siegel, James Galusha, Marlin Sweigart, Suzan Corral, James Gillingham, Scott Streifert, Donna Balli, Judith Catalan, Carrie Clayton, David Walts, Michael and Maria Roxana Hope-Jones, Gregory Godwin, Roberto Sanchez, Chandler Mross, Jim Flores, Joel and Cortney Comp, Daniel Lonergan, James Middleton, Alan Hibberd, Richard Hauptfleisch, Ronald Schappaugh, The Deitchle Family Trust, Joshua and Kristi-Marie Standing Cloud, Raul Figueroa, Betsy Omeis, Anupama Atluri, Barbara and Ernie Centeno, Jordan and Donna Reed, Peter Eick, Mary Ebensberger, and Pinson Interests Ltd LLP, and Crighton Development Co.

43. On March 26, 2021, the SOAH ALJs issued SOAH Order No. 10 dismissing the following intervenors for failing to file direct testimony or a statement of position: Olytola Adetona, Francisco and Barbara Arroyo, Anupama Atluri, Denise Baker, Donna Balli, Amanda Barrella, Mark Barrera, Vincent Billingham, Doug Boazman, Dora Broadwater, Burdick-Anaqua Homes, Ltd, Guillermo Cantu, Carrie Clayton, Joel and Cortney Comp, Douglas Comeau, Joy and Michael Escriva, Monica Esparza, Lori Espinoza, Raul and Katie Garcia, Linda Hansen, Henry and Rosan Hervol, Islam Hindash, Lawrence Kroeger, Andrew and Yvonne Krzywonski, Inge Lechner-Vogt, Brian Lee, Mike Leonard, Kenneth Mark, Brandon McCray, Eloy and Raquel Olivarez, Thomas Parker, Robert Ralph, Bruce Reid, Evangelina Reyes, Gail Ribalta, Cynthia Rocha, Ryan and Jennifer Royal, Adam Sanchez, Roberto Sanchez, Alfred and Janna Shacklett, Duaine and Joann Smith, Joshua and Kristi-Marie Standing Cloud, Marlin Sweigart, Mike Swientek, John and Renee Taylor, The Deitchle Family Trust, Tawana Timberlake, Armando Valdez, Vic Vaughan, Bernd Vogt, Anne Warner, Michael Wilburn, Kristy Woods, Miao Zhang, and Charlie Zimmer.

44. On May 4, 2021, the SOAH ALJs issued SOAH Order No. 14 dismissing the following intervenors for failing to file direct testimony or a statement of position: Hamzeh Alrafati, Michael and Kenya Berry, Chris and Michelle Booth, Monica and Chris Casady, Barbara and Ernie Centeno, Dooley Properties, LLC - Mark Dooley, Mary Bensberger, James Galusha, Geoffrey Grant, Richard Hauptfleisch, Michael and Maria Roxana Hope-Jones, Elis Latorre-Gonzalez, James Lee, Scott Lively, Daniel Lonergan, Ronald Meyer, Chandler Mross, Richard Olivarez, Philip and Yajaira Paparone, John Jared Phipps, Jordan and Donna Reed, Laura Rendon, Rodolfo Santoscoy, Adam Schrage, Scott Streifert, Kim Ury, and David Walts. In the order, the SOAH ALJs also granted the late-filed motion to intervene of Maria Concepcion Uriarte-Azcue; and denied the late-filed motion to intervene of Scott Luedke.

Alignment of Intervenors

45. Except to the extent that parties with similar interests chose to be represented jointly by the same legal counsel when making an appearance, no parties were formally aligned by the ALJs for purposes of the hearing.

Route Adequacy

46. Patrick Cleveland (Cleveland) and Anaqua Springs HOA and Brad Jauer/BVJ Properties, LLC (Jauer) filed pleadings challenging whether the Application provided an adequate number of reasonably differentiated routes to conduct a proper evaluation or seeking modifications to the routes proposed in the Application, and requesting a hearing on route adequacy. Clearwater Ranch POA filed a response in opposition to the challenges to route adequacy.

47. Toutant Ranch LTD, Pinson Interests LTD, LLP, and Crighton Development Co. (Dreiss Interests) filed a statement on route adequacy and request for approval of proposed agreed amendments to CPS Energy's Application.

48. In SOAH Order No. 4 filed on December 4, 2020, the SOAH ALJs granted Dreiss Interests' request, ordered CPS Energy to amend the Application in accordance with the request, and ordered a hearing on route adequacy, which was held on December 10, 2020.

49. On December 11, 2020, the SOAH ALJs issued Order No. 5 denying the Cleveland and Anaqua Springs HOA and Jauer challenges to route adequacy and finding that CPS Energy had proven that the Application proposed an adequate number of reasonably differentiated routes in order for the ALJs and the Commission to conduct a proper evaluation.

50. The Amended Application provides an adequate number of reasonably differentiated routes to conduct a proper evaluation.

Pre-Filed Testimony

51. On November 6, 2020, CPS Energy filed the direct testimonies of Scott Lyssy, Adam Marin, Lisa Meaux, and George Tamez, in support of the Application. The testimony of Ms. Meaux was admitted at the route adequacy hearing and the remaining testimony was admitted at the hearing on the merits.

52. On December 22, 2020, CPS Energy filed the supplemental direct testimony of Ms. Meaux as Attachment 6 to the Application Amendment. This testimony was subsequently admitted at the hearing.

53. The direct testimony of the following witnesses was filed by intervening parties: Steve and Cathy Cichowski, on behalf of themselves; Steve Cichowski, Sunil Dwivedi, M.D., and Lauren Pankratz, M.D. on behalf of Anaqua Springs HOA; Mark Anderson on behalf of Anaqua Springs HOA and Jauer; Roy R. Barrera, Sr., Carmen Barrera Ramirez,

Roy R. Barrera III, Robert J. Barrera, and Roy R. Barrera, Jr., on behalf of themselves; Mark Turnbough, PhD, Michael Bitter, Sarah Bitter, Stephen Bitter, and Vincent Terracina, on behalf of Bexar Ranch L.P.; Brad Jauer and Carl Huber, on behalf of Jauer; Brian Andrews, on behalf of Lisa Chandler, Clinton R. Chandler, and Chip and Pamela Putnam; Rosemarie Alvarado, on behalf of the Charlene Jean Alvarado Living Trust; Joe R. Acuna /Villa Strangianto, LLC, L.W. Abuthnot, Jeffrey Audley and Darrell Cooper, Byron and Gina Eckhart, Carlos Garcia and Christina Garcia, Max and Peggy Garoutte, Gume Garza, Robert Gume Garza/Loredo Sol Investments, Carlos and Rosa Guzman/CRG Properties LLC, Gregory Hamon, Russell Harris and Brook Harris, Samer Ibrahim and Elizabeth Ibrahim, Casey and Molly Keck, Alejandro Medina, Peter and Melanie Morawiec, Kurt Ohrmundt and Brenda Ohrmundt, Kurt Rohlmeier and Adrianna Rohlmeier, Paolo Salvatore/Clear Run LLC, Michael and Rosalinda Sivilli, Mariana and Francis Van Wisse, Michael and Shawn Stevens, Michael Stevens, on behalf of Clearwater Ranch POA and Michael Stevens on behalf of Sven and Sofia Kusterman and Clearwater Ranch POA; Paul Craig, on behalf of himself; Jay A. Gutierrez, on behalf of himself; Patrick Cleveland, on behalf of himself; Jacob Villareal, on behalf of NISD; Brooke Chavez, on behalf of Primary Primates; Jason Buntz, on behalf of San Antonio Rose Palace and Strait Promotions; Cynthia Grimes, David Clark, Jerry Rumpf, and Harold L. Hughes Jr., on behalf of the Save Huntress Lane Area Association; Joan Arbuckle, Robert Bernsen, Laura Biemer, Steven Gomez Herrera, Betsy Omeis, Yvette Reyna, and Brittany Sykes, all Scenic/Serene Hills pro se intervenors; Tom Driess, on behalf of the Dreiss Interests; Robert C. Freeman and Rachel M. Freeman, on behalf of themselves; and Lucia Zeevaert on behalf of herself. With the exception of the Freeman testimony, the remaining testimony was admitted at the hearing on the merits. The Freemans did not appear at the hearing on the merits and their testimony was not offered.

54. On March 22, 2021, Commission staff (Staff) filed the direct testimony of its witness, John Poole. Staff filed errata to Mr. Poole's testimony on April 26, 2021, and April 27, 2021. This testimony was admitted at the hearing.

55. Cross-rebuttal testimony of the following witnesses was filed by intervening parties and subsequently admitted at the hearing: Mark Turnbough, Michael Bitter, and Sarah Bitter on behalf of Bexar Ranch L.P.; and Cynthia Grimes, David Clark, Jerry Rumpf, and Harold L. Hughes Jr, on behalf of the Save Huntress Lane Area Association. This testimony was admitted at the hearing.

56. On April 7, 2021, CPS Energy filed rebuttal testimony from Scott Lyssy, Adam Marin, Lisa Meaux, and George Tamez. CPS Energy filed errata to Mr. Lyssy's rebuttal testimony on April 26, 2021. This testimony was admitted at the hearing.

Referral to SOAH for Hearing

57. On August 5, 2020, Clearwater Ranch POA filed a request for hearing at SOAH. Subsequently, Anaqua Springs HOA and Bexar Ranch L.P. also requested a hearing.

58. On September 14, 2020, Staff requested that the docket be referred to SOAH for a hearing.

59. On September 29, 2020, the Commission referred this case to SOAH and identified a number of issues to be addressed.

Hearing and Post-Hearing

60. In SOAH Order No. 1 filed on October 2, 2020, the SOAH ALJs provided notice of a prehearing conference, described jurisdiction, and provided other information.

61. On October 22, 2020, the SOAH ALJs convened a prehearing conference by videoconference.

62. In SOAH Order No. 2 filed on November 23, 2020, the SOAH ALJs memorialized the prehearing conference held on October 22, 2020, and provided notice of the hearing on the merits set to begin on March 29, 2021.

63. In SOAH Order No. 6 filed on January 6, 2021, the SOAH ALJs adopted proposed amendments to the procedural schedule and noted that the hearing on the merits would be held by videoconference beginning on May 3, 2021, and that a prehearing conference would be held by videoconference beginning at 10:00 a.m. on April 30, 2021.

64. The hearing on the merits convened by videoconference before SOAH ALJs Holly Vandrovec and Pratibha J. Shenoy on May 3, 2021, and concluded on May 7, 2021. The following parties made appearances, either personally or through their representatives, and participated in the hearing on the merits: CPS Energy; Lisa and Clinton R. Chandler; Chip and Pamela Putnam; the Charlene Jean Alvarado Living Trust; Maria Conception Uriarte-Azcue; Roy Barrera, III; Roy Barrera, Jr.; Roy R. Barrera, Sr.; Robert Barrera; the Save Huntress Lane Area Association; Jay and Amy Gutierrez; the Gutierrez Management Trust; Primarily Primates, Inc.; Bexar Ranch, LP; Guajalote Ranch, Inc.; the Clearwater Ranch POA; Patrick Cleveland; NISD; the San Antonio Rose Palace, Inc. and Strait Promotions, Inc.; Anaqua Springs HOA; Jauer; Steven and Cathy Cichowski; Robert and Leslie Bernsen; Laura Biemer; James Brigham; Paul Craig; Peter Eick; Raul Figueroa; Steven Herrera; John Huber and Joan Arbuckle; Betsy Omeis; Yvette Reyna; Paul Rockwood; Stephen Rockwood; Mark Siegel; Brittany Sykes; Dreiss Interests; Melissa Rosales; Ronald Schappaugh; Kristina Stroud; and Staff.

65. The evidentiary record closed on May 7, 2021, and the hearing record closed on May 28, 2021, after the filing of closing written arguments and proposed findings of fact and conclusions of law.

Adequacy of Existing Service and Need for the Project

66. CPS Energy retained Burns & McDonnell Engineering Company, Inc. to prepare an independent need analysis for the Project, which was included as part of the Application.

67. The Project is needed to meet the existing and forecasted retail electric service demand of customers in northwest Bexar County and to address reliability risks and improve reliability in the area.

68. Load growth at a compound annual growth rate of approximately 4 to 7 percent in northwest Bexar County is currently served by the existing La Sierra and Fair Oaks Ranch Substations. The forecasted load growth for the La Sierra and Fair Oaks Ranch Substations is expected to exceed the planning capacity for the area by 2025.

69. The existing distribution circuits within the La Sierra Substation and some of the circuits originating at the Fair Oaks Ranch Substation are up to eight times longer than the average distribution circuit within CPS Energy's system and serve thousands of customers.

70. The average length of the eight distribution circuits primarily serving the Scenic Loop area from the La Sierra and Fair Oaks Ranch Substations is approximately 36.13 miles. Following the construction of the proposed Scenic Loop Substation, the length of the circuits connected to La Sierra, Fair Oaks Ranch, and Scenic Loop will decrease to an average of approximately 24 miles.

71. The length and loading on these La Sierra and Fair Oaks Ranch circuits have resulted in lower reliability to the customers served by those circuits.

72. CPS Energy's analysis shows that even with system reconfiguration improvements on the existing distribution facilities immediately prior to the filing of this Application, without a new substation in northwest Bexar County, the CPS Energy customers served from the La Sierra and Fair Oaks Ranch Substations will continue to experience lower reliability than CPS Energy's system averages.

73. The Project's proposed Scenic Loop Substation provides CPS Energy with a load serving substation geographically intermediate to the Fair Oaks Ranch and La Sierra Substations in a manner that will cut the average length and loading of distribution circuits serving end-use customers by 50 percent or more.

74. The Project is needed to address local reliability needs of existing and future end-use consumers based on actual and forecasted electric load and identified system limitations in meeting this electric load.

75. The Project is a Tier 4 Neutral project pursuant to the classifications established by ERCOT. Therefore, the Project is not required to be, and was not, submitted to the ERCOT Regional Planning Group for review and comment.

76. No party challenged the need for the Project

77. Electric customers within the Project area will benefit from the improved transmission system reliability and capacity provided by the Project.

78. CPS Energy considered a distribution-only alternative.

79. Distribution alternatives are not adequate to resolve the need for the Project in a cost effective manner.

80. A distribution-only alternative would only delay the need for the Project by a few years at most or would cost significantly more than the Project and would not address the reliability concerns of the lengthy circuits currently existing in the area because of the lack of a substation in the vicinity.

81. No party has argued that a distribution alternative would resolve the need for the Project.

Effect of Granting Certificate on the Applicant and Other Utilities and Probable Improvement of Service or Lowering of Cost

82. Electric utilities serving the proximate area of the Project include PEC and BEC. LCRA TSC interconnects with the CPS Energy transmission line that serves as the tap point for the Project.

83. The Project taps into an existing CPS Energy transmission line and is proposed to provide service wholly within CPS Energy's existing service territory.

84. CPS Energy has coordinated with LCRA TSC on the Project, and LCRA TSC has not raised any concerns with the Project other than identifying protective relay setting changes at the Menger Creek Substation.

85. PEC and BEC did not intervene or otherwise express any concern or opposition to the Project.

86. The Project will not adversely affect service by other utilities in the area.

87. With the new transmission facilities, CPS Energy will be able to continue to provide reliable service.

Development of Alternative Routes

88. The POWER project team included professionals with expertise in different environmental and land use disciplines (geology and soils, hydrology and water quality, terrestrial ecology, wetland ecology, land use and aesthetics, and cultural resources) who were

involved in data acquisition, routing analysis, and environmental assessment for the transmission facilities.

89. To identify preliminary alternative route segments for the transmission facilities, POWER delineated a study area, sought public official and agency input, gathered data regarding the study area, performed constraints mapping, identified preliminary alternative route segments and alternative substation sites, and reviewed and adjusted the preliminary alternative route segments and alternative substation sites following field reconnaissance and the public meetings.

90. From the preliminary alternative route segments, POWER and CPS Energy identified 29 reasonable, feasible alternative routes. In identifying these, POWER considered a variety of information, including input from the public and public officials, geographic diversity within the study area, and an inventory and tabulation of a number of environmental and land use criteria.

91. The Amended Application identified 31 reasonable, feasible alternative routes. Two additional routes were subsequently identified, bringing the number of viable routes to 33. The 33 alternative routes range from approximately 4.5 to 6.9 miles in length.

92. CPS Energy reviewed the alternative routes with regard to cost, construction, engineering, and ROW maintenance issues and constraints, and conducted field reviews.

93. At the time it filed its Application, CPS Energy identified Route Z as the route that best addressed the Commission's routing criteria. Route Z was functionally replaced by Route Z1 with the filing of the Amended Application.

94. The TPWD provided comments recommending Route DD as having the least impact on environmental integrity and wildlife habitat.

95. Staff submitted evidence supporting the choice of Route P as the route that best meets the statutory and regulatory criteria and best addresses the concerns raised by the TPWD and the parties.

96. Intervenors and intervenor groups also opposed or supported certain routes based on a southern or northern orientation in the study area. Eight focus routes were identified by CPS Energy as the routes most opposed or supported by intervenors, Staff, and TPWD: the southern routes (Routes P, R1, and W) and northern routes (Routes Z1, Z2, AA1, AA2, and DD).

Community Values: Distance to Habitable Structures, Visual Impact, and Impact on Schools

97. To ascertain community values for the transmission facilities, CPS Energy held a public open house meeting on October 3, 2019.

98. The most common concerns or issues presented by the landowners at the open house meeting and afterward were proximity of the routes and substation locations to homes (58%); visibility of the structures (6%); proximity to schools, places of worship, and cemeteries (2%); and impact to endangered species and their habitat (2%).

99. POWER and CPS Energy added, removed, and/or modified segments in response to engineering constraints; landowner comments; landowner offers to donate ROW; previously unidentified features (such as a cemetery); and better paralleling of property lines. In addition, CPS Energy added Substations 6 and 7 and moved Substation 1 to the south, all due to landowner willingness to sell the respective properties to CPS Energy.

a. Distance to Habitable Structures

100. Land use in the study area is primarily residential, mostly suburban and some rural. All routes have habitable structures within 300 feet of the route centerline.

101. Much of the study area is under active development for residential use, and the number of habitable structures is therefore expected to increase significantly.

102. Routes Q1 and U1 have the fewest habitable structures within 300 feet of the route centerline (12 structures), and Route A has the most habitable structures within 300 feet of the route centerline (72 structures). The average number of habitable structures for all routes is 37 structures within 300 feet of the centerline.

103. For the focus routes, the number of habitable structures within 300 feet of the centerline ranges from 13 to 33, as follows: Route R1 (13); Route P (17); Route W (29); Route AA2 (30); Routes Z1 and AA1 (30); Route Z1 (31); Route Z2 (32); and Route DD (33).

104. Routes DD, Z1, Z2, AA1, and AA2 originate at Substation 7, cross the northern portion of the study area, and follow Toutant Beauregard Road for some length.

105. Routes P, R1, and W originate at Substation 6 and cross the southern portion of the study area.

106. Routes P and R1 bisect the interior of the SHLAA and Clearwater Ranch neighborhoods and cross through individual properties.

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

108. Route Z2 addresses community values because it follows neighborhood boundaries and runs between established subdivisions; does not bisect neighborhoods or cross individual

properties in those neighborhoods; and does not impact the largest undisturbed tracts of land in the study area.

b. Visual Impact

109. None of the alternative routes has any portion of the routes located within the foreground visual zone of: interstate highways, U.S. highways, or state highways; farm-to-market roads; or parks or recreational areas.

110. All of the alternative routes will have visual impacts on the surrounding areas. The study area is in the Texas Hill Country, where the views and vistas are valued by the community.

111. An existing distribution line runs along Toutant Beauregard Road. The road also has natural gas and water pipelines running along it, a tall cell phone tower, and a recently-added microwave transmission corridor.

112. The visual landscape along Toutant Beauregard Road has already been disturbed, including by multiple contemporary yard art pieces on the Heidemann Ranch along the east side of Toutant Beauregard Road.

113. Substation 7 is located on a large lot with heavy vegetation that can be used to screen the substation from view. Substation 7 is triangular in shape and only a small section at one point of the triangle borders a short section of road.

114. Substation 6 is rectangular in shape and the longer edge fronts onto Scenic Loop Road, where there is less vegetation to screen the substation from view.

115. The intervenors whose properties are closest to Substation 7 support Substation 7 because it causes less overall harm to their neighborhood than Substation 6.

116. Route Z2 uses an existing transportation and utility corridor that has already fragmented the visual landscape, and utilizes a substation that has heavy vegetation and provides the potential to screen the substation from view.

c. Impact to Schools

117. One school is currently in the study area: Sara McAndrew Elementary School (Elementary School), part of the NISD. The Elementary School property was purchased under a dual-campus plan and a middle school is planned for the site.

118. NISD opposes routes using Segment 41, including Route DD. NISD is concerned about routes using Segments 34 and 35 (Route DD) and 42a (Routes Z1, Z2, AA1, and AA2).

119. Eight existing elementary schools in NISD have electric transmission lines at distances comparable to the distance between Routes Z1, Z2, AA1, and AA2 and the Elementary School. One school is also in relative proximity to a substation.

120. Some intervenors whose children currently attend the Elementary School expressed support for Route Z2.

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

122. All routes in the Application adequately address the expressed community values.

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

Prudent Avoidance

124. Prudent avoidance is defined in 16 TAC § 25.101(a)(6) as the "limiting of exposures to electric and magnetic fields that can be avoided with reasonable investments of money and effort."

125. Whenever possible, CPS Energy and POWER avoided identifying alternative route segments near habitable structures.

126. Alternative Route A has the highest number of habitable structures located within 300 feet of its centerline at 72.

127. Alternative Routes U1 and Q1 have the fewest habitable structures located within 300 feet of their centerlines at 12 each.

128. Route W has three habitable structures within 100 feet of its centerline. The other focus routes have one structure within 100 feet of the centerline.

129. Route R1 has 19 fewer habitable structures within 300 feet of its centerline than does Route Z2. Route R1 costs $5.88 million more than Route Z2. Each of the 19 additional structures avoided by Route R1 is avoided at an average cost of $309,000 per structure.

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

131. The proposed transmission facilities have been routed in accordance with the Commission's policy on prudent avoidance.

132. The construction of the transmission facilities along Route Z2 complies with the Commission's policy of prudent avoidance.

Recreational and Park Areas

133. CPS Energy and POWER did not identify any parks and recreational areas crossed by or within 1,000 feet of any alternative route. Private recreational areas were not included.

134. Two private recreational areas were identified by intervenors. The owners of the 15 lots in High Country Ranch hold undivided interests in a 300-acre preserve that is open to the owners for hunting, wildlife observation, and other outdoor recreational activities. Anaqua Springs has acreage on either side of the guardhouse at the neighborhood entrance that the property owners consider to be dedicated parkland.

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

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

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.

Texas Parks and Wildlife Department

138. TPWD provided information and recommendations regarding the preliminary study area for the Project to POWER on August 1, 2019.

139. On September 16, 2020, after the Application had been filed, TPWD filed a letter (dated September 10, 2020) containing its comments and recommendations regarding the Project. The letter primarily addressed the mitigation of potential burdens on wildlife and natural resources. TPWD initially recommended Route AA for the project.

140. On March 1, 2021, after the Amended Application had been filed by CPS Energy, TPWD filed a second letter containing its comments and recommendations regarding the Project.

141. In its subsequent comments, TPWD recommended Route DD for the Project. TPWD stated that Route DD appears to be the route that causes the least adverse impacts to natural resources.

142. The TPWD comment letter addressed issues relating to effects on ecology and the environment, but did not consider other factors the Commission and utilities must consider in siting transmission facilities.

143. Among the focus routes, Route DD has the highest number of habitable structures within 300 feet of its centerline (33 structures). Route DD uses Segment 41 that crosses over NISD property slated for a construction of a new middle school, and is estimated to cost $1.36 million more than the estimated cost of Route Z2.

144. POWER and CPS Energy have taken into consideration the recommendations offered by TPWD.

145. It is appropriate that, before beginning construction, CPS Energy undertake appropriate measures to identify whether a potential habitat for endangered or threatened species exists and to respond as required.

146. The standard mitigation requirements included in the ordering paragraphs in this Order, coupled with CPS Energy's current practices, are reasonable measures for a utility to undertake when constructing a transmission line and are sufficient to address TPWD's comments and recommendations.

Environmental Integrity

147. CPS Energy and POWER evaluated the impacts on environmental integrity from the Project, and set out such impacts in detail in the EA.

148. Correspondence with the Texas Natural Diversity Database (TXNDD), TPWD, and the United States Fish and Wildlife Service (USFWS) indicates 40 animal species are federally- and/or state-listed or have candidate status, for Bexar County.

149. Of the 40 federally- or state-listed endangered or threatened (or candidate) species in Bexar County, the following species may occur in the study area:

a. the whooping crane may potentially occur temporarily as a rare transient during migration if suitable foraging habitat is available;

b. state-listed species such as the wood stork and Cagle's map turtle may, but are not expected to, occur due to lack of potential suitable habitat;

c. if suitable habitat is available, the reddish egret, tropical parula, white-faced ibis, and zone-tailed hawk may occur;

d. bald eagles and their nests may be present if suitable habitat is available;

e. if suitable aquatic habitat is available, the Cascade Caverns salamander, Texas salamander, toothless blindcat, and widemouth blindcat may occur;

f. if suitable cave/karst habitat is present and available, the study area may contain the Madla Cave meshweaver, two unnamed beetles (*Rhadine exilis* and *Rhadine infernalis*), and the Helotes mold beetle;

g. Texas wild-rice is not expected to occur due to the lack of suitable habitat; and

h. the Bracted twistflower may occur if suitable habitat is available.

150. If any of these species is observed or encountered, CPS Energy will coordinate with TPWD and/or USFWS, as appropriate, to determine necessary avoidance and mitigation measures. CPS Energy will also conduct a site-specific karst survey prior to construction. CPS Energy plans to span all surface waters crossed by the approved route and to implement sedimentation prevention measures.

151. If suitable habitat is available, the Golden-Cheeked Warbler (GCW) may occur in the study area as indicated by the Diamond Model C (2010) and 2019 aerial imagery used by POWER. The GCW is listed as endangered by both TPWD and USFWS.

152. Crossing undisturbed upland woodlands/brushlands causes fragmentation of potential habitat for the GCW as well as wildlife in general.

153. The study area is experiencing sustained residential growth, which is continuing to fragment the environment and wildlife habitat.

154. Route P crosses the most acreage of potential Moderate High and High Quality modeled habitat for the GCW of all 33 alternative routes, at 25.11 acres. Route W is tied for the lowest acreage crossed by any alternative route over potential Moderate High and High Quality modeled habitat for the GCW, at 2.95 acres.

155. Route DD has the least ROW across upland woodlands/brushlands, at 3.12 miles. Route W has the most ROW across upland woodlands/brushlands, at 6.03 miles.

156. Among the focus routes, Route Z2 has the second-lowest impact on acreage of Moderate High and High Quality modeled habitat for the GCW (8.92 acres); has the second-lowest length of ROW across upland woodlands/brushlands (3.53 miles); and does not disturb the large intact areas of wildlife and modeled GCW habitat on Bexar Ranch and Guajalote Ranch.

157. None of the alternative routes has any length of ROW across designated habitat of federally-listed endangered or threatened species.

158. The Project is not anticipated to significantly adversely impact populations of any federally-listed endangered or threatened species.

159. The Project will cause only short-term impacts to soil, water, and ecological resources.

160. No significant effects are expected to occur on wetland resources, ecological resources, endangered and threatened species, or land use as a result of constructing the proposed transmission facilities.

161. CPS Energy will mitigate any effect on federally listed plant or animal species according to standard practices and measures taken in accordance with the Endangered Species Act.

162. It is appropriate that CPS Energy protect raptors and migratory birds by following the procedures outlined in the following publications: *Reducing Avian Collisions with Power Lines: The State of the Art in 2012*, Edison Electric Institute and Avian Power Line Interaction Committee, Washington, D.C. 2012; *Suggested Practices for Avian Protection on Power Lines*: The State of the Art in 2006, Edison Electric Institute, Avian Power Line Interaction Committee, and the California Energy Commission, Washington, D.C. and Sacramento, CA 2006; and *Avian Protection Plan Guidelines*, Avian Power Line Interaction Committee and United States Fish and Wildlife Service, April 2005.

163. It is appropriate that CPS Energy minimize the amount of flora and fauna disturbed during construction of the proposed transmission line.

164. It is appropriate that CPS Energy revegetate cleared and disturbed areas using native species and consider landowner preferences and wildlife needs in doing so.

165. It is appropriate that CPS Energy avoid causing, to the maximum extent possible, adverse environmental burdens on sensitive plant and animal species and their habitats as identified by TPWD and USFWS.

166. It is appropriate that CPS Energy implement erosion control measures and return each affected landowner's property to its original contours unless otherwise agreed to by the landowners. It is appropriate that CPS Energy not be required to restore original contours and grades where different contours or grades are necessary to ensure the safety or stability of the proposed transmission line's structures or the safe operation and maintenance of the transmission line.

167. It is unlikely that the presence of transmission facilities along any route will adversely affect the environmental integrity of the surrounding landscape.

168. All of the alternative routes are environmentally acceptable.

Historical and Cultural Values

169. To identify historical and cultural resources in the study area, POWER and CPS Energy consulted the Texas Historical Commission; Texas Archeological Research Laboratory; Texas Archeological Sites Atlas and Texas Historical Sites Atlas; TxDOT historic bridges database; National Park Service databases; and the National Registry of Historic Places

(NRHP). POWER also documented high potential areas (HPAs) for occurrence of historic and cultural resources not yet identified.

170. POWER identified 36 previously-recorded archaeological sites and 11 cemeteries in the study area. Seventeen archaeological sites are within 1,000 feet of the alternative routes, and four of these sites are crossed by routes.

171. CPS Energy identified and summarized the number of known or recorded historic or prehistoric sites within 1,000 feet of the ROW of each proposed route. The minimum number of known archaeological sites crossed by any route is zero, while the maximum is five.

172. The minimum number of additional known archaeological sites within 1,000 feet of the centerline of any route is zero, while the maximum is twelve.

173. One Official Texas Historical Marker is within the study area and commemorates the Scenic Loop, Boerne Stage, and Toutant Historic Corridor (Historic Corridor).

174. The Scenic Loop, Boerne Stage, and Toutant Beauregard Roads are also designated as a Texas Historic Highway.

175. TxDOT considers the Boerne Stage Road a historic resource eligible for listing in the NRHP.

176. The Historic Corridor follows an existing transportation corridor and parts of it parallel an interstate highway.

177. The visual landscape in the Historic Corridor is already fragmented, including by multiple contemporary yard art pieces on the Heidemann Ranch along the east side of Toutant Beauregard Road.

178. There are three NRHP-listed resources in the study area: the R. L. White Ranch Historic District; the Heidemann Ranch Historic District; and the Maverick-Altgelt Ranch and Fenstermaker-Fromme Farm Historic District.

179. No adverse impacts are expected to known elements of any of the three NRHP-listed sites.

180. All of the alternative routes cross HPAs for cultural resources. The lowest ROW mileage across HPAs for cultural resources is 1.44 miles (Routes H and X1) and the most is 4.77 miles (Route U1). The focus routes range between 2.34 miles (Route DD) and 3.35 miles (Route AA1).

181. Route Z2 adequately addresses concerns about archaeological, historical, or cultural resources while balancing other factors the Commission must consider.

182. Construction of the approved route is not expected to adversely affect archaeological or historical resources.

Engineering Constraints

183. 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.

184. All alternative routes are viable, feasible, and reasonable from an engineering perspective.

a. Radio Towers and Other Electronic Installations

185. No known AM radio transmitters were identified within the study area or within 10,000 feet of the primary alternative routes.

186. The number of FM radio transmitters, microwave towers, and other electronic communication towers located within 2,000 feet of any of the primary alternative routes ranges from zero for numerous routes to one for multiple other routes.

187. Communication Tower 501 is a Federal Communications Commission (FAA)-registered tower that includes microwave antennae and is located 279 feet from the nearest segment, which is Segment 32.

188. No routes or segments in this case are expected to create any concerns related to communications towers, including access to such, and no communications facilities present any concerns related to any routes or segments.

b. Airstrips and Airports

189. There is one FAA-registered public or military airport with a runway longer than 3,200 feet within 20,000 feet of the routes (the Boerne Stage Field Airport) located north of the study area.

190. No private airstrips were identified within 10,000 feet of the centerline of any of the alternative routes.

191. There are no FAA-registered heliports located within 5,000 feet of the centerline of any of the alternative routes, and no FAA-registered public or military airports with runways shorter than 3,200 feet within 10,000 feet of the routes.

c. Irrigation Systems

192. None of the alternative routes presented in the Application or proposed by intervenors crosses land irrigated by traveling irrigation systems.

193. The presence of transmission facilities along the approved route is not expected to adversely affect any agricultural lands with known traveling irrigation systems.

Using or Paralleling Compatible Rights-of-Way and Paralleling Property Boundaries

194. In developing alternative routes, CPS Energy and POWER took into account the use or paralleling of existing ROW (e.g., public roads and highways, railroads, and telephone utilities), apparent property boundaries, and natural or cultural features.

195. The highest percentage of paralleling of compatible ROW or property boundaries is on Route A (83%).

196. The lowest percentage of paralleling of compatible ROW or property boundaries is on Route S (49%).

197. The percentage of paralleling of compatible ROW and property boundaries on Route Z2 is 71%.

Costs

198. CPS Energy prepared cost estimates for all 31 alternative routes presented in the Amended Application, as well as two additional routes presented for consideration in this proceeding.

199. Route Z2 is estimated to be the lowest cost route of all 33 alternative routes, with an estimated cost of $37.6 million, which includes the cost of the new Scenic Loop Substation.

200. Route O is estimated to be the most expensive route, with an estimated cost of $56.1 million, which includes the cost of the new Scenic Loop substation.

Alternative Routes Accommodations Due to Landowner Preference

201. CPS Energy entered into an agreement with the Dreiss Interests that altered originally proposed segments that were contained entirely within property owned or controlled by the Dreiss Interests.

202. The CPS Energy agreement with the Dreiss Interests provided mechanisms whereby the Dreiss Interests would donate ROW for the construction of the Project such that no additional costs would be incurred as a result of the accommodations.

203. The accommodations resulting from the CPS Energy agreement with the Dreiss Interests would not diminish the electric efficiency or reliability of the Project.

Seven-Year Time Limit

204. It is reasonable and appropriate for a CCN order not to be valid indefinitely because it is issued based on the facts known at the time of issuance.

205. Seven years is a reasonable and appropriate limit to place on the authority granted in this Order for CPS Energy to construct the transmission facilities.

Renewable Energy

206. The Texas Legislature established a goal in PURA § 39.904(a) for 10,000 megawatts of renewable capacity to be installed in Texas by January 1, 2025. This goal has already been met.

207. The proposed Project will not affect the goal for renewable energy development established in PURA § 39.904(a).

Coastal Management Program

208. Under 16 TAC § 25.102(a), the Commission may grant a certificate for the construction of transmission facilities within the coastal management program boundary only when it finds that the proposed facilities comply with the goals and applicable policies of the Coastal Management Program or that the proposed facilities will not have any direct and significant effect on any of the applicable coastal natural resource areas specified in 31 TAC § 501.3(b).

209. No part of the proposed transmission facilities is located within the coastal management program boundary as defined in 31 TAC § 503.1(b).

Permits

210. Before beginning construction of the proposed transmission facilities, CPS Energy will obtain any necessary permits from TxDOT if the facilities cross state-owned or maintained properties, roads, or highways.

211. Before beginning construction of the proposed transmission facilities, it is appropriate for CPS Energy to conduct a field assessment to identify water resources, cultural resources, potential migratory bird issues, and threatened and endangered species' habitats impacted as a result of the Project. As a result of these assessments, CPS Energy will identify any additional permits that are necessary, will consult any required agencies, will obtain all necessary permits, and will comply with the relevant permit conditions during construction and operation of the Project.

212. Before beginning construction of the proposed transmission facilities, CPS Energy will obtain any necessary permits or clearances from federal, state, or local authorities.

213. Before commencing construction, CPS Energy will obtain a general permit to discharge under the Texas pollutant discharge elimination system for stormwater discharges associated with construction activities as required by the Texas Commission on Environmental Quality. In addition, because more than five acres will be disturbed during construction of the transmission facilities, CPS Energy will prepare the necessary stormwater-pollution-prevention plan, submit a notice of intent to the Texas Commission on Environmental Quality, and comply with all other applicable requirements of the general permit.

214. Before construction, CPS Energy will obtain all permit or regulatory approvals that are required from the United States Army Corps of Engineers, the USFWS, the Texas Commission on Environmental Quality, the Texas Historical Commission, the state historic preservation offices, and any county in which the Project is built.

215. After designing and engineering the alignments, structure locations, and structure heights, CPS Energy will make a final determination of the need for FAA notification based on the final structure locations and designs. If necessary, CPS Energy will use lower-than-typical structure heights, line marking, or line lighting on certain structures to avoid or accommodate FAA requirements.

B. Conclusions of Law

1. CPS Energy is a municipally owned utility as defined in PURA § 11.003(11) and 16 TAC § 25.5(71).

2. CPS Energy must obtain the approval of the Commission to construct the proposed transmission facilities and provide service to the public using those facilities. PURA § 37.051(g).

3. The Commission has jurisdiction over this matter pursuant to PURA §§ 14.001, 32.001, 37.051, .053, .054, and .056.

4. SOAH exercised jurisdiction over this proceeding under PURA § 14.053 and Texas Government Code §§ 2003.021 and 2003.049.

5. The Application is sufficient under 16 TAC § 22.75(d).

6. Notice of the Application and the hearing were provided in compliance with PURA § 37.054 and 16 TAC § 22.52(a).

7. Additional notice of the approved route is not required under 16 TAC § 22.52(a)(2) because it is wholly composed of properly noticed segments contained in the original CCN application or modifications agreed to by all affected landowners.

8. CPS Energy provided notice of the public open house meeting in compliance with 16 TAC § 22.52(a)(4).

9. The hearing on the merits was set and notice of the hearing was provided in compliance with PURA § 37.054 and Texas Government Code §§ 2001.051 and .052.

10. The Commission processed this docket in accordance with the requirements of PURA, the Administrative Procedure Act (Texas Government Code chapter 2001) and Commission rules.

11. Construction of the transmission line on Route Z2 is necessary for the service, accommodation, convenience or safety of the public within the meaning of PURA § 37.056(a).

12. The Texas Coastal Management Program does not apply to any of the transmission facilities proposed in the Application and the requirements of 16 TAC § 25.102 do not apply to the Application.

C. Ordering Paragraphs

In accordance with these findings of fact and conclusions of law, the Commission issues the following order:

1. The Commission adopts the proposal for decision, including findings of fact and conclusions of law, except as discussed in this order.

2. The Commission amends CPS Energy's CCN No. 30031 to include the construction and operation of the Scenic Loop Substation, a new load-serving electric substation in northwestern Bexar County, to the existing Ranchtown to Menger Creek 138-kV transmission line to the west. The new Scenic Loop Substation will be located at proposed Substation 7 site and the new transmission line shall be built using Segments 54-20-36-42a-46-46b.

3. CPS Energy must consult with pipeline owners or operators in the vicinity of the approved route regarding the pipeline owners' or operators' assessment of the need to install measures to mitigate the effects of alternating current interference on existing natural gas pipelines paralleled by the proposed electric transmission facilities.

4. CPS Energy must conduct surveys, if not already completed, to identify metallic pipelines that could be affected by the transmission line and coordinate with pipeline owners in

modeling and analyzing potential hazards because of alternating current interference affecting metallic pipelines being paralleled.

5. CPS Energy must obtain all permits, licenses, plans, and permission required by state and federal law that are necessary to construct the proposed transmission facilities, and if CPS Energy fails to obtain any such permit, license, plan, or permission, it must notify the Commission immediately.

6. CPS Energy must identify any additional permits that are necessary, consult any required agencies (such as the United States Army Corps of Engineers and United States Fish and Wildlife Service), obtain all necessary environmental permits, and comply with the relevant conditions during construction and operation of the transmission facilities approved by this order.

7. Before commencing construction, CPS Energy must obtain a general permit to discharge under the Texas pollutant discharge elimination system for stormwater discharges associated with construction activities as required by the Texas Commission on Environmental Quality. In addition, because more than five acres will be disturbed during construction of the transmission facilities, CPS Energy must, before commencing construction, prepare the necessary stormwater-pollution-prevention plan, submit a notice of intent to the Texas Commission on Environmental Quality, and comply with all other applicable requirements of the general permit.

8. In the event CPS Energy encounters any archeological artifacts or other cultural resources during construction, work must cease immediately in the vicinity of the artifact or resource. CPS Energy must report the discovery to, and take action as directed by, the Texas Historical Commission.

9. Before beginning construction, CPS Energy must undertake appropriate measures to identify whether a potential habitat for endangered or threatened species exists and must respond as required.

10. CPS Energy must use best management practices to minimize the potential impact to migratory birds and threatened or endangered species.

11. CPS Energy must follow the procedures to protect raptors and migratory birds as outlined in the publications: *Reducing Avian Collisions with Power Lines: State of the Art in 2012*, APLIC, 2012, Edison Electric Institute and Avian Power Line Interaction Committee (APLIC), Washington, D.C. 2012; *Suggested Practices for Avian Protection on Power Lines, The State of the Art in 2006*, Edison Electric Institute, APLIC, and the California Energy Commission, Washington, D.C. and Sacramento, CA 2006; and *Avian Protection Plan Guidelines*, APLIC and USFWS, 2005. CPS Energy must take precautions to avoid disturbing occupied nests and take steps to minimize the impact of construction on migratory birds during the nesting season of the migratory bird species identified in the area of construction.

12. CPS Energy must exercise extreme care to avoid affecting non-targeted vegetation or animal life when using chemical herbicides to control vegetation within the ROW, and must ensure that such herbicide use complies with rules and guidelines established in the Federal Insecticide, Fungicide and Rodenticide Act and with Texas Department of Agriculture regulations.

13. CPS Energy must minimize the amount of flora and fauna disturbed during construction of the transmission line project, except to the extent necessary to establish appropriate ROW clearance for the transmission line. In addition, CPS Energy must re-vegetate using native species and must consider landowner preferences and wildlife needs in doing so. Furthermore, to the maximum extent practical, CPS Energy must avoid adverse environmental impact to sensitive plant and animal species and their habitats, as identified by TPWD and the USFWS.

14. CPS Energy must implement erosion control measures as appropriate. Erosion control measures may include inspection of the ROW before and during construction to identify erosion areas and implement special precautions as determined reasonable to minimize the impact of vehicular traffic over the areas. CPS Energy must return each affected landowner's property to its original contours and grades unless otherwise agreed to by the landowner or the landowner's representative. CPS Energy will not be required to restore original contours and grades where a different contour or grade is necessary to ensure the safety or stability of the project's structures or the safe operation and maintenance of the line.

15. CPS Energy must cooperate with directly affected landowners to implement minor deviations from the approved route to minimize the disruptive effect of the proposed transmission line project. Any minor deviations in the approved route must only directly affect the landowners who were sent notice of the transmission line in accordance with 16 TAC § 22.52(a)(3) and landowners who have agreed to the minor deviation.

16. The Commission does not permit CPS Energy to deviate from the approved route in any instance in which the deviation would be more than a minor deviation without further amending its CCN.

17. If possible, and subject to the other provisions of this Order, CPS Energy must prudently implement appropriate final design for this transmission line so as to avoid being subject to the FAA's notification requirements. If required by federal law, CPS Energy must notify and work with the FAA to ensure compliance with applicable federal laws and regulations. CPS Energy is not authorized to deviate materially from this Order to meet the FAA's recommendations or requirements. If a material change would be necessary to comply with the FAA's recommendations or requirements, then CPS Energy must file an application to amend its CCN as necessary.

18. CPS Energy must include the transmission facilities approved by this Order on its monthly construction progress reports before the start of construction to reflect the final estimated cost and schedule in accordance with 16 TAC § 25.83(b). In addition, CPS Energy must provide final construction costs, with any necessary explanation for cost variance, after completion of construction when all costs have been identified.

19. The Commission limits the authority granted by this Order to a period of seven years from the date this Order is signed unless the transmission facilities are commercially energized before that time.

20. All other motions, requests for entry of specific findings of fact or conclusions of law, and any other requests for general or specific relief, if not expressly granted, are denied.

SIGNED July 26, 2021.

Holly Vandrovec

HOLLY VANDROVEC
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS

Pratibha J. Shenoy

PRATIBHA J. SHENOY
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS