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REPLY BRIEF

PUC Docket # 53727

**LA PALMA TO KINGFISHER DOUBLE-CIRCUIT 345-KV
TRANSMISSION LINE IN CAMERON COUNTY**

THIS REPLY BRIEF IS FILED ON BEHALF OF INTERVENERS:

Sonia Flores

Zobeyda Morales

Martha Reyna

Maria Teresa Guerra Pina

Blanca Chapa

ADDRESSES THAT WOULD BE DIRECTLY AFFECTED:

2998 N State Highway 345 or 2998 N Sam Houston, San Benito, TX 78586

2999 N State Highway 345 or 2999 N Sam Houston, San Benito, TX 78586

25734 FM 3462, San Benito, TX 78586 (On San Jose Ranch Rd.)

2574 FM 3462, San Benito, TX 78586 (On San Jose Ranch Rd.)

We continue to strongly oppose the development of the transmission lines;

**LA PALMA TO KINGFISHER DOUBLE-CIRCUIT 345-KV TRANSMISSION LINE IN
CAMERON COUNTY.**

Route 5 Link N (A-D-I-N 1-N 2- O-Q)

Route 6 – Links: A-D-G-J-S1-L-AP-N-2-O-Q

Route 7 – Links: B1- B2- F-G-J-S1-L-AP-N2-O-Q

Route 19 – Links: A-D-H-K-S1-L-AP-N2-O-Q

According to Attorney Patrick L. Reznik on his Initial Brief (page 4-5)

IV E. Preliminary Order Issue No. 5: Weighing the factors set forth in PURA § 37.056(c) and 16 TAC § 25.101(b)(3)(B), to the extent they are applicable under PURA § 39.203(e), which proposed transmission-line route is the best alternative?

Route 5 is comparable to Route 4 and thus is acceptable as the route that best meets the routing criteria set forth in PURA § 37.056(c) and 16 TAC § 25.101(b)(3)(B) for the following 10 reasons:

- Is the 4th lowest cost route (\$32,62,000);
- Represents the 4th shortest route (4.92 miles);
- Impacts the 10th fewest habitable structures (54 within 500 feet of the ROW centerline);
- Uses existing or parallels compatible ROW for 80% of its length;
- Neither crosses nor is within 1,000 feet of any parks or recreation areas;
- Crosses the 6th least amount of cropland (3.43 miles) and 5th least amount of pasture/rangeland (0.68 miles);
- Ranks as 1st least impactful route to foreground visual zones of US or state highways;
- Route 5 is the 4th lowest cost route (\$32,62,000);
- Represents the 4th shortest route (4.92 miles); when in fact it is actually 5.35 according to the chart.
- Represents the 5th lowest length across upland woodlands/brushlands (1.48 miles);
- Crosses no critical known habitat of federally-listed threatened or endangered species;
- Crosses the resaca located within the study area only once and is tied with one other route for the second fewest stream crossings (10); and
- Has the 9th shortest length (5.35 miles) across areas of high archeological site potential

According to joint applicant AEP / Sharyland Initial Brief, page (18-19)

No.7 Costs

The estimated costs for the 19 alternative routes range from \$30.122 million to \$56.238 million. 115 Route 4 is the second least expensive alternative route at \$30.144 million, which is only \$22,000 more than the least expensive route. 116 While Route 1 is the least expensive route, it has almost double the amount of habitable structures within 500 feet of its centerline compared to Route 4, and the percentage of right-of-way paralleling existing combined right-of-way is less favorable than Route 4 as well. 117 Route 5 is the fourth least expensive alternative route at \$32.62 million, which is almost \$2.5 million more than the least expensive route.

According to Attorney Patrick L. Reznik on his Initial Brief (page 8-9)

No. 8 Use of Existing Corridors

"The combined length of each route that parallels existing transmission line rights-of-way, roads and other compatible rights-of-way, and apparent property lines (combined parallel criteria) for all 19 routes ranges from 65% (Route 1) to 89% (Routes 7 and 19) of the total length of the routes."²² Route 4 is 84%, Route 5 is 80% and Route 6 is 87%. Route 6 out performs Route 4 in this criteria.

Mr. Andrews reports the data in the opposite way: "Length Not Parallel Existing Transmission Line ROW and Public Roads/Highways."²³ Route 6 only has 0.76 miles, while Route 4 has 0.81 miles and Route 5 has 1.08 miles. In both scenarios, Route 6 is superior.

According to joint applicant AEP / Sharyland Initial Brief, page (19-20)

No. 8 Use of Existing Corridors

In accordance with 16 TAC § 25.101(b)(3)(B), POWER developed criteria to evaluate the use of existing transmission line right-of-way and the length parallel and adjacent to compatible right-of-way, including existing transmission lines, apparent property lines, and other existing right-of-way, such as roadways, highways, railways, and irrigation/drainage canals. ¹²² All of the alternative routes paralleled some length of existing transmission line right-of-way and apparent property boundaries. ¹²³ Gas pipelines were not considered to be compatible right-of-way.

Route 4 is 4.92 miles long and parallels existing compatible right-of-way and apparent property boundaries for 4.11 miles. ¹²⁵ Route 4 parallels existing compatible right-of-way for approximately 84% of its length.

According to Attorney Patrick L. Reznik on his Initial Brief (page 9)

No. 9 Prudent Avoidance

Under 16 TAC § 25.101, the Commission must adhere to the policy of prudent avoidance, "[t]he limiting of exposures to electric and magnetic fields that can be avoided with reasonable investments of money and effort." The route with the lowest amount of habitable structures is Route 17 with 30 and the highest is Route 8 with 121.²⁵ Route 4 has 47 habitable structures, Route 5 adds 7 more at 54 habitable structures, and Route 6 adds 14 more at 61 habitable structures.

According to joint applicant AEP / Sharyland Initial Brief (page 20)

No. 9 Prudent Avoidance

16 TAC § 25.101(a)(6) defines "prudent avoidance" as the "limiting of exposures to electric and magnetic fields that can be avoided with reasonable investments of money and effort." This is achieved by minimizing, to the extent reasonable, the number of habitable structures located in close proximity to the alternative routes. The number of habitable structures within 500 feet of the right-of-way centerline ranges from 30 for Route 17 to 121 for Route 8. 127 There are 47 habitable structures within 500 feet of the right-of-way centerline of Route 4, which is on the lower end of the directly affected habitable structures for the alternative routes. 128 Of the seven alternative routes with fewer directly affected habitable structures, six of those routes (i.e., Routes 13, 14, 15, 16, 17, and 18) are over 10 miles in length, which is twice as long as Route 4. 129 This additional length to avoid habitable structures corresponds to substantial estimated Project costs ranging from \$51.271 million to \$56.238 million. 130 Thus, Route 4 satisfies the Commission's prudent avoidance policy.

According to joint applicant AEP / Sharyland Initial Brief (page 10-12)

IV E. Preliminary Order Issue No. 5: Weighing the factors set forth in PURA § 37.056(c) and 16 TAC § 25.101(b)(3)(B), to the extent they are applicable under PURA § 39.203(e), which proposed transmission-line route is the best alternative?

In considering POWER' s analysis, engineering and construction constraints, estimated costs, and agency and landowner concerns, Joint Applicants agreed that Route 4 best addresses the Commission's requirements.⁵⁴ Joint Applicants selected Route 4 for several reasons, including the fact that it:

- Is the second lowest cost route (\$30,144,000),⁵⁵
- Represents the third shortest route (4.92 miles);⁵⁶
- Impacts 47 habitable structures within 500 feet of the right-of-way centerline, which is on the lower end;⁵⁷
- Uses existing or parallels compatible right-of-way for 84% of its length;⁵
- Neither crosses nor is within 1,000 feet of any parks or recreation areas;⁵⁹
- Crosses the fourth least amount of cropland (2.72 miles) and the sixth least amount of pasture/rangeland (0.70 miles);⁶⁰
- Ranks second least impactful route to foreground visual zones of United States or E. state highways;⁶¹

- Represents the fourth lowest length across upland woodlands/brushlands (1.42 miles);⁶²
- Crosses no critical known habitat of federally-listed threatened or endangered species;⁶³
- Crosses the Resaca located within the study area only once and is tied with four other routes for the fourth fewest stream crossings (13);⁶⁴ and
- Has a length of 4.92 miles across areas of high archeological site potential, which is on the shorter side

Commission Staff witness Ms. Ghanem also recommended Route 4 as the route that best meets the criteria of PURA and the Commission's rules.⁶⁶ According to her testimony, Ms. Ghanem relied on her review and analysis of the information contained in the Application and its attachments, including the EA, the direct testimonies and statements of position filed by Joint Applicants and the intervenors, and responses to requests for information.⁶⁷ After analyzing the relevant routing factors, including community values and environmental integrity, Ms. Ghanem found Route 4 to have the most advantages overall and to be comparatively superior to the other alternative routes.⁶⁸

While all of the 19 primary alternative routes included in the Joint Application are viable, feasible, and acceptable from an environmental standpoint,⁶⁹ Route 4 is the best route for purposes of meeting the factors set forth in PURA § 37.056(c)(4)(AHD) and 16 TAC § 25.101(b)(3)(B).

According to Attorney Patrick L. Reznik on his Initial Brief, (page 6)

No. 2 Community Values

Protecting community values is a salient issue of paramount importance in this PUC docket. PURA § 37.056(c)(4) requires the Commission to consider the "community values" in determining the most compliant route. While a definition is often elusive, the Commission has previously defined "community values" as "a shared appreciation of an area or other natural or human resource by a national, regional, or local community. Adverse effects upon community values consist of those aspects of a proposed project that would significantly alter the use, enjoyment, or intrinsic value attached to an important area or resource by a community."¹¹ " Route 4 does not support the concept of community values. Reviewing the Updated Intervenor Map, ¹²

Route 4 negatively impacts Intervenor, GOBAR Brothers (ID 2), Intervenor Manuel & Evella Duran Jr. (ID 27) and Intervenor Michael Fitzpatrick (ID 7). All three are opposed to Route 4 and support Route 6. Mr. Fitzpatrick specifically testified that "I do not

oppose [Segment] S1 and L [along Route 6]," and he is "firmly against [Segment] C and [Segment] E1, just - that's excessive and extreme."

According to joint applicant AEP / Sharyland Initial Brief (page 13-14)

No. 2 Community Values

PURA § 37.056(c)(4) requires the Commission to consider "community values" in granting CCN applications or amendments. For purposes of evaluating the Project, POWER defined the term "community values" as a "shared appreciation of an area or other natural resource by a national, regional, or local community," which is consistent with the definition used by the Commission and Commission Staff in prior cases.⁷⁴ POWER's studies on the effect of the Project on "community values," as described in Sections 2.2 through 2.5 and 4.1 through 4.3 of the EA, adequately address the requirements of PURA and the Commission's Substantive Rules regarding consideration of the effects of the Project on community values.

The Project, including Route 4, adequately addresses the expressed community values.

According to Mr. Michael Fitzpatrick on his Initial Brief

"We support Route 5 with Link combinations A-D-G-I-N1-N2-O-Q, larger pieces of land, less percentage loss of use versus smaller pieces of land."

We strongly disagree with Mr. Michael Fitzpatrick's above comment:

Our land on Route 5 Link N1 and our land on Route 6 Link N2 have only 1 plot of 5 acres on each route. Our plots are not large pieces of land and yes, we would lose high percentage of land use vs Mr. Fitzpatrick who owns over 130 acres of land or Mr. Gobar and Gonzalez who own 26.22 acres of property.

We pray that administrators law judges recommends that Texas Public Utilities Commission approves AEP Texas & Sharyland Utilities applications along Route 4.

We continue to support route 4 as an alternative route that weighs the factors set forth on PURA § 37.056(c) and 16 TAC § 25.101(b)(3)(B).