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**SOAH DOCKET NO. 473-25-02531
PUC DOCKET NO. 57115**

JOINT APPLICATION OF THE CITY	§	
OF SAN ANTONIO, ACTING BY AND	§	BEFORE THE STATE OFFICE
THROUGH THE CITY PUBLIC	§	
SERVICE BOARD (CPS ENERGY),	§	
AND SOUTH TEXAS ELECTRIC	§	
COOPERATIVE, INC. (STEC) TO	§	OF
AMEND THEIR CERTIFICATES OF	§	
CONVENIENCE AND NECESSITY	§	
FOR THE PROPOSED HOWARD	§	
ROAD-TO-SAN MIGUEL 345-KV	§	
TRANSMISSION LINE IN BEXAR AND	§	ADMINISTRATIVE HEARINGS
ATASCOSA COUNTIES	§	

INITIAL BRIEF OF CAPITOL AGGREGATES, INC.

TO THE HONORABLE ADMINISTRATIVE LAW JUDGES:

Capitol Aggregates, Inc. (“Capitol Aggregates”) respectfully submits this Initial Brief in support of its position in this proceeding. Capitol Aggregates opposes any Route that utilizes Segment 38 as Segment 38 proposes to run through Capitol Aggregates’ Poteet #2 Plant. No party has advocated for routes utilizing Segment 38 or any other route west of Highway 16. Sound reasoning supports this position: these routes are unnecessarily expensive and do not comport with the relevant statutory and regulatory routing criteria. Additionally, as to Capitol Aggregates, such a route would result in significant economic waste and disrupt Capitol Aggregates’ ongoing operations.

I. No party supports routes utilizing Segment 38 or routes west of Highway 16.

Exhibit 14 and the associated Intervenor Maps confirm that no party in this proceeding has supported a route utilizing Segment 38 or any other routes west of Highway 16. *See* Exhibit 14; Exhibit 13. The Applicants have not advocated for these routes, and the record contains no evidence in favor of their selection. *Id.* Accordingly, the absence of support for any route utilizing Segment 38 reflects a general consensus that these routes are neither necessary nor practical. *Id.*

II. Routes west of Highway 16, including those utilizing Segment 38, are significantly more expensive.

The cost of constructing routes west of Highway 16, including those utilizing Segment 38, is demonstrably higher than alternative routes. Capitol Aggregates points to Applicants' Exhibit 12, which clearly identifies the western routes as the most expensive of the filed routes.

III. Routes utilizing Segment 38 result in economic waste and increased burdens.

As established by the uncontradicted Direct Testimony of William Scotty Gerbes (Exhibit CA-1), Interchange Item No. 160, the routing of Segment 38 through the Poteet #2 Plant would result in substantial economic waste and impose additional safety risks and cost burdens. Mr. Gerbes's testimony highlights two critical impacts:

A. Economic waste

The Poteet #2 Plant is Capitol Aggregates' only sand-producing facility and a vital part of its operations. *See* Exhibit CA-1 2:7-11. The proposed routing would interfere with accessible minable reserves, effectively leaving valuable mineral resources abandoned in the ground. *Id.* at 6:17-20; 8:7-20; 9:1-18. These reserves are critical to local and regional economic development. *Id.* at 3:6-23, 9:14-16; 10:3-8. Further, the disruption of Capitol Aggregates' current and future operations would have consequences reaching beyond any detrimental impact to the company itself. *Id.* at 10:10-11. The Poteet #2 Plant supports well-paying, skilled jobs, local contractors, and supply chains that contribute to the surrounding community's economic stability. *Id.* at 2:13-15; 4:2-8. As Mr. Gerbes testified, reduced access to these reserves would diminish productivity, increase operational costs, and ultimately limit Capitol Aggregates' ability to meet customer demand across the construction and oil and gas sectors. *Id.* at 5:13-16.

B. Increased safety concerns and cost burdens

Routing the transmission line utilizing Segment 38 would also impose additional burdens related to safety risks and increased costs for both Capitol Aggregates and the Applicants. *Id.* at

6:5-13; 8:6-21. As described in the testimony of Mr. Gerbes, heavy industrial equipment, including bulldozers, loaders, and articulated trucks, is regularly operated at the Poteet #2 Plant. *Id.* at 4:10-14; 5:7-12; 9:15-18. The proximity of high-voltage transmission lines to such equipment creates a heightened risk of electrical arcing, which can occur when electricity jumps from a transmission line to a nearby object, particularly under humid or rainy conditions. *Id.* at 6:3-13. Managing this risk may require Capitol Aggregates to modify its operations, introducing inefficiencies and additional costs. *Id.* at 6:14-20. Moreover, the Poteet #2 site's free-flowing sand presents unique challenges for maintaining the structural stability of transmission line foundations. *Id.* at 6:14-20; 7:14-22. As Mr. Gerbes testified, this type of sand is inherently mobile and prone to shifting over time, especially under the vibrations caused by active mining operations. *Id.* at 7:9-22. Installing transmission poles in such an environment may require ongoing monitoring, maintenance, and potentially reinforcement to prevent structural instability. *Id.* at 7:18-19. These measures would impose a significant burden on the line operator, increasing both short-term construction costs and long-term operational expenses. *Id.* at 6:14-20; 7:9-22; 9:3-10.

No party has contradicted or contested Mr. Gerbes's testimony. Together, the combination of safety risks, operational modifications, and structural challenges underscores the impracticality of constructing a route that includes Segment 38. Selecting such a route would impose unnecessary costs and burdens on all parties involved, further reinforcing the need for the Commission to consider more reasonable alternatives.

IV. Capitol Aggregates recommends routes M, N, or U.

The evidence in this proceeding establishes that routes including Segment 38 are among the most expensive options when compared to alternatives like Routes M, N, and U. The estimated transmission line costs for Segment 38-inclusive routes are higher than more viable alternatives.

Further, several other routes are not only less expensive but also align more closely with land use and community priorities. In fact, Routes M, N, and U, demonstrate better alignment with

existing infrastructure, lowering environmental and community impacts. These routes are reasonable alternatives that achieve the project's objectives without imposing unnecessary costs or impacts on private property and existing operations.

V. Conclusion.

No party has advocated for routes utilizing Segment 38 or other routes west of Highway 16. These routes are unnecessarily expensive and would result in significant economic waste, as established in the unchallenged testimony of William Scotty Gerbes. For these reasons, Capitol Aggregates requests that the Administrative Law Judges recommend Route M, N, or U to the Public Utility Commission.

Respectfully submitted,

BRADY & HAMILTON, LLP

A handwritten signature in black ink, appearing to read 'Zachary S. Brady', is written over a horizontal line.

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been served on all parties of record, via facsimile, or U.S. mail, electronic mail, or e-service on December 20, 2024.



Zachary S. Brady