

Agenda item #51

**CITY OF SAN ANTONIO  
PUBLIC WORKS DEPARTMENT  
CITY COUNCIL AGENDA MEMORANDUM**

**TO:** Sheryl Sculley, City Manager

**FROM:** Thomas G. Wendorf, P.E., Director of Public Works

**SUBJECT:** Ordinance declaring a public necessity for the acquisition of electric transmission and distribution lines easements and related rights of ingress and egress and fee simple title to certain privately owned real properties for the expansion and operation of City of San Antonio Gas and Electric System, including the Cagnon to Lytle Project as shown by the overall drawing marked Exhibit A-1 of the proposed Ordinance.

**DATE:** June 29, 2006

**SUMMARY AND RECOMMENDATIONS**

CPS Energy proposes the acquisition of electric transmission and distribution lines easements and related rights of ingress and egress and fee simple title to certain privately owned real properties for the expansion and operation of City of San Antonio Gas and Electric System, including the construction, operation and maintenance of the Cagnon to Lytle electric transmission and distribution lines, substation properties, and communication systems and related appurtenances (collectively "the Project"). CPS Energy seeks action from the City Council on an ordinance in support of the Project to enable CPS Energy to use the City's power of eminent domain to acquire property from private entities that CPS Energy is unable to acquire through good faith negotiations.

The Council must determine that a public necessity exists for the Project. This type of finding is made regularly for the benefit of CPS Energy, the City's electric and gas utility system.

Staff recommends approval of this ordinance.

**BACKGROUND INFORMATION**

To avert electric reliability problems, CPS Energy proposes to construct a new 138 kilovolt (kV) transmission line in Bexar and Medina Counties. The Project power line will start at the CPS Energy Cagnon Substation, located just west of Loop 1604 and north of U.S. Highway 90 W and will terminate at the Lytle Substation located near the Bexar/Medina/Atascosa County lines just north of Lytle, Texas. The Electric Reliability Council of Texas (ERCOT) has recommended the completed Project be in-service by the summer of 2007. The Project's easement width generally will be 100 feet, although CPS Energy reports that the actual easements acquired along other rights-of-way may be less than the standard 100' width surveyed for this ordinance if negotiations with the Bexar County Public Works Department to obtain aerial "over-hang" rights within the county road rights-of-way on the Bexar County roads crossed and/or paralleled by the route are successful.

The requested ordinance would authorize any condemnation action necessary to acquire the transmission and distribution lines easements and related rights of ingress and egress for the line and fee simple title to certain privately owned real properties for proposed CPS Energy substations for the Project. When crossing non-City-owned property, CPS Energy negotiates in good faith to acquire such property by mutual agreement. Through the eminent domain ordinance, the City of San Antonio, acting by and through CPS Energy, will have the authority to condemn property, if needed. This is the usual ordinance requested by CPS Energy when property interests will be affected by a CPS Energy project that meets a public purpose. As with all

City property acquisitions for public purposes, the power of eminent domain encourages mutual agreements while ensuring that property owners will receive and the City (*i.e.*, CPS Energy) will pay a fair price.

### **POLICY ANALYSIS**

All environment-related issues to date, including endangered species, archeological and historical/cultural resource issues, have been addressed. Tree issues have been and are being addressed where possible to minimize tree removal for construction and access purposes. A copy of the CPS Energy Board Resolution approving the route selection is attached.

### **FISCAL IMPACT**

Funds for the construction of the transmission and distribution lines, and easement acquisition and fee simple title acquisitions are provided for in the CPS Energy Capital Budget.

### **COORDINATION**

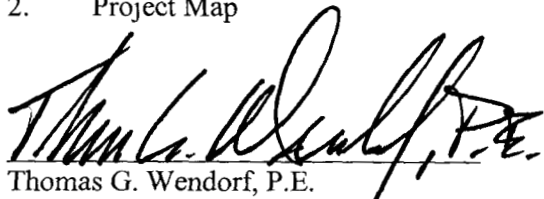
The City Attorney's office and the Department of Public Works are coordinating this request for the ordinance.

### **SUPPLEMENTARY COMMENTS**

The route for this Project was selected by using the CPS Facility General Routing/Siting Process approved by the CPS Energy Board of Trustees.

### **ATTACHMENTS**

1. CPS Board Resolution
2. Project Map

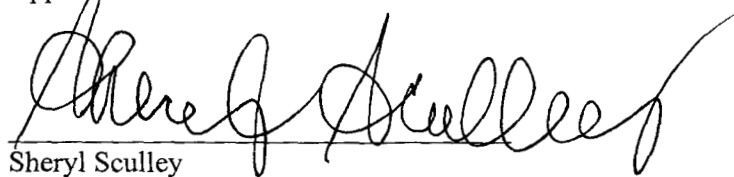


Thomas G. Wendorf, P.E.  
Director of Public Works



Jelynnne LeBlanc Burley  
Deputy City Manager

Approved for Council Consideration:



Sheryl Sculley  
City Manager

## A RESOLUTION

APPROVING AND AUTHORIZING THE CONSTRUCTION OF THE CAGNON TO LYTLE PROJECT AND THE ACQUISITION OF EASEMENT RIGHTS AND FEE SIMPLE TITLE OVER AND ACROSS CERTAIN PROPERTIES LOCATED IN BEXAR AND MEDINA COUNTIES, TEXAS FOR THE CAGNON TO LYTLE PROJECT

WHEREAS, the Electric Reliability Council of Texas (ERCOT) is the independent system operator approved by the Public Utility Commission of Texas (PUC) to operate and oversee the various electric transmission systems in order to ensure reliability and security of the state's electric grid;

WHEREAS, CPS Energy and other transmission system owners are responsible for building, maintaining and improving their portion of the statewide transmission system as administered by ERCOT;

WHEREAS, CPS Energy identified and, as a result of the ERCOT transmission planning process, ERCOT approved the need for a new 138 kilovolt (kV) electric transmission line to connect the CPS Energy Cagnon Substation to the CPS Energy Lytle Substation, (the Cagnon to Lytle Project);

WHEREAS, the Cagnon to Lytle Project is a project of CPS Energy that has an ERCOT-recommended in-service date of June 2007;

WHEREAS, CPS Energy, utilizing its own staff resources and a team of engineering, environmental, and other professionals (the Project Team), has followed the CPS Energy Facility Routing/Siting Process (also known as the "12-Step Process") to identify a proposed route for the transmission line and location for the substation site that minimizes human and environmental impact to the greatest extent practicable;

WHEREAS, the Project Team has recommended to the CPS Energy Board of Trustees (Board) a route that would extend from CPS Energy's Cagnon Substation, located immediately west of Loop 1604 and just north of U.S. Highway 90, and terminate at the CPS Energy's Lytle Substation located at the southeast intersection of Old Frio City Road and Lytle-Lacoste Road (F.M. 1518), along the general route shown on the Project Route Map attached as Exhibit "A" to this Resolution (Project Route Map);

WHEREAS, the Board has considered the comments of the public regarding the preferred route provided to CPS Energy staff during four open house meetings, provided to the Board directly at a meeting held February 7, 2006, provided through correspondence and other contacts with the public, provided through communications with CPS Energy staff, and provided through communications with the members of the Citizens Advisory Committee;

WHEREAS, the Board agrees with the Project Team's determination that the recommended route and substation site for the Cagnon to Lytle Project has, on an end-to-end basis, the least impact of all the feasible route alternatives on both the human and natural environments because such route and substation site, to the greatest extent practicable when compared to other routes, will:

- utilize existing right-of-way as much as possible;
- minimize impacts to natural resources and environmentally sensitive land;
- avoid residential developments and habitable structures; and
- minimize the overall impact of additional CPS Energy transmission facilities in future years; and

WHEREAS, the Board finds necessary and desirable the construction of electric transmission and distribution lines and a substation site, communication system and related appurtenances and the acquisition of easement rights and fee simple title over and across properties in Bexar and Medina Counties along the recommended route, for the construction, operation and maintenance of the CPS Energy Cagnon to Lytle Project, either through purchase or other agreement, or by the process of eminent domain;

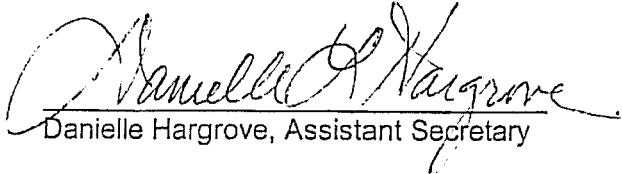
NOW, THEREFORE, BE IT RESOLVED BY THE CITY PUBLIC SERVICE BOARD OF TRUSTEES that:

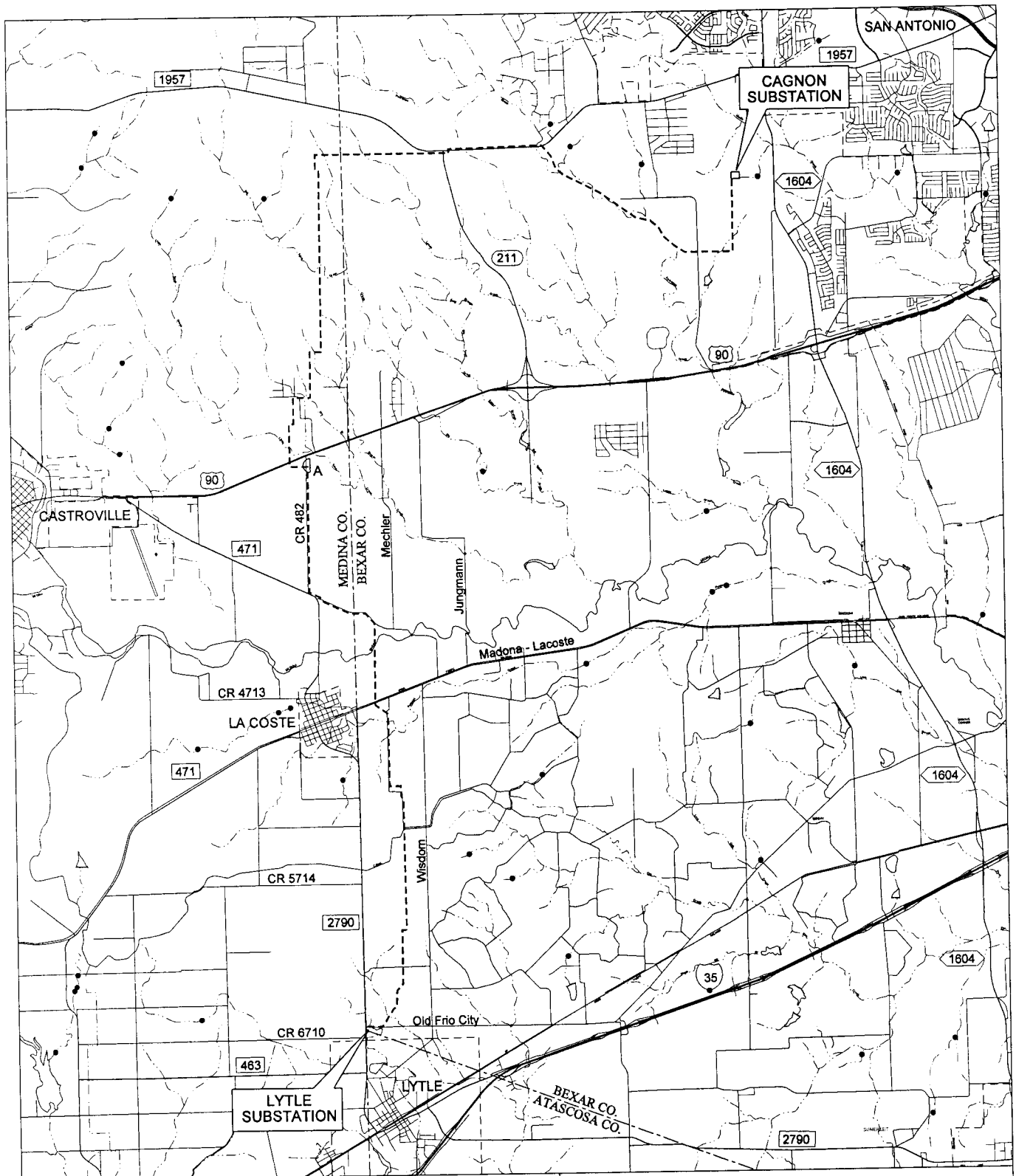
1. The Board hereby approves the Cagnon to Lytle Project, to be constructed on the recommended route, and directs CPS Energy staff and attorneys to proceed with the necessary steps to undertake and complete the CPS Energy Cagnon to Lytle Project.
2. The Board finds that the Cagnon to Lytle Project is of great importance to the public, and that CPS Energy has taken into account appropriate environmental, health and safety concerns in designating the recommended route.
3. The Board reaffirms the CPS Energy practice of taking all necessary and reasonable steps to ensure that the area disturbed on affected lands is minimized.
4. The Board hereby authorizes, ratifies, approves, confirms, validates, and declares to be valid in all respects as of the respective dates thereof all acts and proceedings done or initiated by CPS Energy contractors, employees, agents and attorneys for the Cagnon to Lytle Project, including all acts relating to the acquisition of easement rights and fee simple title over, across, and under properties along the general route shown on the Project Route Map.
5. The Board authorizes the CEO and General Manager of CPS Energy and/or his designee to determine the exact route for CPS Energy's transmission and distribution lines and the location of the substation site.
6. The Board finds that the acquisition of easement rights and fee simple title to properties along the recommended route is necessary and desirable for the important public purpose of the construction, operation and maintenance of the CPS Energy Cagnon to Lytle Project. The Board hereby authorizes acquisition of easement rights and fee simple title necessary for CPS Energy's Cagnon to Lytle Project, either through purchase or by the process of eminent domain, as well as all other lawful action necessary and incidental to such acquisitions or eminent domain proceedings to survey, specify, define and secure the necessary title and rights.

7. The Board directs Staff to ensure that members of the public may obtain the current Project Route Map by contacting the CPS Energy Right-of-Way Section at (210) 353-2972.

The undersigned, Danielle Hargrove, Assistant Secretary to the CPS Energy Board of Trustees, does hereby certify that the foregoing resolution was duly adopted by said Board at its special meeting held on the 27<sup>th</sup> day of February, 2006, at which a quorum was present.

WITNESS MY HAND AND SEAL OF THE CPS ENERGY BOARD OF TRUSTEES on this 4<sup>th</sup> day of April, 2006.

  
Danielle Hargrove, Assistant Secretary



north

0 5000 10000 feet



----- CPS Energy Approved Route



Potential Substation Location

CPS ENERGY APPROVED ROUTE

Base Map: TxDOT General Highway Maps; Atascosa, Bexar, and Medina, Texas

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Exhibit A - 1



**CPS ENERGY  
INTERGOVERNMENTAL MEMORANDUM**

TO: Sheryl Sculley, City Manager

FROM: Joyce G. Labus, SR/WA, Supervisor, Right of Way Management

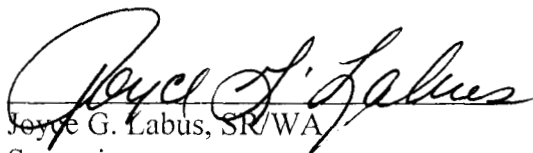
THROUGH: Ronald J. Schaefer, Vice President, Engineering Services, CPS Energy

SUBJECT: Ordinance declaring a public necessity for the acquisition of electric transmission and distribution lines easements and related rights of ingress and egress and fee simple title to certain privately owned real properties for the expansion and operation of City of San Antonio Gas and Electric System, including the construction, operation and maintenance of the Cagnon to Lytle electric transmission and distribution lines, substation properties, and communication systems and related appurtenances, in certain privately owned real properties located in areas of Bexar and Medina Counties, Texas as shown by overall drawing marked Exhibit A-1 of the proposed Ordinance.

DATE: June 13, 2006

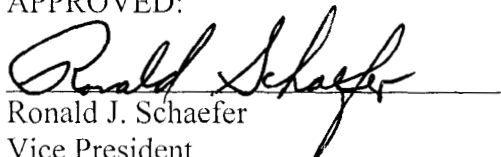
CPS Energy respectfully requests that the above-referenced item be placed on the consent agenda of the regular council meeting on the June 29, 2006 City Council Meeting Agenda.

For further information, please contact Joyce G. Labus, Supervisor, Right of Way Management, (210) 353-2972.



Joyce G. Labus, SR/WA  
Supervisor  
Right of Way Management

APPROVED:



Ronald J. Schaefer  
Vice President  
Engineering Services