

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

ILLINOIS POWER COMPANY,)
d/b/a AmerenIP and AMEREN ILLINOIS)
TRANSMISSION COMPANY)

) Docket No. 06-0706

Petition for a Certificate of Public Convenience and)
Necessity, pursuant to Section 8-406 of the Illinois)
Public Utilities Act, to construct, operate and maintain)
new 138,000 volt electric lines in LaSalle County,)
Illinois.)

**REPLY BRIEF OF ILLINOIS POWER COMPANY D/B/A AMERENIP
AND AMEREN ILLINOIS TRANSMISSION COMPANY**

Dated: March 21, 2008

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I. SUMMARY OF PETITIONERS' REPLY

No party disputes the need for the Project, or AmerenIP's and Ameren Illinois Transmission Company's ("AITC", together "Ameren" or "Petitioners") ability to manage and construct the Project. The only disputed issues are the routing of the LaSalle-Wedron Line, AITC's financial participation in the construction, and under what terms a Section 8-503 order should be issued to Petitioners. As discussed below, and in Ameren's Initial Brief, AITC should be allowed to participate in the Project because this represents a no-cost option that benefits AmerenIP and its customers. Petitioners should also be granted a Section 8-503 Order, and be permitted to return to the Commission to seek eminent domain authority later if necessary. Lastly, the Green Route from LaSalle to Wedron represents the best balance of relevant factors and should be approved.

II. REPLY TO STAFF

A. Ameren's Financing Proposal Represents a No Cost Option that Benefits Ratepayers and AmerenIP.

Staff's primary concerns with Ameren's financing proposal are with AITC's ability to fund its 90% portion of the Project, the level of adverse consequences that AmerenIP would experience if it funds the whole Project, and AmerenIP's ability to pay dividends as related to financing the Project. None of Staff's concerns are justified. Staff's position ignores the benefits to AmerenIP's credit rating of having AITC finance 90% of the Project and, by recommending an investigation into AmerenIP's ability to pay dividends, ignores the fact that Ameren Corporation made a \$865 million infusion of equity capital into the Ameren IP to return it to financial health – equity capital whose investors expect a return in the form of dividends.

(AmerenIP Ex. 19.0, p. 4.)

Ameren’s proposal in this case is that AITC finance 90% of the Project, and AmerenIP 10%. Under Section 8-406, the Commission must determine “the utility is capable of financing the proposed construction without significant adverse financial consequences for the utility or its customers.” The “utility” in this case is Petitioners, who are proposing to finance the Project jointly. Thus, the Commission should focus on the question of whether the joint financing proposal will result in the construction of the Project without significant adverse financial consequences, rather than the question of either AmerenIP’s or AITC’s ability to finance the Project on a stand-alone basis.

As explained in Ameren’s Initial Brief (pp. 13-14), AmerenIP can support the construction and related financing of 10% of the Project without experiencing significant adverse financial consequences as a result. AITC is also capable of financing 90% of the Project without adverse financial consequences to itself or ratepayers. Ameren explained in its Initial Brief that AITC would fund the Project by (i) seeking approval to acquire inter-company loans from Ameren Corporation, or (ii) to the extent that AmerenIP, AmerenCIPS or AmerenCILCO have surplus funds and can lend money to the regulated money pool, AITC may seek to acquire short-term loans from this source. (AmerenIP Ex. 19.0, pp. 4-5.) Staff’s assertion that AmerenIP could become the “sole provider” of funds to AITC misunderstands the nature of the regulated money pool arrangement: AmerenIP, AmerenCIPS or AmerenCILCO only contribute to the money pool when they have surplus funds. Thus, contributions are equally likely from AmerenCIPS or AmerenCILCO, and to the extent such excess funds are not available, the necessary funds would come from Ameren Corporation.

Moreover, AITC is a special purpose entity formed to construct a portion of the Prairie State transmission project, for which AmerenIP and AITC received approval in Docket 06-0179.

(AmerenIP Ex. 6.0, p. 7.) Currently, it has no other service obligations. (AmerenIP Ex. 12.0, p. 7.) AITC has no outstanding public securities and is not rated. (*Id.*) Thus, there aren't any adverse consequences to AITC resulting from the levels of debt, revenue or size of assets on its balance sheet or income statement. There are no costs to AmerenIP for the establishment of AITC to support the construction of the Project. (AmerenIP Ex. 6.0, p. 8.) Moreover, there would be no affect on AmerenIP's customers of weak financial ratios at AITC. (AmerenIP Ex. 12.0, p. 8.) AITC is a separate legal entity from AmerenIP, and AmerenIP will not be obligated in any manner to support the payment or legal obligations of AITC. (*Id.*) As a result, AITC provides AmerenIP with a no-cost means of strengthening its credit position (which will ultimately benefit ratepayers.)

With regard to the consequences to AmerenIP of funding 100% of the Project, Staff acknowledges (Staff Init. Br., p. 12) that incurring new debt and reducing cash flow may weaken certain financial metrics of AmerenIP. Although this may not cause a credit rating downgrade, important AmerenIP financial ratios will be eroded as a result of financing 100% of the Project. (AmerenIP Ex. 19.0, pp. 2-4.) This could have the result of delaying the timing of any future rating upgrade, limiting the level of the upgrade (the number of ratings notches increased), and increasing the level of any improvement in financial performance the rating agencies would need to observe in order to facilitate any upgrade. (*Id.*) Financing 90% of the Project at AITC alleviates a source of negative influence on the ability of AmerenIP's ratings to improve, and thus its cost of capital to be reduced. This also will enhance AmerenIP's ability to fund other investments in its infrastructure and do so at lower cost. (*Id.*) In short, financing 90% of the Project at AITC will help speed the improvement of AmerenIP's financial health following past downgrades.

Staff's "Pro Forma Analysis of AmerenIP's Financial Metrics" (see Staff Init. Br., p. 11), which Staff asserts shows that financing 100% of the Project would not have a significant adverse affect on AmerenIP's financial metrics, are also based on assumptions, such as the assumption that a ratings agency will deem AmerenIP "medium risk." Staff cannot predict what the ratings agencies will do, and so it is reasonable to conclude that AmerenIP's future ratings may not be as Staff projects. This highlights the importance of using AITC to help finance the Project, because AITC's participation can help improve AmerenIP's credit metrics. (AmerenIP Ex. 19.0, pp. 2-4.)

Staff's last main concern is that AmerenIP's recent payment of dividends means it should fund 100% of the Project, or, if AITC's participation is approved, the Commission should investigate AmerenIP's ability to pay dividends without impairing utility service. (Staff Init. Br., p. 8.) Staff's recommendation is flawed for several reasons. To begin with, if AmerenIP is unable to pay dividends, its ability, and thus Ameren Corporation's ability, to obtain equity capital will be harmed. (AmerenIP Ex. 19.0, p. 4.) Access to equity capital is an important source of capital to maintain AmerenIP's financial health, maintain a balanced capital structure and continue to provide reliable utility service for its customers. (*Id.*) Thus, a restriction on dividend payments could have the affect of impairing AmerenIP's ability to provide service.

Moreover, as explained in Ameren's Initial Brief, after its acquisition of the Company, Ameren Corporation made a \$865 million infusion of equity capital into the Ameren IP, which it used to reduce debt, return itself to financial health and return its ratings to investment grade status. (AmerenIP Ex. 19.0, p. 4.) Ameren Corporation obtained this equity capital from equity investors (a total of \$1.3 billion was issued) and Ameren Corporation pays a dividend on this equity capital just as it does for all of its other outstanding common equity. (*Id.*) Staff's

recommended investigation would penalize AmerenIP and Ameren Corporation for compensating the equity investors that backed AmerenIP's financial improvements.

Staff further proposes that AmerenIP's declaration of a dividend (not to exceed \$73 million) (AmerenIP Ex. 19.3) suggests that AmerenIP has cash on hand that should fund construction of the Project. Staff's position, however, should be rejected. Staff's does not appear to have a genuine concern with AmerenIP's ability to provide service, as Staff argues (Staff Init. Br., p. 8) that AmerenIP can finance 100% of the Project without adverse financial consequences, and Staff has found that AmerenIP has the technical ability to construct the Project. Staff's concerns about dividends misunderstand the nature of Ameren's financing proposal. AmerenIP could finance 100% of the Project – the question is whether it should. A determination that AITC should finance 90% of the Project is not a determination that AmerenIP is financially unsound, but rather a determination that there is a no-cost option for financing that benefits AmerenIP and its customers.

In many respects, Staff's suggestion (Staff Init. Br., p. 14) that AmerenIP could use its dividend payments to fund capital investment like the Project creates a higher risk of adverse consequences for AmerenIP's finances and ability to provide service. As discussed above, payment of dividends is necessary to provide a reasonable return to equity capital investors. Prior to the 2007 dividend, AmerenIP had not provided a dividend payment since the last quarter of 2005. (AmerenIP Ex. 19.2 (Revised); ¶ 11.) Staff appears to think that this situation should continue, and the dividend amounts should pay for capital investment instead. Such an argument is tantamount to saying that AmerenIP should provide a zero percent return on equity (which no Commission has approved), and which of course would have dire consequences for AmerenIP's ability to attract future capital. Although dividend payments may slightly weaken some financial

metrics at AmerenIP (*Id.*, ¶¶ 2-7), Ameren has shown that the impact of dividend payments to AmerenIP's 2006 financials would not be substantial. (*Id.*, ¶¶ 12-14.) Even with the payment of dividends, Ameren's debt to capitalization ratios would remain "balanced and reasonable." (*Id.*, ¶ 12.) As discussed above, Ameren's financing proposal represents a no-cost option that benefits AmerenIP's financial metrics. It does not suggest an impairment of AmerenIP's ability to provide service. Thus, Staff has not established any basis for concluding that any investigation into AmerenIP's ability to pay dividends is warranted.

B. There Is No Basis For Staff's Policy Concerns Regarding AITC.

As Ameren explained in detail in its Initial Brief (pp. 46-50), the policy concerns Staff raises with regard to AITC are baseless. Moreover, in the Final Order in Docket No. 06-0179, the Commission considered and rejected many of the same arguments Dr. Rearden makes on behalf of Staff regarding AITC in this case. Because the Commission has granted AITC a Certificate and deemed it to be a public utility, Dr. Rearden's arguments now appear moot. To the extent these policy issues warrant further consideration, Ameren's Initial Brief explains why they should be rejected. In particular, Staff asserts that Commission approval of AITC's participation should be conditioned on prohibiting AITC from selling its interest in the Project at a price above book value. As Ameren explained, however, this recommendation is not necessary. (AmerenIP Ex. 21.0, p. 5.) The transfer of an owner's interest in the project is already governed by the Commission-approved JOA. (*Id.*) It provides, in part, that an owner (e.g., AITC) may transfer its interest in whole or in part to another owner (e.g., AmerenIP) at book value (and not above). (*Id.*) The JOA governs the relationship between AmerenIP and AITC as owners of the project, and as owners they can only act in a manner consistent with the JOA. (*Id.*)

C. Staff's Proposal on Eminent Domain Authority Is Contrary to Commission Practice and Presents Practical Concerns for Utilities.

Staff's position on granting Petitioners an order under Section 8-503 of the Act is that granting a Section 8-503 order would, by itself, amount to a grant of eminent domain authority to Ameren (despite the fact that Ameren has not requested eminent domain authority in this case). (Staff Init. Br., p. 22.) Staff recommends that Ameren be granted Section 8-503 authority for the parcels listed in Staff Exhibit 1.2¹ and that the Commission make clear that Ameren is being granted eminent domain authority for those parcels. Overall, Staff believes that the Commission should consider the grant of a Section 8-406 Certificate, a Section 8-503 order and eminent domain authority in the same proceeding. (Staff Init. Br., p. 22.) Ameren agrees that the issue of eminent domain authority may require clarification by the Commission. Ameren also agrees that Section 8-406, 8-503 and 8-509 eminent domain authority can be sought in a single proceeding (and in some cases it may be appropriate to do so). Ameren believes, however, that Staff's approach presents certain legal and practical concerns.

As Ameren explained in its Initial Brief (pp. 52-55), it is the longstanding practice of the Commission to consider more than just whether a Section 8-503 order has been obtained when granting eminent domain authority. In order to receive condemnation authority, a utility must demonstrate not only the need for the project, but that the utility has engaged in good faith negotiations with the relevant landowners and cannot obtain the necessary land rights. First, a showing of the need for a project can be accomplished by obtaining a Section 8-503 order, or receipt of a Certificate under Section 8-406. See Central Ill. Pub. Serv. Co., Docket 95-0484.

¹ As will be discussed, should the Commission adopt Staff's recommendation and grant eminent domain authority to Ameren, and should the Commission approve the stipulated IL 71 Route for the Ottawa-Wedron Line, Staff Exhibit 1.2 will not provide the correct list of parcels. Staff Exhibit 1.2 contains the list of parcels crossed by Ameren's primary proposed routes, not Ameren or intervener alternates. For the stipulated IL 71 Route, the correct list of parcels is contained in the Landowner List provided to the ALJ on May 3, 2007.

Second, the utility must show that it has negotiated in good faith with the affected property owners and that the utility has diligently sought to acquire the necessary land rights.

TransCanada Keystone Pipeline, Docket 06-0458 (April 4, 2007); Central Ill. Pub. Serv. Co., Docket 90-0022 (Oct. 3, 1990). The “need” inquiry and good faith negotiations inquiry are distinct in terms of the evidence they require, and are really two separate inquiries (as can be seen in Commonwealth Edison, Docket 05-0188, where, as Staff acknowledges (Init. Br., pp. 28-29) the proceeding was bifurcated to consider the question of eminent domain after an interim order was entered granting a Section 8-406 certificate). The two inquiries may be conducted in separate proceedings. See, e.g., Central Ill. Pub. Serv. Co., Docket 90-0022. Thus, it is clear that Staff’s recommendation would require the Commission to revise its own longstanding practices.

The most significant concerns with Staff’s proposal are practical. While it may be appropriate in some cases to combine Section 8-406, 8-503 and 8-509 proceedings, it will not be appropriate in all cases. The main problem is this: how can a utility know which parcels it needs eminent domain authority for before the Commission has approved a route? Even under Staff’s proposed revision to the good faith negotiations standard (discussed below), the utility must commence landowner contacts and make reasonable attempts to acquire easements. Must the utility commence negotiations for all parcels on its primary and alternate routes? What about for parcels on intervener routes? This is particularly true in cases with long routes that cross many properties, where the time and expense of landowner negotiations may be high. Under Staff’s proposal, would interveners be tempted to propose numerous alternate routes, to force the utility to enter into expensive negotiations with many landowners? The practical difficulties are illustrated in the present case, where Staff recommends eminent domain authority be granted for the parcels on Staff Exhibit 1.2. If the Commission adopt Staff’s recommendation regarding

eminent domain, and approves the IL 71 Route stipulated to by IL 71 Resistors, Ameren and Ottawa, Staff Exhibit 1.2 would not include the landowners whose properties are crossed by the approved IL 71 Route. (As noted above, the IL 71 Route landowners are shown on the landowner list provide to the ALJ on May 3, 2007.) Ameren has only conducted negotiations with landowners on its original primary routes (AmerenIP Ex. 2.0, p. 8.) There is no evidence in this case regarding negotiations with landowners on the IL 71 Route. If the Commission approves the IL 71 Route (as it should), it makes sense for Ameren to seek to acquire the needed right-of-way for that route through negotiations, and, if it cannot acquire the needed right of way, return to the Commission for eminent domain authority. Thus, this very case represents an excellent illustration of why the utility should at least have the option of seeking eminent domain authority in a separate proceeding.

Staff expresses concern about landowner participation in Commission proceedings. (Staff Init. Br., p. 27.) Staff believes that once a route is approved by the Commission, a landowner will have no opportunity to effectively challenge a proposed transmission line. As Ameren pointed out in its Initial Brief, however, landowners can challenge whether a utility has negotiated in good faith and can further contest the grant of eminent domain (and the valuation of the property) in the circuit court eminent domain proceeding. Staff believes that all a landowner could accomplish was delay while the utility was required to negotiate further. This possibility of delay, however, provides a substantial incentive for a utility to negotiate in good faith. Staff goes on to argue that if a landowner could effectively challenge the use of eminent domain once a route was approved, it would mean that a part of the line could not be constructed and the utility might have to seek a route modification. Staff, however, does not explain why

such a result could not occur in egregious cases, or why the Commission could not require a utility to modify an approved route in the face of a successful landowner challenge.

In particular, Staff asserts that not all landowners affected by the relief Ameren seeks in its Petition participated in this proceeding. (Staff Init. Br., p. 24.) There is no requirement that landowners participate in Commission proceedings, or that the Commission mandate their participation. Landowners are, in fact, given a full opportunity to participate in certificate proceedings like the present case, as 83 Ill. Adm. Code Section 200.150(h) provides:

A person filing an application under Section 8-406 of the Public Utilities Act for a Certificate of Public Convenience and Necessity to construct facilities upon or across privately owned tracts of land, or filing under Section 8-503 of that Act [220 ILCS 5/8-503], shall include with the application when filed with the Commission a list containing the name and address of each owner of record of the land as disclosed by the records of the tax collector of the county in which the land is located, as of not more than 30 days prior to the filing of the application. The Commission shall notify the owners of record of the time and place scheduled for the initial hearing upon the application.

Thus landowners will be notified of a certificate proceeding, and have an opportunity to participate. As the instant docket shows, concerned landowners do not wait for the Commission to approve a route and the issue of eminent domain to arise, but intervene to raise their concerns about routing in the certificate process.

As Ameren pointed out in its Initial Brief, the utility's requirement to show a "need" for a project under Section 8-503 of the Act shares much in common with the showing required for a certificate under Section 8-406, and so it makes sense that the inquiries under these two sections be grouped together. The additional showing required for eminent domain authority (whether good faith negotiations or a reasonable attempt to acquire property) represent a separate inquiry, both in terms of timing and the evidentiary showing required. The Commission should allow a utility to retain the flexibility to determine how and when to seek eminent domain authority.

Staff also raises the issue of whether the showing for the second, “negotiations,” prong of eminent domain approval should continue to be (as has been the Commission’s longstanding practice) good faith negotiations, or whether the standard should instead be, as Staff prefers, “reasonable attempts to acquire the property.” (Staff Init. Br., pp. 32-36.) Ameren acknowledges Staff’s concern with the estoppel effect of a finding by the Commission that the utility has negotiated in good faith (though Ameren believes a “good faith negotiations” finding by the Commission could operate as a “rebuttable presumption”, just as evidence that the Commission has granted a certificate of public convenience creates a rebuttable presumption that the project is necessary for a public purpose, see 735 ILCS 30/5-5-5)². Ameren does not oppose a “reasonable attempts to acquire the property” standard for the second factor needed to obtain eminent domain authority, should the Commission determine that it should reverse its past practice and make “reasonable attempts to acquire the property” the standard. Ameren notes, however, that Staff has not defined what a utility should be required to show in establishing “reasonable attempts to acquire the property.” Ameren suggests, therefore, that if the Commission determines that a reasonable attempts to acquire the property standard is appropriate, that the Commission further require that to demonstrate that a reasonable attempt to acquire the property has been made, the utility must show (i) compliance with the requirements of 83 Ill. Adm. Code Part 300; (ii) that a reasonable number of contacts have been made with affected landowners; and (iii) such contacts have included a reasonable offer of compensation from the utility.

² "Evidence that the Illinois Commerce Commission has granted a certificate or otherwise made a finding of public convenience and necessity for an acquisition of property (or any right or interest in property) for private ownership or control (including, without limitation, an acquisition for which the use of eminent domain is authorized under the Public Utilities Act, the Telephone Company Act, or the Electric Supplier Act) to be used for utility purposes creates a rebuttable presumption that such acquisition of that property (or right or interest in property) is (i) primarily for the benefit, use, or enjoyment of the public and (ii) necessary for a public purpose." 735 ILCS 30/5-5-5.

III. REPLY TO PROTED 80 AND SOLVE

As PROTED 80 and SOLVE acknowledge in their Initial Brief (p. 2), no party contests the need for the Project proposed by Ameren or that Ameren has the technical ability to construct the line. PROTED 80 asserts (PROTED Init. Br., p.2) that the only issue is whether the routes proposed by Ameren are the “least cost means” of satisfying the service needs of Ameren’s customers. This is not correct. As will be discussed below, Ameren has demonstrated that the proposed Project is the least cost of several alternatives for supplying the power needs and improving the reliability of the LaSalle, Ottawa and Wedron areas. (AmerenIP Ex. 1.0, pp. 29-32.) Staff agrees that “of the available alternatives, the Project proposed by Ameren in this petition is the least-cost means of providing adequate, reliable, and efficient service to AmerenIP’s customers. (ICC Staff Ex. 1.0, p. 7.) No witness contested this conclusion. PROTED 80 and SOLVE’s “cost” concerns are in fact only related to the costs of the proposed routing alternative from LaSalle to Wedron, which are only a part of the total Project.

PROTED 80 and SOLVE’s real concerns are the impact of Ameren’s Green Route on the properties of landowners along the route who are members of PROTED 80 and SOLVE. PROTED 80’s and SOLVE’s two main concerns are (i) the impact of the Green Route on the Little Vermilion River (“LVR”) near the Vermilionvue subdivision; and (ii) the negative impact of the Green Route on tourism and purported economic development along I-80. (PROTED 80 Init. Br., p. 13.) As discussed below and in Ameren’s Initial Brief, these two concerns are unwarranted. The fact remains that PROTED 80’s alternatives were not developed with the same level of in depth technical analysis as Ameren’s routes. In reviewing the record regarding the LaSalle-Wedron Route as a whole, the Green Route “best balances the relevant factors” and so represents the superior choice. Docket 06-0179, Order, p. 17.

A. Ameren’s Green Route is the Result of an Exhaustive Study.

As discussed in Ameren’s Initial Brief (pp. 19-21), Ameren conducted a thorough, technical and exhaustive routing study in this case. (AmerenIP Ex. 9.0 (2nd Revised), p. 3; see Ameren Init. Br., pp. 19-22.) The methodology selected was appropriate given the circumstances of the case and experience gained from the analysis in Docket No. 06-0179. (AmerenIP Ex. 16.0 (Revised), p. 2.) As Staff pointed out, absent a superior route (and no party has offered a superior alternative for the LaSalle-Wedron Line) “selecting the route proposed by the electric utility is most reasonable since they will be responsible for building, operating, and maintaining the transmission lines.” (ICC Staff Ex. 5.0, p. 6.)

PROTED 80 Alt 1 (which appears to be the only alternative PROTED 80 and SOLVE are pursuing now), by contrast, was not developed with the same level of technical input or depth of analysis as the Green Route. This can be seen by the various modifications and errors related to PROTED 80 Alt 1, including (i) PROTED 80 Alt 1 initially appeared to be routed through the Maze Woods Nature Preserve (although PROTED 80 later clarified that this was not the case); (ii) PROTED 80 has proposed to modify the Alt 1 route to avoid the Flaherty Field Restricted Landing Area (“RLA”); (iii) a modification has been proposed to the Alt 1 route to avoid the LaSalle-Peru School District Property; (iv) PROTED 80 Alt 1 was not prepared in enough detail to determine how many angle structures might be required (AmerenIP Ex. 16.0 (Revised, p. 8); and (v) PROTED 80’s gross undercount of the number of parcels and landowners affected by the Alt 1 route (discussed below, cf. PROTED 80 Ex. 1.0, p. 21 and AmerenIP Ex. 8.2.)

B. Ameren Obtained Extensive Public Input into its Proposed Routes.

There is no requirement under Section 8-406 of the Act or under Commission rules that a utility obtain public input prior to filing a Petition seeking a Certificate for a transmission line route. Nevertheless, for almost a year prior to filing its Petition, Ameren conducted workshops

with affected landowners, held public forums, met with community groups and municipal officials, and met with state and federal governmental officials to seek input on the proposed Transmission Lines. (AmerenIP Ex. 2.0, pp. 6-9, Ameren Init. Br., p. 19-21.) PROTED 80 suggests (Init. Br., pp. 4-8) that there were flaws in Ameren's public input process. For example, PROTED 80's witness Mr. Bennett complained "it was not until June of 2006 that Ameren began contacting individuals along what is now Ameren's primary route." (PROTED 80 Ex. 2.0, p. 5.) Such contacts were, however, made more than four months before Ameren's November 1, 2006 Petition filing, and so represent attempts by Ameren to contact landowners well before there was any requirement to do so. Ameren made an extensive effort to seek input from a disparate set of landowners, community groups and officials and to balance the concerns of those groups. As is clear from this docket, not all stakeholder groups will necessarily be satisfied with the selected route. As is also clear from this docket, however, interested parties have had ample opportunity to make their case to the Commission about the appropriate route.

C. PROTED 80 Alt 1 Is Not a Reasonable and Lower Impact Alternative.

PROTED 80 Alt 1 is not superior to Ameren's primary route, and is in fact inferior due to environmental, land use impact and engineering concerns. (AmerenIP Ex. 9.0 (2nd Revised), p. 4.) Staff agrees that PROTED 80's alternates should be rejected. (ICC Staff Ex. 1.0, p. 4.) Staff stated that Staff "did not believe PROTED 80 routes are better" than Ameren's (*id.*), and that none of the alternatives proposed for the LaSalle-Wedron route were superior to the Green Route. (*Id.*, p. 6.)

PROTED 80's witness, Mr. Bennett, acknowledges that he has never been involved in the construction or route selection of an electric transmission line. (Tr. 718.) Nevertheless, Mr. Bennett presumes that the three alternate routes proposed by PROTED 80 represent viable alternative to Ameren's Green Route, despite the fact that the Green Route has been the subject

of an exhaustive analysis over a period of 18 months or more. (AmerenIP Ex. 16.0 (Revised), p. 13.) In fact, the methodology used by Mr. Bennett represents the initial stages of what is otherwise required for an in-depth routing study for an electric transmission line. (AmerenIP Ex. 9.0 (2nd Revised), pp. 6-7.) The steps followed by Mr. Bennett only establish a set of basic route segments to be studied and can not be considered complete. (*Id.*)

One of the primary concerns with PROTED 80 Alt 1 is that it represents a “cross country” route, with the transmission line at the back of properties, which creates difficulties related to construction and maintenance access. (AmerenIP Ex. 9.0 (2nd Revised), pp. 5, 13, 15.) In fact, PROTED 80 states that the Alt 1 route will be nearly a mile from existing roadways. (PROTED 80 Ex. 2.0, p. 9.) While locating a transmission line near the front of the property may place it closer to homes, in the case of the Green Route along I-80, the line would also be placed at the rear of properties (but closer to roadways), which face away from I-80. (AmerenIP Ex. 9.0 (2nd Revised), p. 8.) In addition, placing the line along property lines at the back of properties may require more easement acreage. (*Id.*) Such a cross country route is also inconsistent with Ameren’s Agricultural Mitigation Agreement, which states “The highest priority will be given to locating the transmission line parallel and adjacent to highway and/or railroad right-of-way.” (AmerenIP Ex. 2.1, p. 3.) In balancing the relevant factors, the Green Route is superior to PROTED 80 Alt 1, as Ameren discussed in its Initial Brief (pp. 18-43).

In general, PROTED 80 is advocating a route which runs adjacent to the Maze Woods nature preserve and then through pristine farmland, as opposed to the Green Route which crosses the Little Vermilion River in an area of Superfund sites and a reclaimed quarry and then parallels I-80, where it will not conflict with the types of commercial and industrial development that

interveners like PROTED 80 and North Utica assert will occur. Thus, PROTED 80's claim that its Alt 1 will have a lower impact rings hollow.

D. PROTED 80 Alt 1 Will Be More Difficult to Construct than the Green Route.

As discussed in Ameren's Initial Brief (pp. 25-28), PROTED 80 Alt 1 will be more difficult to construct than the Green Route for a number of reasons, including the topography of its crossing of the LVR and the need to construct access roads to reach the backcountry portions of PROTED 80 Alt 1. PROTED 80 and SOLVE assert that the Green Route's LVR crossing will be more difficult due to the topography. (PROTED 80 Init. Br., p. 16.) To begin with, the basis for this conclusion is the testimony of Dr. Jasiek, who is not qualified as an engineer. (Tr. 1024.) Moreover, the concerns regarding topography at the LVR crossing were refuted by Mr. Emmons (AmerenIP Ex. 16.0 (Revised), p. 10), as discussed in AmerenIP's Initial Brief (p. 25).

With regard to construction through the quarry, Ameren acknowledges it will involve special construction techniques. (AmerenIP Ex. 9.0 (2nd Revised), p. 14.) Petitioners, however, have demonstrated that they are capable of efficiently managing and supervising construction of the proposed lines. (See Ameren Init. Br., p. 10.) Staff agrees that Ameren is capable of efficiently managing and supervising the Project's construction. (ICC Staff Ex. 1.0, p. 13.) No party has questioned Petitioners' ability to efficiently manage and supervise the proposed construction, and there is no question concerning Ameren's ability to actually construct the transmission lines through the quarry. Ameren has addressed concerns raised by SOLVE relating to erosion and subsidence in areas near the quarry. (AmerenIP Exs. 9.0 (2nd Revised), p. 14; 16.0 (Revised), pp. 17-18.) Likewise, with regard to crossing the southern end of the lake/retention pond, Ameren's transmission lines routinely span bodies of water that are much larger than this one. (*Id.*, p. 10.) PROTED 80 asserts that Ameren has not evaluated engineering issues in the quarry. (PROTED 80 Init. Br., p. 17.) This is incorrect. While Ameren has not

taken soil borings (Tr. 335), it has evaluated engineering issues related to quarry. (AmerenIP Ex. 9.0 (2nd Revised), p. 14.) As Mr. Emmons testified, the PROTED 80 alternatives do not necessarily eliminate or alleviate other construction difficulties and costs, for example at their proposed crossing locations of LVR, due to geologic features at those crossing areas. (Id.)

With regard to angle structures, Ameren acknowledges that the PROTED 80 Alt 1 route does appear to have fewer major angle points based on high-level mapping (though no witness testified, as PROTED 80 asserts in its Initial Brief, that “many” of the structures from LaSalle to Route 178 and east of Route 23 to Wedron will have to be angle structures). The key point, however, is that the need for angle structures cannot be seen at the scale of the route drawings provided by PROTED 80 and there are shifts in the property lines located at some section boundaries, which would introduce a pair of expensive angle structures at each shift, that Mr. Bennett did not factor into his route analysis. (AmerenIP Exs. 9.0 (2nd Revised), p. 8; 16.0 (Revised), p. 8.)

To the extent that PROTED 80 argues (Init. Br., pp. 38-39) that the Green Route will parallel gas pipelines, while PROTED 80 Alt 1 will not (thereby creating purported engineering difficulties), Ameren has shown that the potential effect of AC current on a pipeline can be mitigated in a relatively straightforward manner by designing an electrical shield consisting of zinc or magnesium ribbon to be installed parallel with the pipeline. (AmerenIP Ex. 9.0 (2nd Revised), p. 10.) Also, zinc or magnesium ground rods placed at the points of entry and exit of the common corridor will help keep the induced AC voltage to a minimum. (Id., AmerenIP Ex. 9.2; ICC Staff Ex. 5.0, p. 7.) Thus, there is no basis to conclude that the Green Route will be more difficult to construct.

E. There Is No Basis to Determine that PROTED 80 Alt 1 Will Cost Less to Construct than the Green Route.

PROTED 80 did not develop a detailed cost estimate for its Alt 1 route. Nevertheless, PROTED 80 and SOLVE's Initial Brief (p. 21) asserts that PROTED 80 Alt 1 will have a lower cost of construction. PROTED 80's arguments on this issues are based on the assertion that a schedule of route costs shown in PROTED 80 Exhibit 2.2 shows a cost estimate for the PROTED 80 Alt 1 of \$18,200,000. As Mr. Emmons explained, however, the intent of PROTED 80 Exhibit 2.2 was to convey a comparison of present land use between the Ameren primary route and the PROTED 80 Alt 1, and the cost estimate figures shown were incidental to the land use data. (AmerenIP Ex. 16.0 (Revised), pp. 6-7.) The cost figures shown were the result of cells of a spreadsheet being automatically populated with general cost per mile data. (Id.) These cost figures were not verified and would not have included any special structure costs, special access costs, clearing cost for large forest areas, or any other additional construction cost items that would have been identified for the PROTED 80 routes. (Id.) If the PROTED 80 routes had undergone similar analysis to the Ameren primary route based on preliminary structure spotting and tree clearing evaluation, the costs would have increased from the figures shown on PROTED 80 Exhibit 2.2. (Id.)

PROTED 80 asserts that (PROTED 80 Init. Br., p. 22) that the spreadsheet calculation on PROTED 80 Exhibit 2.2 used the same line cost numbers as were used to create Ameren's route cost estimates (AmerenIP Ex. 3.3), and so the \$18,200,000 estimate for PROTED 80 Alt 1 can be compared to Ameren's route cost estimates. PROTED 80 and SOLVE, however, have not shown that the figures on PROTED 80 Exhibit 2.2 are comparable to Ameren's final route cost estimates on AmerenIP Exhibit 3.3. First, the "Cost of Proposed 138 kV Line" numbers for Ameren's proposed routes on PROTED 80 Exhibit 2.2 are different from Ameren's final route

cost estimates on AmerenIP Exhibit 3.3. Second, the relevant page of PROTED 80 Exhibit 2.2 is marked “Draft.” As Mr. Emmons made clear, the “Cost of Proposed 138 kV Line” amounts shown on PROTED 80 Cross Exhibit 3 (which are the same numbers used to develop “Cost of Proposed 138 kV Line” for AmerenIP’s final route costs in AmerenIP Ex. 3.3) include special structure and access costs and have been adjusted for special conditions on the routes. (AmerenIP Ex. 16.0 (Revised), p. 6; Tr. 324-25.) The \$18,200,000 estimate on PROTED 80 Exhibit 2.2 does not include these costs (AmerenIP Ex. 16.0 (Revised), p. 6), and no witness has testified otherwise. Thus, there is no basis to conclude that PROTED 80 Exhibit 2.2 provides a valid estimate for the cost of PROTED 80 Alt 1.

That PROTED 80 Alt 1’s estimated cost would likely be higher than the Green Route can be seen from the per mile “Cost of Proposed 138 kV Line” for Ameren’s Alt 1 and Alt 2. Assuming that Ameren’s Alt 1 and Alt 2 are reasonable proxies for PROTED 80 Alt 1 (they follow generally similar paths from LaSalle to Wedron, see Public Hearing Map Exhibit 1), one can calculate the approximate per mile cost “Cost of Proposed 138 kV Line” for Ameren Alt 1 (\$586,000) and Alt 2 (\$649,000) from AmerenIP Exhibit 3.3. One could then calculate an average per mile “Cost of Proposed 138 kV Line” for these alternate two routes of \$617,500. Since PROTED 80 Alt 1 is 24 miles in length (AmerenIP Ex. 9.0 (2nd Revised), p. 12), one could then calculate a total “Cost of Proposed 138 kV Line” for PROTED 80 Alt 1 of \$14,820,000. Adding the Cost of Land and Right of Way and Cost of Proposed 138kV Termination Equipment shown for Ameren’s Alt 1 and Alt 2 (AmerenIP Ex. 3.3), the total estimated cost of PROTED 80 Alt 1 would be \$19,720,000 – higher than Ameren’s revised estimate for the Green Route (AmerenIP Ex. 8.0 (Corrected), p. 3.)

Moreover, even if PROTED 80 Alt 1 were less costly than the Green Route (and there is no reasonable basis to conclude that it is), the advantages of the Green Route still make it a superior choice to the two alternate routes Ameren proposed and to PROTED 80's alternates. (AmerenIP Ex. 8.0 (Corrected), p. 4.) As the Commission noted in Docket 06-0179 (Order, p. 16), for routing purposes, the "consideration of 'least cost' is not made in isolation, but involves a comprehensive consideration and balancing of the overall costs and benefits of the respective proposals." In that case, the Commission approved a route that was longer and \$3 million more costly, because the longer route had advantages in avoiding proximity to dwellings. Thus, it is clear that cost is not the sole factor to be considered in route selection.

PROTED 80 and SOLVE's citation to CURED v. Illinois Commerce Comm'n, 285 Ill. App. 3d 82 (5th Dist. 1996), does not change the conclusion that route selection cannot be based solely on which route is least cost. CURED, to begin with, was related to a petition brought by the Illinois Municipal Electric Agency under Joint Municipal Electric Power Act, not the Public Utilities Act. 285 Ill. App. 3d at 84-85. Moreover, in CURED the Commission Staff was expressly instructed not to consider the "least-cost" option, which, as discussed below, is not the case here as Staff did consider the least cost option. Id. at 91. Thus, the relevance of CURED to this proceeding is questionable.

PROTED 80's reliance on CURED is primarily flawed, however, because PROTED 80 misunderstands the nature of the "least-cost" inquiry under the Act. Under Section 8-406(b)(1) of the Act, the Commission must find "that the proposed construction is necessary to provide adequate, reliable, and efficient service to its customers and is the least-cost means of satisfying the service needs of its customers." The determination of what constitutes the "least-cost means of satisfying the service needs of its customers" encompasses the entirety of a proposed project –

in this case the two Transmission Lines and related facilities that make up the Project. The least cost determination is not limited to a component of the Project in isolation, but covers the Project as a whole. See Illinois Power Co., Docket 06-0179, Order, p. 41 (finding that the proposed transmission line project was “the least-cost means of satisfying the service needs of the customers” while also ordering that the utility construct a longer, more expensive route on the three route segments at issue).

Ameren (and Staff) have undertaken a least-cost analysis of the Project in this case, and no party has contested that Ameren’s Project, as a whole, represents the “least-cost means of satisfying the service needs of the customers”. Ameren witness Martin Hipple described in detail the alternatives Ameren studied in determining the best way to meet the service needs of the LaSalle, Ottawa and Wedron areas. (AmerenIP Ex. 1.0, pp. 29-32.) Mr. Hipple concluded that AmerenIP’s preferred proposal was better because it is the least cost alternative and provides for expansion to meet future load growth. (Id., p. 32.) Likewise, Staff conducted an analysis of alternatives to determine the least-cost option. (ICC Staff Ex. 1.0, pp. 7-8.) Staff concluded “Of the available alternatives, the project proposed by Ameren in this petition is the least-cost means of providing adequate, reliable, and efficient service to AmerenIP’s customers.” (Id., p. 7.) No party has objected to the conclusion that the Project is least-cost means of satisfying the service needs of AmerenIP’s customers. Thus, it is clear that, contrary to PROTED 80’s assertions in its Initial Brief (pp. 24-25), Staff has determined the least cost option as required by Section 8-406 (and CURED). To the extent that PROTED 80 and SOLVE argue Staff failed to determine the least cost route, as discussed above, the least cost inquiry does not focus on individual routes in isolation. Moreover, Staff evaluated all of the alternate routes, including cost considerations.

(ICC Staff Exs. 1.0, pp. 11-12; 5.0, pp. 2-7.) Thus, PROTED 80 is incorrect that Staff has failed to determine the least-cost option.

F. Ameren Has Developed a Reasonable and Appropriate Cost of Land and Right of Way.

PROTED 80 and SOLVE argue (PROTED 80 Init. Br., p. 20) that Ameren has “materially underestimated” the cost of land and right of way component of the Green Route cost. As explained in its Initial Brief (pp. 34-36), property values have changed along Ameren’s proposed Green Route in some areas. (AmerenIP Ex. 8.0 (Corrected), pp. 2-3.) Ameren therefore undertook a review of existing property values and updated its estimates for the “Cost of Land and Right of Way” component of the Green Route, which has increased by approximately \$600,000. (*Id.*) This does not represent substantial changes to the overall Project cost. (*Id.*, p. 3; Ameren Init. Br., p. 35.)

PROTED 80 asserts that Mr. Bennett’s rebuttal testimony shows that even these increased estimates are understated. (PROTED 80 Init. Br., p. 20.) Mr. Nelson, however, responded to Mr. Bennett and addressed this concern, demonstrating that the numbers and values Ameren used to update its cost of land and right-of-way are representative of the area. (AmerenIP Ex. 15.0, p. 11.) Thus, to the extent that CURED suggests, as PROTED 80 asserts, that the cost of obtaining easements is an important consideration, Ameren has taken those costs into consideration, and updated them appropriately. PROTED 80 also asserts (Init. Br., p. 21) that the cost of eminent domain proceedings should be included in the cost of land and right-of-way. While the amount of such contingent and speculative costs would be difficult to quantify, to the extent such costs could be quantified, they would apply as readily to PROTED 80 Alt 1 as to the Green Route. If, as PROTED 80 states (Init. Br., p. 21), “when the route is contentious, costs of eminent domain proceedings should be factored in to the least cost means analysis,”

such costs should be factored in for PROTED 80 Alt 1, which is clearly a contentious route. (See, e.g., SHOCK Exs. 1.0, 2.0, 3.0, 4.0.) Thus, using PROTED 80's logic, the cost of and right-of-way for PROTED 80 Alt 1 should be increased as well.

Finally, as noted above even if the cost of land and right of way for the Green Route was understated (and there is basis to conclude that it is), the advantages of the Green Route still make it a superior choice to the two alternate routes Ameren proposed and to PROTED 80's alternates. (AmerenIP Ex. 8.0 (Corrected), p. 4.)

G. Operation and Maintenance of PROTED 80's Alternate Routes Will Be More Difficult and Expensive.

As Ameren explained in its Initial Brief (pp. 28-29), operation and maintenance of PROTED 80's alternate routes will be more difficult and expensive. PROTED 80 does not demonstrate otherwise. PROTED 80 asserts, for example that PROTED 80 Alt 1 will not require the construction of access roads. (PROTED 80 Init. Br., p. 25.) This is clearly incorrect. As Mr. Emmons explained, routes traveling "cross country" are more expensive to maintain and repair than those constructed alongside a road or within an existing corridor, and will require the construction and maintenance of access roads to and along the right-of-way (as well as access roads during construction). (AmerenIP Exs. 9.0 (2nd Revised), p. 15; 16.0 (Revised), pp. 10-11.) As a result, PROTED 80's contention that there is no difference between the Green Route and PROTED 80 Alt 1 in terms of access must be rejected.

H. PROTED 80 and SOLVE Have Not Demonstrated that PROTED 80 Alt 1 Will Have Fewer Environmental Impacts.

PROTED 80 and SOLVE assert that PROTED 80 Alt 1 will have fewer environmental impacts than the Green Route. (PROTED 80 Init. Br., pp. 26-36.) Most of PROTED 80's concerns are focused on purported environmental impacts in the area of the Green Route's crossing of the LVR. (See, e.g., *id.*, pp. 26-31.) PROTED 80 and SOLVE believe, apparently,

that it is a superior choice to run a transmission line adjacent to the Maze Wood's Nature Preserve (as PROTED 80 Alt 1 is) than to cross the LVR in area whose noteworthy features include a reclaimed quarry and at least two Superfund sites. As Ameren explained in its Initial Brief, however, no party has proposed a route that is environmentally superior to the Green Route.

PROTED 80 makes several arguments in support of its position regarding environmental concerns. The first is that the Green Route's route past the Vermilionvue subdivision and across the LVR impacts significant green space. While there are some forested areas as the Green Route travels from LaSalle to I-39, there are also substantial cleared areas (for example for the Vermilionvue subdivision itself) as well as the former quarry and Superfund sites, as SOLVE's own exhibits show (see SOLVE Ex. 2.1d). These forested areas are less significant than the forested areas immediately north and south of I-80 (which the Green Route avoids), and the Green Route does not impact any more "green space" than the PROTED 80 alternates (see Public Hearing Map Exhibit 1.)

PROTED 80 and SOLVE also assert impacts related to runoff from the two Superfund sites. (PROTED 80 Init. Br., pp. 30-31.) There is no basis, other than Dr. Jasiak's assertions, however, to conclude that construction of a transmission line in the area of these Superfund sites (the Green Route does not actually cross the property of either site) would cause runoff impacts. Ameren has consulted with USEPA and IEPA about these sites and neither agency has expressed a concern. (AmerenIP Ex. 18.0 (3rd Revised), pp. 18-19.) Ameren will work with both the IEPA and USEPA regarding these sites to avoid disturbance of any identified contamination. (Id.) Moreover, Ameren has committed to practicing due diligence in its construction methods in this area by conducting analytical testing in the vicinity of these two sites. (Id.) This testing will

characterize the soils to determine whether the need exists for conducting remediation of any contamination, and it will ascertain if any protective measures related to employee safety need to be taken. (Id.) No witness has suggested that such measures are insufficient or inappropriate. In addition, Ameren will be taking steps to minimize construction storm water runoff from entering any stream or body of water in accordance with approved Illinois EPA standards. (Id.) Thus, Ameren has addressed any concern with runoff from the Superfund site.

PROTED 80 also asserts that the Green Route will impact more Indiana bat habitat. (PROTED 80 Init. Br., pp. 31-35.) PROTED 80 and SOLVE acknowledge in their Brief, however, that it is unclear whether there are any actual significant populations of Indiana bats in the general project area of the LaSalle-Wedron Line. (Id., p. 31.) PROTED 80 and SOLVE cite minutes of Ameren meetings with the Illinois Department of Natural Resources and U.S. Fish and Wildlife Service that conclude no Indiana bats have been recorded in the LVR area and that the transmission line project, regardless of which route is selected, will not impact Indiana bats or their habitat. (Id., pp. 33-34.) Thus, PROTED 80 and SOLVE appear to concede that PROTED 80 Alt 1 is not superior from the standpoint of actual impacts on the Indiana bat. With regard to potential bat habitat, PROTED 80 and SOLVE argue that the Green Route impacts more potential bat habitat than PROTED 80 Alt 1. (Id., p. 32.) In so arguing, PROTED 80 and SOLVE rely on the GAP Analysis map provided as AmerenIP Exhibit 11.10. (Id.) PROTED 80 and SOLVE argue that the GAP Analysis map shows the Green Route crossing some areas of potential bat habitat prior to the LVR crossing. (Id.) What the GAP Analysis map also shows, however, is that the PROTED 80 alternates, including Alt 1, impact as much (if not more) potential Indiana bat habitat. (See AmerenIP Exhibit 11.10.) Thus, the GAP Analysis map

establishes no basis to conclude that PROTED 80 Alt 1 is superior to the Green Route from a bat habitat standpoint.

Lastly, PROTED 80 and SOLVE argue that PROTED 80's crossing of Buck's Creek is not a significant issue because Ameren acknowledges that the actual impact of construction on wetlands near Buck's Creek can be mitigated. (PROTED 80 Init. Br., p. 35.) This argument is self-defeating. To the extent Ameren can mitigate wetlands impacts (or any other environmental impacts) on PROTED 80 Alt 1, Ameren could mitigate those impacts on the Green Route, or any other route (and no witness has asserted that Ameren could not mitigate environmental impacts on its routes.) For example, Ameren has committed to mitigating impacts on Indiana bat habitat through construction timing and erosion control measures. (IL 71 Resistors Ex. 3.11, p. 10.) Thus, the argument that Ameren can mitigate impacts on PROTED 80 Alt 1 does not make PROTED 80 Alt 1 a superior route.

I. PROTED 80 Has Not Demonstrated that PROTED 80 Alt 1 Is Less Likely to Impact Historical Resources.

As Ameren explained in its Initial Brief (p. 30), no party has proposed a route that is superior to the Green Route with respect to potential impacts on historical resources. The Illinois Historic Preservation Agency ("IHPA") has approved Ameren's primary route for the LaSalle-Wedron Line regarding historic and cultural resources. (AmerenIP Exs. 11.04; 11.0 (2nd Revised), p. 9.) The IHPA also completed a cultural resources review for all of the proposed PROTED 80's routes and determined that these routes will not impact historic properties or cultural resources either. (*Id.*) PROTED 80 and SOLVE (Init. Br., p. 36) make vague assertions about "history associated with Starved Rock, Pierre Marquette and Louis Joliet," but identify no specific historical impacts of the Green Route. PROTED 80's witness, Mr. Bennett, acknowledges that he has not performed any historical study (PROTED 80 Ex. 1.0, p. 18), and

concedes that in terms of “impacts to historical resources,” the preferred route is any of the alternatives. (PROTED 80 Ex. 2.6.) Thus, there is no basis to conclude PROTED 80 Alt 1 is somehow superior in terms of impacts on historical resources.

J. Ameren Has Demonstrated that the Impact of the Green Route on Land Use and Development in the I-80 Corridor Will Be Minimal.

Ameren has explained in detail in its Initial Brief (pp. 31-39), that the concerns of PROTED 80, SOLVE and North Utica regarding impacts of the Green Route on development in the project area are unjustified. Ameren has also explained the negative impacts of PROTED 80 Alt 1 on farming land uses north of I-80. (*Id.*, pp. 37-40.) PROTED 80’s arguments in its Initial Brief do not change these conclusions. In general PROTED 80 is taking two inconsistent positions – that the Green Route along the I-80 corridor will soon experience substantial growth and development, and that PROTED 80 Alt 1’s impacts on agricultural land should be discounted because the Green Route will also have impacts on agricultural land. Mr. Bennett acknowledged at hearing that the land along I-80 will change from agricultural uses. (Tr. 719-720.) Thus, PROTED 80 cannot argue that the Green Route has the same impact on agricultural land uses as PROTED 80 Alt 1, rather it is clear that PROTED 80 Alt 1 will have the most significant impact on farming communities. (If, on the other hand, development along I-80 will not occur anytime soon, the main basis for PROTED 80’s opposition to the Green Route is removed). PROTED 80’s remaining argument that the Green Route will impact development must also be rejected, as Ameren has shown (Init. Br., pp. 31-36) that transmission lines do not have a significant adverse effect on tourism and economic development. (AmerenIP Ex. 13.0, p. 8.) In particular, the commercial and industrial land uses expected along I-80 will not experience any reduction of value due to the presence of the power line located adjacent and parallel to the highway or frontage roadway. (AmerenIP Ex. 20.0 (Corrected), pp. 13-14.)

PROTED 80's assertions regarding the Green Route's social and land use impacts are either baseless or have been addressed as follows:

- PROTED 80 asserts (Init. Br., p. 37) that the Green Route will “destroy the value of occupied residences.” PROTED 80, however, identifies no specific evidence demonstrating an actual decline in property values at any residence as a result of the construction of the LaSalle-Wedron Line.
- PROTED 80 asserts (Init. Br., p. 38) that the Green Route will interfere with existing pipeline utilities. As discussed above, however, electric transmission lines and pipelines can coexist with appropriate mitigation measures.
- PROTED 80 asserts (Init. Br., p. 39) that the Green Route will interfere with bike trails and a park in LaSalle. Ameren has shown, however, that transmission lines and recreation trails can and do, in fact, co-exist in the same corridor, and examples can be found in many locations such as the Fondulac Park District (East Peoria), the Morton Park District, and the Prairie Path, a hiking and cycling trail in DuPage county along a ComEd transmission line. (Ameren IP Exs. 15.0, pp. 13-14; 15.4.)
- PROTED 80 asserts (Init. Br., p. 42) that PROTED 80 Alt 1 is superior because it is at the back of properties. Aside from the maintenance access concerns this creates, majority of the Green Route also runs along the “back” of agricultural properties. (AmerenIP Ex. 15.0, p. 12.)
- With regard to the Flaherty Field RLA, PROTED 80 acknowledges that “use as an active RLA would be inconsistent with the original routing of PROTED 80 Alt 1. (PROTED 80 Init. Br., p. 44.) As Ameren explained in its Initial Brief (pp. 38-

39), PROTED 80's proposed route change to avoid the RLA presents further engineering concerns.

As a result, there is no basis to conclude that PROTED 80 Alt 1 is superior from a land-use impact point of view, and, as Ameren has explained in its Initial Brief, by utilizing the existing I-80 corridor, the Green Route is the superior route in terms of land use impacts.

K. PROTED 80 and SOLVE Are Incorrect that the Green Route Will Impact More Landowners.

PROTED 80 and SOLVE assert (Init. Br., p. 47) that PROTED 80 Alt 1 will impact significantly fewer landowners and parcels. This is incorrect. The figures cited in PROTED 80's Brief for PROTED 80 Alt 1 (57 landowners, 62 parcels) were refuted by Mr. Nelson, who presented the correct figures for PROTED 80 Alt 1 (80 landowners, 123 parcels, as compared to the Green Route totals of 83 landowners, 128 parcels). (AmerenIP Exs. 8.0 (Corrected), pp. 17-18; 8.2; see also PROTED 80 Alt 1 Landowner List, filed May 3, 2007.) Mr. Bennett did not dispute these figures in his rebuttal testimony. Thus, PROTED 80's Alt 1 route is essentially the same as Ameren's Green Route in terms of number of landowners and parcels impacted.

(AmerenIP Ex. 8.2.)

L. PROTED 80 Does Not Demonstrate that the Green Route Will Impact Significantly More Occupied Residences.

Ameren calculated the number of "Occupied Houses" within 200' of the centerline for the Green Route and each of the PROTED 80 alternatives, showing that the Green Route (15 occupied houses) and PROTED Alt 1 (13 occupied houses) are comparable in impacts, and PROTED Alt 2 (29 houses) and Alt 3 (41 houses) routes have much higher impacts. (AmerenIP Ex. 16.0 (2nd Revised), p. 23.) PROTED 80 now speculates in its Brief (pp. 47-50) that there are additional residences within 200 feet of the Green Route. With respect to the Trails of Terra Cotta and Shadow Ridge subdivisions near Ottawa, however, PROTED 80 offers no evidence

that any specific residences are within 200 feet of the Green Route. With regard to the LVR crossing, likewise, Dr. Jasiak could only specifically identify one additional residence within 200 feet of the Green Route. (Tr. 1032.) To the extent that PROTED 80 and SOLVE assert that future development may bring houses within 200 feet of the Green Route (PROTED 80 Init. Br., p. 50), there is no evidence regarding the likelihood that such developments will proceed (especially given the current market). The same logic could also apply to argue that some new homes might be built along PROTED 80 Alt 1 or other alternate routes. Therefore, PROTED 80 has not shown that its Alt 1 route is superior in terms of impacts on residences, or that PROTED 80 Alt 1 alleviates SHOCK's stated concerns of avoiding schools, houses and disruption of the family farming communities located in the area of the PROTED 80 alternatives. (SHOCK Exs. 2.0, p. 2; 3.0, p. 3; AmerenIP Ex. 16.0 (Revised), pp. 3-4.)

M. PROTED 80 Does Not Demonstrate that the Green Route Will Impact More Existing and Planned Development.

As Ameren has discussed above and shown in its Initial Brief, the Green Route will not have an impact on planned or anticipated development along I-80. (Ameren Init. Br., pp. 31-39.) By contrast, PROTED 80's alternates would, as SHOCK also argues, have a significant impact on existing farmland uses. As Ameren explains, although the Green Route may be in proximity to more development, it will not adversely impact that development. By contrast, as SHOCK argues, PROTED 80 Alt 1 will have a more significant impact on farming communities north of I-80. Moreover, from a planning perspective, it makes sense to have transmission lines routed along roads, as the Green Route is (and PROTED 80 Alt 1 is not). (AmerenIP Ex. 13.0, p. 20.)

N. Community Acceptance Does Not Favor PROTED 80 Alt 1.

PROTED 80 and SOLVE acknowledge (Init. Br., p. 51) that no route will enjoy significantly more community acceptance. In fact, there is substantial community resistance to

PROTED 80 Alt 1 – as described by SHOCK in its Initial Brief (pp. 5-9). Because there is community opposition to each of the LaSalle-Wedron Line alternatives, the Commission must balance the relevant factors, which, as discussed, leads to selection of the Green Route as preferred. Ameren also notes that despite PROTED 80 and SOLVE’s apparent assertions that the Green Route adversely impacts areas within the City of LaSalle (see, e.g., PROTED 80 Init. Br., pp. 8, 11-12, 57), the City of LaSalle remains officially neutral on the Ameren Green Route and PROTED 80 alternates. (LaSalle Mem., p. 2.)

O. PROTED 80 Has Not Demonstrated that the Green Route Will Have a Greater Visual Impact.

As Ameren explained in its Initial Brief (p. 40), no party has claimed, nor can they, that any of the proposed transmission line routes will not have a visual impact. As discussed below, however, use the existing I-80 corridor for the Green Route will serve to mitigate visual impacts (as opposed to running the route through farm fields) and the presence of transmission lines will become less noticeable with the expected development over time. (AmerenIP Ex. 13.0, pp. 6-7.) Moreover, in order to further mitigate the visual impact, Ameren has chosen a more expensive line configuration of self-supporting, single-shaft steel poles instead of the guyed, wood-pole h-frame structures that have been historically constructed in this area. (AmerenIP Ex. 9.0 (Revised), p. 18.)

P. The Green Route Takes Advantage of Existing Corridors.

PROTED 80 and SOLVE acknowledge (Init. Br., p. 57) that the Green Route follows an existing corridor. As Ameren explained in its Initial Brief (pp. 40-41), this is consistent with good land use planning practices, and so this criteria strongly favors the Green Route.

In summary, PROTED 80 and SOLVE have not demonstrated that there is an alternative route superior to the Green Route. Ameren has shown that, in balancing the relevant factors, the

Green Route is in fact the superior choice. Thus, the Commission should grant a Certificate authorizing the construction of the Green Route.

IV. REPLY TO VILLAGE OF NORTH UTICA

The Village of North Utica (“North Utica”) opposes the Green Route from LaSalle to Wedron because it believes that the location on the south side of I-80 will interfere with the ongoing and anticipated future development within that area. As explained above and in detail in Ameren’s Initial Brief (pp. 31-41), the impact of the Green Route on land use and development in the I-80 corridor will be minimal. Ameren’s expert witness, Mr. Ward, specifically reviewed the North Utica Comprehensive Plan, and concluded that the presence of the Green Route along the south edge of I-80 and around the southwest and southeast quadrants of the interchange with IL 178 will not interfere in any way with realization of North Utica’s plans at this interchange. (AmerenIP Ex. 13.0, pp. 11-13.) In fact, Mr. Ward found that commercial (retail, office) and industrial (manufacturing, warehousing, distribution) land uses, of the type expected by North Utica at the IL 178 interchanges, will not be deterred by, have an adverse effect on, or experience any reduction of value due to, the presence of the power line located adjacent and parallel to the highway or frontage roadway. (AmerenIP Exs. 20. (Corrected), pp. 13-14; 8.0 (Corrected), p. 18.) Ameren also pointed out that there are several “nuisance” uses, like an asphalt plant, in the IL 178 interchange area, which do not seem to be hindering growth. (AmerenIP Ex. 8.0 (Corrected), p. 18.) Thus, North Utica has not demonstrated any basis for concluding that the Green Route is not the preferred route.

V. REPLY TO LASALLE-PERU SCHOOL DISTRICT

As explained in Ameren’s Initial Brief and confirmed by the Initial Brief (p. 1) of the LaSalle-Peru High School District No. 120 (“District”), the District has no objection to Ameren’s primary Green Route. Because the Green Route, without modification, resolves the

District's concerns, it represents the best choice of routes through the area of the District's property.

The District goes on, however, to support a modification of PROTED 80 Alt 1. As discussed in Ameren's Initial Brief (p. 43), however, the proposed modification of the PROTED 80 Alt 1 route would create engineering and operating difficulties for Ameren. The District asserts (L-P Dist. Init. Br., p. 9) that Ameren's witness Mr. Emmons has conceded that such operating difficulties could be resolved by placing the modified routes on separate poles from Ameren's existing route. This mischaracterizes Mr. Emmons' testimony. Mr. Emmons acknowledged that the lines could be built on separate poles, and this would reduce the likelihood of a vehicle accident taking out two transmission lines on the same pole. (Tr. 367.) Mr. Emmons did not concede, however, that the separate pole possibility would address broader system reliability concerns, which the LaSalle-Wedron Line is designed to do by being a separate route out of the N. LaSalle Station (Tr. 362-63), or other engineering concerns, such as the need for line outages during construction. For example, the placement of separate but adjacent poles would not relieve reliability concerns related to storm damage to the two lines.

The District (along with interveners SHOCK, PROTED 80 and SOLVE) also expresses concern about EMFs. The interveners' concerns about EMF, however, were limited to vague assertions of concern related to EMF impacts, based on World Health Organization fact sheets or a selected few research papers.³ (See, e.g., L-P Dist. Ex. 1.0, pp. 5-6; SHOCK Ex. 1.0, pp. 4-5; SOLVE Ex. 1.0, p. 7.) No witness in this proceeding offered specific evidence of any actual adverse impact relating to EMF's from Petitioners' proposed Transmission Lines.

³ The District attempted to offer the testimony of a purported EMF expert, which, on a Motion to Strike by Ameren, was ordered struck by the Administrative Law Judge on September 10, 2007. Following a Petition for Interlocutory Review by the District, the Commission upheld the Administrative Law Judge's ruling on October 11, 2007.

By contrast, Ameren established that, based on scientific research that has been conducted for over 30 years, there is no sufficient, reliable evidence to conclude that long-term exposures to electric and magnetic fields at levels found in communities or occupational environments are adverse to human health or cause any disease. (AmerenIP Ex. 11.0 (2nd Revised), p. 12.) In fact, there is no confirmed mechanism that would provide a firm basis to predict any biological effect at the low EMF levels evident in our daily activities. (Id.) Nevertheless, Ameren explained that it takes a cautionary position in dealing with the siting of its transmission lines by avoiding, wherever possible, occupied structures along the proposed route. (Id.)

Ameren further explained that the general consensus of the scientific community is that the evidence for any harmful effect related to EMFs is inconclusive. (AmerenIP Ex. 11.0 (2nd Revised), p. 12.) As noted above, interveners asserting that EMFs are harmful rely on selected “fact sheets,” reports and epidemiological studies that assert there is an association between power lines and various illnesses, and in particular childhood cancer. An “association” in epidemiology, which is an statistical analysis of disease occurrence in a population, does not mean that some factor “causes” or even “contributes” to a specific result, but rather the result tends to occur in the presence of, or in conjunction with, some factor. (Id., pp. 12-13.) Although some studies have concluded an association exists between EMFs and certain illnesses, most studies have concluded that there is no evidence of any causal link between EMFs and human health, or that the evidence is weak. (Id.) In fact, only epidemiological studies have identified any such linkage. Laboratory research studies, for the most part, have not substantiated claims that EMFs pose a health risk. (Id.)

The electric utility industry is also a highly regulated entity. (AmerenIP Ex. 11.0 (2nd Revised), p. 13.) There is, however, only one regulatory standard that relates to EMF - the National Electric Safety Code (NESC) imposes a level of electric field measurement directly underneath transmission lines. (Id.) This standard only applies to the prevention of electric shock, and does not equate to a specific regulation of EMFs. (Id.) There are no local, state, federal standards that regulate the level of EMFs emanating from electrical conductors. (Id.) Thus, there is no basis for the District's or other interveners' concerns regarding EMFs.

In Docket 06-0179, various interveners offered similar vague assertions regarding EMFs that the District and other interveners offer here. (Docket 06-0179, Order, p. 15.) In that proceeding, the Commission determined with regard to EMFs that "In this proceeding, the Landowner Intervenors have offered no specific evidence of or expert testimony regarding any health effects." (Id., p. 15.) The Commission then concluded that "there is no basis to conclude that EMFs present health concerns." The Commission's conclusion should be the same here.

VI. CONCLUSION

Petitioners respectfully request that the Commission: (i) grant a Certificate of Public Convenience and Necessity authorizing AmerenIP and AITC to construct, operate and maintain two new 138 kilovolt electric lines in LaSalle County, Illinois; (ii) authorize construction of the Project pursuant to Section 8-503 of the Act; (iii) approve the Petitioners' proposed primary route for the LaSalle-Wedron Line; (iv) approve the IL 71 Route for the Ottawa-Wedron Line; and (v) reject the alternate routes proposed by SOLVE and PROTED 80.

Dated: March 21, 2008

Respectfully submitted,

ILLINOIS POWER COMPANY d/b/a
AmerenIP, and
AMEREN ILLINOIS TRANSMISSION
COMPANY

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