

**STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION**

ILLINOIS POWER COMPANY,	)	
d/b/a AmerenIP, and	)	
AMEREN ILLINOIS TRANSMISSION	)	
COMPANY	)	Docket No. 08-0291
	)	
Petition for an Order pursuant to Section 8-509	)	
of the Public Utilities Act approving	)	
Petitioners' use of eminent domain power.	)	
	)	(Consol.)
ILLINOIS POWER COMPANY,	)	
d/b/a AmerenIP, and	)	
AMEREN ILLINOIS TRANSMISSION	)	
COMPANY	)	Docket No. 08-0449
	)	
Petition for an Order pursuant to Section 8-509	)	
of the Public Utilities Act approving	)	
Petitioners' use of eminent domain power.	)	

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

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DATED: May 18, 2009

**BRIEF ON EXCEPTIONS OF ILLINOIS POWER COMPANY, D/B/A AMERENIP AND  
AMEREN ILLINOIS TRANSMISSION COMPANY**

**I. Introduction**

This is the Brief on Exceptions of Illinois Power Company d/b/a AmerenIP and Ameren Illinois Transmission Company (together, “Petitioners”) with regard to the Administrative Law Judges’ Proposed Order (“ALJPO”) issued in this proceeding on May 8, 2009. Except as discussed herein, the Petitioners do not take exception to the ALJPO’s findings and conclusions. Petitioners’ exception to the ALJPO is discussed below, and appropriate replacement language for the ALJPO is set forth following the discussion. For the reasons stated below, Petitioners ask that the ALJPO be modified with the replacement language discussed herein.

**II. Exception: ALJPO Section VIII, “Findings and Ordering Paragraphs”, para. (5) (ALJPO, p. 15)**

The language of Finding and Ordering Paragraph No. (5) (“Paragraph 5”) should be clarified with respect to the width of the easements for which Petitioners are seeking eminent domain authority. As set forth in the direct testimony of Mr. Trelz (Ameren Exhibits 1.0-BR (Rev.), p. 5; 1.0-PW (Rev.), p. 5), for both the Prairie West Line and the Baldwin Rush Line, “Petitioners are seeking rights of way 150 ft. in width across the Unsigned Parcels..., as well as construction easements where necessary.” Thus, the record in this proceeding is clear that: (i) Petitioners are seeking easement across the Unsigned Parcels a full 150 ft. in width; and (ii) any construction easements would be in addition to the permanent 150 ft. easement.

Paragraph 5 states that “the easements shall be of such width as is reasonably necessary for said construction, not to exceed 150 feet.” This is not consistent with the record, in which Petitioners indicated that that the requested easement was 150 ft., not a width up to 150 ft. that is “reasonably necessary” for construction. The distinction is critical, and clarification will avert the potential for misinterpretation of the Commission’s order and ensure this important project

for southern Illinois becomes a reality. Paragraph 5 should therefore be clarified to grant eminent domain authority for the 150 ft. easement requested by Petitioners.

In addition, Paragraph 5 could be interpreted to mean that the construction easement would be included in the 150 ft. width, when in fact the record indicates the construction easement (where it is necessary) is in addition to the 150 ft. permanent easement. Paragraph 5 must be clarified to state that the construction easement is in addition to the permanent easement.

Petitioners therefore recommend that the ALJPO adopt the following replacement language for Paragraph 5:

within the meaning of and pursuant to Section 8-509 of the Act, authorization to use eminent domain to acquire all necessary easement rights, including construction easements, across the Unsigned Parcels identified in Ameren Exhibits 4.0-PW (Rev.) at 2 and 4.0-BR (Rev.) at 2-3 is necessary for the construction of the Prairie West Line and Baldwin Rush Line, ~~is necessary~~ and should be granted; the permanent easements shall be 150 feet in width, and any construction easements shall be of such width as is reasonably necessary for said construction, not to exceed an additional 150 feet.

### **III. Conclusion**

For the reasons set forth above, Petitioners request the Commission adopt the Exception discussed above.

Dated: May 18, 2009

Respectfully submitted,

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

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