

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

Rock Island Clean Line LLC)	
)	
Petition for an Order granting a Certificate of Public Convenience and Necessity Pursuant to Section 8-406(a) of the Public Utilities Act as a Transmission Public Utility)	Docket No. 10-0579
)	
)	

**Motion of Rock Island Clean Line LLC
to Set a Procedural Schedule for Conducting Discovery,
Filing Testimony, and Hearings**

Rock Island Clean Line LLC (“Clean Line”), Petitioner in the above captioned docket, pursuant to the schedule established at the November 9, 2010 prehearing conference in this docket, submits this motion requesting that a procedural schedule be established for conducting discovery and the filing of additional testimony and exhibits by the parties.

In summary, Clean Line requests that the Administrative Law Judge (“ALJ”) set procedural dates of February 3, 2011 for Commission Staff (“Staff”) and any intervenors¹ to file their testimony and exhibits in response to Clean Line’s Petition and direct testimony and exhibits;² and March 10, 2011 for Clean Line to file rebuttal testimony and exhibits; and that the evidentiary hearing be set for a mutually-acceptable date(s) in the week of March 21 or the week of March 28, 2011.³ These dates represent approximately a one-month delay in the procedural schedule that Clean Line planned to propose before being informed by Staff that Staff believed

¹ At this time only one petition to intervene in this docket has been filed.

² Clean Line’s Petition, and its direct testimony and exhibits of five witnesses, in support of the Petition, were filed with the Commission on October 6, 2010.

³ All of these proposed dates are intended to be approximate and are proposed without benefit of the parties having discussed specific dates. If other parties propose alternative dates that vary by a few days in one direction or the other from Clean Line’s proposed dates, Clean Line does not anticipate having an objection.

Clean Line should withdraw its Petition and refile it at a later date, and that failing withdrawal of the Petition by Clean Line, Staff would file a motion to dismiss the Petition. Clean Line believes that the procedural schedule proposed herein, with Staff and intervenor direct testimony not due until February 3, 2011, represent a reasonable accommodation in light of the briefing schedule on Staff's motion to dismiss, on which briefing is scheduled to be completed on December 21, 2010.⁴ Clean Line also requests that the ALJ make it clear that discovery on Clean Line's Petition, testimony and exhibits can and should begin immediately.

I. Background

A. Clean Line's Petition for a Certificate of Public Convenience and Necessity as a Public Utility Pursuant to §8-406(a) of the PUA

On October 6, 2010, Clean Line filed its verified Petition for issuance of a Certificate of Public Convenience and Necessity as a public utility pursuant to §8-406(a) of the Public Utilities Act ("PUA"), 220 ILCS 5/8-406(a), along with the supporting direct testimony and exhibits of five witnesses. Section 8-406(a) states that no public utility not owning a city or village franchise and not engaged in performing any public service or in furnishing any product or commodity within this State as of July 1, 1921 and not possessing a certificate of public convenience and necessity from the Commission as of the effective date of a 1985 amendment to the PUA, "shall transact any business in this State until it shall have obtained a certificate from the Commission that public convenience and necessity require the transaction of such business." Clean Line's Petition states that under its proposed operations as described in its Petition and testimony, Clean Line will own, control, operate and manage, within the State of Illinois, for public use, facilities for the transmission of electricity; therefore, it is necessary for Clean Line to

⁴ The briefing schedule for Staff's motion to dismiss was established at the November 9, 2010 prehearing conference.

obtain a certificate of public convenience and necessity as a public utility in Illinois pursuant to §8-406(b) of the PUA.⁵ (Clean Line Petition, ¶14.)

Clean Line's Petition and direct testimony state that Clean Line seeks a certificate pursuant to §8-406(a) to provide transmission public utility service in Illinois. Clean Line's Petition and direct testimony show that Clean Line plans to construct a \pm 500 kilo-volt ("kV") to \pm 600 kV high voltage transmission line from an origination point in eastern South Dakota, eastern Nebraska or western Iowa, to a termination point interconnecting with the high voltage transmission system operated by the PJM Interconnection in Illinois, for the purpose of delivering electricity from renewable energy (wind generation) projects located in the tri-state region of eastern South Dakota, eastern Nebraska and western Iowa to Illinois. The Petition and direct testimony state that Clean Line recognizes it will not be able to construct and operate its specific proposed transmission line until it also files a petition for, and receives, a certificate of public convenience and necessity pursuant to §8-406(b) of the PUA (220 ILCS 5/8-406(b)) to construct and operate the transmission line. Section 8-406(b) states: "No public utility shall begin the construction of any new plant, equipment, property or facility which is not in substitution of any existing plant, equipment, property or facility or any extension or alteration thereof or in addition thereto, unless and until it shall have obtained from the Commission a certificate that public convenience and necessity require such construction."⁶

⁵ Clean Line has already acquired the right to use the right of way of the former Chicago, Rock Island and Pacific Railroad in Illinois and Iowa to construct its proposed transmission line. *See* Petition at ¶7 note 1, and Clean Line Ex. 3.0 (Galli Direct) at 4-5, lines 86-97.

⁶ As an alternative to obtaining a certificate of public convenience and necessity for the proposed transmission line under §8-406(b), Clean Line could request a certificate for the transmission line pursuant to new §8-406.1 (220 ILCS 5/8-406.1) which was added to the PUA by Public Act 96-1348. Section 8-406.1 states that, "[a] public utility may apply for a certificate of public convenience and necessity pursuant to this Section for the construction of any new high voltage electric service line and related facilities." Clean Line has not yet determined whether to utilize

Clean Line’s Petition states that:

As a predicate to filing a petition for issuance of a Certificate of Public Convenience and Necessity pursuant to §8-406(b) of the PUA . . . to construct and operate the Rock Island Clean Line, Clean Line has filed the instant Petition for a Certificate of Public Convenience and Necessity pursuant to §8-406(a) of the PUA for authority to operate as a public utility in Illinois. . . . After obtaining certification as a public utility pursuant to §8-406(a), Clean Line intends to file a separate petition or petitions requesting the necessary certificate and other authorizations to construct and operate the Rock Island Clean Line in Illinois. (Petition at ¶7.)

* * * * *

Clean Line has separated its petition for a Certificate of Public Convenience and Necessity to operate as a public utility under §8-406(a) from its request for a Certificate of Public Convenience and Necessity to construct and operate the Rock Island Clean Line under §8-406(b). Clean Line is seeking certification as a public utility initially and separately, before seeking certification and authorization to construct and operate the Rock Island Clean Line under other statutory provisions, in order to preclude any argument that it cannot request certification or authorizations under these other statutory provisions unless it is a “public utility,” and to facilitate moving forward with its public outreach activities for development of the transmission line with State and local government officials, landowners, environmental and conservation groups, wind generation developers, and other interested stakeholders. (Petition at ¶15.)

Clean Line witness Michael Skelly, the President of Clean Line and the Chief Executive Office of its parent company, Clean Line Energy Partners LLC, explains in his testimony that Clean Line has elected to make an initial filing for a certificate of public convenience and necessity as a public utility pursuant to §8-406(a) to be followed by a separate filing for a certificate of public convenience and necessity to construct and operate the proposed transmission line pursuant to §8-406(b):

Clean Line Energy Partners and Clean Line understand that development and construction of the Rock Island Clean Line will require additional authorizations from the Commission, including issuance of a Certificate of Public Convenience and Necessity for the project pursuant to Section 8-406(b) of the PUA. . . .

§8-406(b) or §8-406.1. Clean Line’s Petition and direct testimony refer to these two statutory provisions as “§8-406(b)” for convenience.

Receipt of a certificate as a public utility under Section 8-406(a) will facilitate Clean Line's stakeholder outreach program for the Rock Island Clean Line project with state and local government officials, landowners, business leaders, environmental and conservation groups, and other potentially interested stakeholders, as well as its development activities with potential wind generation developers, potential transmission customers for the line, and potential lenders and investment partners. After obtaining a certificate to operate as a public utility pursuant to Section 8-406(a), Clean Line Energy Partners will make an additional filing or filings with the Commission to request the Section 8-406(b) certificate and other authorizations and approvals. (Clean Line Ex. 1.0 at 8-9, lines 216-231.)

Further, Clean Line witness Jimmy Glotfelty, after describing Clean Line's plans for identifying the proposed routing for its transmission line,⁷ and for conducting outreach activities concerning the proposed transmission line to interested stakeholders (including landowners along the potential route or routes and officials of local governmental entities through which the route of the transmission line may pass),⁸ describes the anticipated timing of Clean Line's filing for a certificate of public convenience and necessity pursuant to §8-406(b) to construct and operate the transmission line:

- Q. Based on Clean Line's anticipated community and stakeholder outreach activities and the work needed to identify an appropriate route or routes for the Rock Island Clean Line, when do you expect Clean Line will be able to make a filing with the Commission for the Certificate to construct the line?
- A. We presently anticipate Clean Line being in a position to file an application with the Commission for a Certificate of Public Convenience and Necessity to construct and operate the Rock Island Clean Line by June or July 2011. We also anticipate that Clean Line will be in a position to initiate the comparable approval processes in Iowa in that time frame. (Clean Line Ex. 2.0 at 27-28, lines 554-562.)

Mr. Glotfelty also explains that obtaining a certificate as a public utility is important to the success of Clean Line's stakeholder outreach activities:

⁷ Clean Line Exhibit 2.0 at 26-27, lines 532-553.

⁸ Clean Line Exhibit 2.0 at 24-26, lines 471-531.

Clean Line's receipt of a Certificate of Public Convenience and Necessity as a public utility is important to the success of this stakeholder process as we move it forward. Clean Line's certification as a public utility will help to demonstrate to State and local government officials, landowners, business groups, environmental and conservation groups and other interested stakeholders, that Clean Line's transmission project is a serious project that Clean Line intends to pursue to completion. (Clean Line Ex. 2.0 at 26, lines 526-531.)

Clean Line filed its petition for a certificate of public convenience and necessity as a public utility pursuant to §8-406(a), along with supporting testimony and exhibits, on October 6, 2010, anticipating that approximately eight months (*i.e.*, October 2010 – May 2011) would be sufficient time to conduct and complete this case prior to Clean Line's anticipated filing of its petition for a certificate to construct and operate its proposed transmission line pursuant to §8-406(b) (*i.e.*, in June or July 2011).

B. Staff's Objection to Clean Line's Separate Filing of a §8-406(a) Petition for a Certificate of Public Convenience and Necessity as a Public Utility

As conveyed to Clean Line, Staff believes it is inappropriate for Clean Line to have filed a stand-alone petition for a certificate as a public utility pursuant to §8-406(a) of the PUA, separate and apart from its request for a certificate to construct and operate its proposed transmission line pursuant to §8-406(b). Staff believes that Clean Line's request for certification as a public utility should be considered in conjunction with Clean Line's request for authority to construct and operate specific facilities, *i.e.*, its proposed transmission line. As Clean Line understands it, Staff believes Clean Line should withdraw its separate §8-406(a) petition for a certificate as a public utility and should refile at a later date along with its request for a certificate to construct and operate the proposed transmission line, at such time as Clean Line is prepared to do so. Failing withdrawal of the §8-406(a) petition by Clean Line, Staff believes that the §8-406(a) petition should be dismissed by the Commission and refiled by Clean Line at a later date

in conjunction with Clean Line’s request for a certificate to construct and operate its proposed transmission line.

Clean Line believes that it is entitled to file separate petitions for certification as a public utility pursuant to §8-406(a) of the PUA and, at a later date, for a certificate of public convenience and necessity to construct its proposed transmission line. Clean Line notes that §8-406 contains separate subsections pertaining to obtaining a certificate as a public utility (subsection (a)) and to obtaining a certificate of public convenience and necessity to construct specific facilities (subsection (b)). The fact that the General Assembly has provided two separate statutory provisions pertaining to certification as a public utility and to certification to construct and operate specific facilities supports Clean Line’s approach, *i.e.*, that an entity may file separate petitions for a certificate as a public utility pursuant to subsection (a) and then for a certificate to construct specific facilities pursuant to subsection (b). Further, there is no provision in §8-406 (or elsewhere in the PUA) that requires these two requests, for separate certificates to be made in a single filing.⁹

Moreover, the statutory criterion in §8-406(a) for issuance of a certificate of public convenience and necessity as a public utility is that “public convenience and necessity require the transaction of such business” by the applicant. Clean Line’s Petition and direct testimony show that its request for a certificate of public convenience and necessity as a public utility satisfies this criterion.¹⁰ Clean Line’s Petition and direct testimony explain in detail the public utility business Clean Line proposes to transact, the manner in which Clean Line proposes to

⁹ There are other considerations that support Clean Line’s two-step approach, which Clean Line expects to discuss in the briefing on Staff’s motion to dismiss.

¹⁰ As discussed in ¶8 of Clean Line’s Petition, the courts have established that “necessity” as used in the statute means that the proposed service “is needful and useful to the public,” not that it is “indispensably required.”

construct that business (*i.e.*, using a high voltage transmission line and associated facilities, that will run from a point in the eastern South Dakota-eastern Nebraska-western Iowa region to an interconnection with the PJM high voltage system in Illinois), and that public convenience and necessity require the transaction of Clean Line's proposed business. As summarized in ¶10 of Clean Line's Petition:¹¹

- There is significant demand for electricity supplied by renewable resources, and in particular by wind generation, in Illinois, and that demand will continue to grow significantly over the next 15 years. The demand is and will be driven by state and federal laws and policies requiring or encouraging the use of renewable resources and by the prospect of federal laws and policies limiting the use of carbon-based electricity, as well as by public demand for clean energy from renewable sources.
- Although the current economy has slowed or reduced the growth in demand for electricity temporarily, in the long term the demand for electricity can be expected to continue to grow. Over time, more generation will be needed to meet demand growth and to replace existing, older generation that is retired.
- The northern Great Plains region, including eastern Nebraska, eastern South Dakota and western Iowa, contains some of the country's richest and most energetic wind resources; this region has higher average annual wind speeds and therefore wind generators in this region can produce electricity at lower cost than regions, such as Illinois, with less energetic wind resources.
- The hours of wind power production in the northern Great Plains region are weakly correlated with the hours of wind power production in Illinois; therefore, integrating wind generation resources in the northern Great Plains with those in Illinois will increase the reliability and availability of wind generation as a supply source to Illinois markets. Diverse wind resources dampen the overall variability of wind generation, provide a more stable supply of power and facilitate the integration of more wind generation capacity.
- The prospects for construction of wind generation facilities in the northern Great Plains region are limited because there is a lack of adequate long distance, inter-regional transmission infrastructure to bring the electricity the facilities would generate to load and population centers such as Illinois. For wind generation facilities to be constructed in this region to meet the demand for renewable resources in Illinois and other eastern markets, additional long distance transmission capacity between these areas needs to be developed.

¹¹ See also Clean Line Ex. 1.0 (Skelly Direct) at 5-6, lines 94-170.

- Federal and state governments and other authoritative sources (such as the North American Electric Reliability Corporation (“NERC”)) have recognized that there is a significant need to expand and strengthen the nation’s long distance inter-regional transmission capacity, both to expand and strengthen the overall grid generally and to support the movement of electricity generated by renewable resources to areas of market demand specifically.
- Individual utilities typically focus on constructing and maintaining transmission facilities in their own service regions, and organizations such as regional transmission organizations (“RTOs”) and independent transmission system operators engage in transmission planning within their footprints. There is also a strong need for a focus on expanding and strengthening the transmission grid on an inter-regional basis, and for companies that will construct inter-regional facilities.
- As a public utility, Clean Line will build a transmission line using HVDC technology which can deliver up to 3,500 MW of wind-generated power and efficiently transport about 15 million megawatt-hours (“MWh”) of clean electric energy per year from wind generation plants in wind-rich areas of the northern Great Plains to Illinois.
- Developers will not construct wind generation facilities in the northern Great Plains without reasonable assurances and expectations that transmission infrastructure will be in place on a timely basis to bring their output to markets like Illinois. The lead time for development and construction of wind generation plants is shorter than the lead time for certification, siting, development and construction of a long distance transmission facility like the Rock Island Clean Line. Thus, the development of the long distance transmission facilities Clean Line proposes necessarily must precede, and is a precondition to, the construction of new wind generation plants in the more remote northern Great Plains area.
- By delivering energy from generation sources that have a lower marginal cost than most existing generation sources (more precisely, from generation sources that have zero marginal cost), the Rock Island Clean Line will decrease market-clearing wholesale prices, which will increase competition in the wholesale power markets and ultimately the retail power markets.
- The clean, wind-generated electricity that the Rock Island Clean Line will bring to Illinois, if generated by other resources, would produce over 10 million tons of CO₂, over 6,000 tons of nitrogen oxides and over 11,000 tons of sulfur oxides per year, as well as substantial quantities of coal ash and scrubber sludge, and would use substantial quantities of water.
- Clean Line will have the managerial, technical and financial capabilities to operate as a public utility providing the transmission services described in its Petition and testimony.

II. The ALJ Should Establish the Procedural Schedule Proposed by Clean Line and Should Direct that Discovery Proceed on Clean Line's Petition and Direct Testimony

Clean Line proposes that the ALJ establish a procedural schedule calling for Staff and any intervenors to file their direct testimony and exhibits in response to Clean Line's Petition and direct testimony on February 3, 2011; for Clean Line to file rebuttal evidence on March 10, 2011; and for the evidentiary hearing to be set for a mutually convenient date(s) during the weeks of March 21 or March 28, 2011. Clean Line also proposes that the ALJ put Staff and any intervenors on notice that they should proceed at this time to conduct such discovery as they require with respect to Clean Line's Petition and direct testimony.

Before being advised of Staff's position that Clean Line should withdraw its Petition or have it dismissed, and refiled later, Clean Line intended to propose a procedural schedule whereby Staff and intervenor direct testimony would be due on January 6, 2011.¹² This would have been three months after the Petition was filed. In light of the briefing schedule that has been established on Staff's motion to dismiss, for which the last brief is due to be filed on December 21, Clean Line is now proposing that Staff and any intervenor direct testimony be filed on February 3, 2011. This date is almost four months after the date the Petition was filed, and is more than six weeks after completion of briefing on the motion to dismiss. The other procedural dates that Clean Line proposes (Clean Line rebuttal due on March 10, 2011; and

¹² Clean Line's intended overall procedural schedule would have enabled a final order to be entered in this case in May 2011, prior to Clean Line's anticipated filing of its §8-406(b) petition. In no way could either Clean Line's originally-intended schedule (*i.e.*, providing for some eight months to conduct and complete this §8-406(a) case), nor the procedural schedule it is proposing in this motion, be considered "expedited" (particularly considering that Clean Line filed its direct testimony and exhibits with the Petition). To the contrary, Clean Line filed its Petition for certification as a public utility reasonably well in advance of its anticipated filing of a petition for a §8-406(b) certificate to construct its proposed transmission line, so that it would receive the public utility certificate before filing for the transmission line construction certificate.

evidentiary hearing during the week of March 21 or the week of March 28, 2011) follow reasonably from the February 3 date.

Clean Line also proposes that the ALJ direct, or otherwise make it clear, that Staff and intervenors can and should begin to conduct discovery on Clean Line's Petition and direct testimony, in anticipation of the February 3 testimony due date. Clean Line is ready, willing and able to begin receiving and responding to discovery requests. Staff and any intervenors are free, of course, to determine for themselves how much discovery (including none) they wish to conduct. The point here, however, is for all parties to be put on notice that discovery can and should be conducted now, and that parties will not be allowed an extended period to conduct discovery commencing after the motion to dismiss is ruled on.

Staff's position, as articulated at the November 9 prehearing conference is that Staff should not be required to commence preparations of its direct testimony, including conducting discovery, until after its motion to dismiss is ruled upon, at which time, if the motion is denied, Staff would apparently believe it should then be allowed an amount of time to conduct discovery and prepare its direct case as though the Petition had just been filed. Clean Line respectfully submits that the ALJ should reject Staff's position, and should adopt the procedural schedule proposed herein by Clean Line, for several reasons set forth below.

First, Clean Line believes that the motion to dismiss will be denied, but even acknowledging the possibility that it could be granted, the ALJ's ruling on this motion to establish a procedural schedule should take into account both the possibility that the motion to dismiss will be denied as well as the possibility that it will be granted. Clean Line's proposed procedural schedule reasonably balances those outcomes, because it would likely require Staff to engage in some activity towards preparing its direct testimony over the next couple of months,

but would not require the actual filing of testimony until February 2011. To adopt Staff's position with respect to the procedural schedule would in effect assume Staff's motion to dismiss will be granted and give no weight to the possibility that the motion to dismiss will be denied.

Second, and related to the first reason, for the ALJ to adopt Staff's position and decline to adopt a procedural schedule as proposed by Clean Line, would effectively interpose a delay of at least three months in the consideration and adjudication of Clean Line's Petition, solely because Staff filed a motion to dismiss. Clean Line's Petition was filed on October 6, 2010. If the motion to dismiss were to be denied in, say (based on the briefing schedule that ends December 21) early to mid January, and a procedural schedule were to be set from that point going forward (as Staff would have it), then substantive consideration of Clean Line's Petition will have been effectively delayed for three months or more after it was filed. Clean Line has filed a Petition for a certificate of public convenience and necessity, and supporting testimony and exhibits, that Clean Line believes demonstrates that it meets the statutory criteria to be granted a certificate as a public utility to "transact [the] business" described in the filing. Certainly, Clean Line's filing is substantial.¹³ Clean Line is entitled to have its Petition begin to receive substantive review and consideration sooner than three to four months after it was filed.

Clean Line acknowledges that Staff is entitled to file a motion to dismiss if it wishes, but this should not result in an **automatic delay** of three months or more in the substantive consideration of Clean Line's Petition. In recognition of the fact that the motion to dismiss may be denied, the ALJ should impose some obligation on Staff to move forward in conducting discovery and preparing a direct case, while its motion is being briefed and considered.

¹³ In addition to the 33-page Petition and four Attachments thereto, Clean Line filed the direct testimony of five witnesses totaling 108 pages of testimony plus 12 exhibits to the testimony.

Third, setting a date for Staff and any intervenors' direct testimony of February 3, 2011, and directing that Staff should be proceeding with discovery now, if Staff intends to conduct discovery, will not impose a significant burden on Staff. To the contrary, for the next several weeks, probably into 2011, Staff's primary effort would consist of issuing data requests to Clean Line and receiving and reviewing the responses.¹⁴ The principal burden over the next 6 to 8 weeks would be on Clean Line to prepare answers to data requests. Clean Line is prepared to accept that burden, *i.e.*, to respond to the parties' data requests. As noted earlier, Clean Line's proposed date for Staff and intervenor direct testimony is more than six weeks after briefing on the motion to dismiss is completed.

Fourth, time spent by Staff now in conducting discovery and analyzing Clean Line's Petition and direct testimony now would not be wasted effort. Certainly, it will not be wasted effort if the motion to dismiss is denied and this case proceeds as filed; but it also will not be wasted effort even if the motion to dismiss were to be denied. As Clean Line understands it, Staff's position is that Clean Line's §8-406(a) Petition should be withdrawn or dismissed, and refiled at a later date in conjunction or combination with Clean Line's request for a certificate pursuant to §8-406(b) to construct and operate its proposed transmission line. If that were to occur, however, obviously, much of the information included in the current §8-406(a) Petition and supporting direct testimony would be included in the subsequent, "combined" Petition and supporting testimony. Therefore, discovery conducted and data request responses received on

¹⁴ Further, as noted in the testimony of Clean Line witnesses (*see, e.g.*, Clean Line Ex. 1.0 at 3, lines 59-69), in order to facilitate discovery on Clean Line's Petition and testimony, the Petition and testimony have been extensively footnoted to identify source documents used in the preparation of the Petition and testimony and in the development of Clean Line's underlying business plans and objectives. For many of these source documents, Clean Line has provided web site addresses at which the documents can be reviewed and downloaded. Therefore, Staff can review many of the source documents used in the preparation of the Petition and direct testimony without even having to go to the trouble of writing and e-mailing data requests.

the current §8-406(a) Petition and testimony would likely be usable in connection with the “combined” petition (and Clean Line would not object to it being used in the subsequent proceeding, nor would it likely have a basis for objection). Similarly, review and analysis conducted by Staff of the current §8-406(a) Petition and testimony would be usable when this material was resubmitted as part of the “combined” petition.

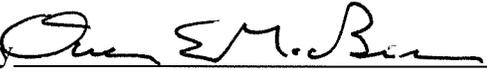
III. Conclusion

Rock Island Clean Line LLC respectfully requests that the ALJ establish a procedural schedule providing that Staff and any intervenor direct testimony in this case will be due on February 3, 2011; Clean Line’s rebuttal testimony will be due on March 10, 2011; and the evidentiary hearing will be held at a mutually agreeable date(s) in the week of March 21 or the week of March 28, 2011; and that the ALJ also direct that discovery on Clean Line’s Petition and direct testimony may and should be conducted now and that, if Staff’s motion to dismiss is denied, a lengthy period for discovery from that point forward prior to Staff and intervenor direct testimony being due will not be allowed. Clean Line’s proposed schedule reasonably recognizes that Staff will be filing a motion to dismiss which may be granted or denied but in any event is unlikely to be decided before early January. Clean Line’s schedule also reasonably balances the interests of Clean Line in having consideration of its Petition move forward and not be unduly delayed, and the interests of Staff in not having to perform work that could (but, for the reasons stated herein, is unlikely to, regardless of the outcome of the motion to dismiss) prove to be unnecessary.

Dated: November 23, 2010

Respectfully submitted,

ROCK ISLAND CLEAN LINE LLC

By 

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CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that he caused copies of the foregoing “Motion of Rock Island Clean Line LLC to Set a Procedural Schedule for Conducting Discovery, Filing Testimony, and Hearings” to be served by e-mail on the parties on the service list for Docket 10-0579 on November 23, 2010.

/s/ Owen E. MacBride

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Docket 10-0579**

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