

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

AMEREN TRANSMISSION COMPANY OF ILLINOIS)
)
Petition for a Certificate of Public Convenience and)
Necessity, pursuant to Section 8-406.1 of the Illinois)
Public Utilities Act, and an Order pursuant to Section 8-) Docket No. 12-0598
503 of the Public Utilities Act, to Construct, Operate and)
Maintain a New High Voltage Electric Service Line and)
Related Facilities in the Counties of Adams, Brown,)
Cass, Champaign, Christian, Clark, Coles, Edgar, Fulton,)
Macon, Montgomery, Morgan, Moultrie, Pike,)
Sangamon, Schuyler, Scott and Shelby, Illinois.)

**AMEREN TRANSMISSION COMPANY OF ILLINOIS’ RESPONSE IN OPPOSITION
TO THE PETITION FOR LEAVE TO INTERVENE
OF CLARK COUNTY PRESERVATION COMMITTEE**

Ameren Transmission Company of Illinois (ATXI) respectfully opposes the Petition for Leave to Intervene filed by Clark County Preservation Committee (the Committee). The Committee’s petition has not complied with Illinois law or the Commission’s rules of practice. Most notably, the Committee has not plainly demonstrated that it or any of its unidentified members have an interest at stake in this docket warranting intervention. Accordingly, and in the absence of a more definite statement of the Committee’s interest, the Commission should deny the Committee’s petition. In support of its response, ATXI states as follows:

1. On November 7, 2012, ATXI filed with the Commission a petition pursuant to Sections 8-406.1 and 8-503 of the Public Utilities Act, 220 ILCS 5/8-406.1, 8-503, initiating the instant certificate of public convenience and necessity (CPCN) proceeding. ATXI is seeking the Commission’s approval to construct, operate and maintain a new electric transmission line and related facilities (collectively, the Project) in areas of the State of Illinois. (See generally ATXI Pet.) ATXI’s filing identified primary and alternate routes for the Project. (Id. ¶ 10.)

2. The Committee has petitioned the Commission for leave to intervene in the

proceeding. The Committee represents it is a “not-for-profit collaborative organization formed to preserve the quality of life in rural Clark County” and its “members are residents and registered voters in the City of Marshall and Clark County.” (Committee Pet. ¶ 3.) It does not identify any individual member with the exception of its Chairman. In support of its petition, the Committee alleges “the proposed transmission line will dramatically reduce the quality of life, property values and increase health risks for residents of Clark County living in close proximity to the high voltage lines” and “[i]t is likely that the Commissions [sic] decisions regarding Ameren’s petition will affect the property values, health and quality of life of [its] members” (Id. ¶¶ 3, 4.) It further alleges the Project’s primary route passes “near” residences, subdivisions and a radio transmission tower, all of which are unidentified, and through certain businesses, which also are unnamed. (Id. ¶ 4.) It then summarily concludes the allegedly affected businesses will suffer unspecified, adverse impacts. (Id.)

3. The Commission’s Rules of Practice and Procedure require that a petition to intervene contain “[a] plain and concise statement of the nature of the petitioner’s interest.” 83 Ill. Adm. Code § 200.200(a)(2). Further, a person seeking to intervene as a party in a CPCN proceeding must demonstrate the requested order “would have a direct and adverse affect” upon his legal rights. Egyptian Elec. Coop. Ass’n v. Ill. Commerce Comm’n, 33 Ill. 2d 339, 342-43 (1965). See also Greer v. Ill. Hous. Dev. Auth., 122 Ill. 2d 462, 492-93 (1988) (holding standing in Illinois requires an injury in fact to a legally cognizable interest which, whether actual or threatened, is (1) distinct and palpable; (2) fairly traceable to the action at issue; and (3) substantially likely to be prevented or redressed in the proceeding.). A person not so adversely affected lacks standing to participate. Greer, 122 Ill. 2d at 488; Egyptian Elec., 33 Ill. 2d at 342.

4. It is within the discretion of the Commission to deny or allow intervention.

Ramsey Emergency Svcs., Inc. v. Ill. Commerce Comm'n, 367 Ill. App. 3d 351, 365 (1st Dist. 2006). The Commission's rules require it to utilize such discretion to effectuate integrity in the fact-finding process and fairness, expedition, convenience and cost-effectiveness in the proceedings before it. 83 Ill. Adm. Code § 200.25. Accordingly, the Commission has exercised its discretion to deny intervention in the absence of a distinct legal interest directly at stake. See, e.g., Egyptian Elec., 33 Ill. 2d at 342-43 (affirming Commission order denying three separate petitions to intervene filed by alleged competitor, customer and landowner in a CPCN proceeding because petitioner "fail[ed] to show the required interest in the proceedings in the absence of facts showing that the proposed order would have a direct and adverse effect upon [its] rights"); Ill. Am. Water Co., Dockets 97-0102, 0081 (Cons.), 1997 Ill. PUC LEXIS 927, *2 (Dec. 22, 1997) (denying for lack of standing a petition to intervene filed in general rate case by the Metro-East Municipal Joint Action Agency); Cent. Ill. Pub. Serv. Co., Docket 77-0375, 1978 Ill. PUC LEXIS 30, *3 (Apr. 12, 1978) (denying petition to intervene filed in general rate case by president of unincorporated association of students); Ellis v. Ill. Commerce Comm'n, 44 Ill. 2d 438, 446 (1970) (affirming Commission's denial of petition to intervene in proceeding to approve stock transaction, in part, because petitioner's allegation that the transaction would eliminate commercial competition and was contrary to the best interests of the public were "bottomed on a false premise and afforded no reasonable basis for granting [them] leave to intervene . . .").

5. The Commission should deny the Committee's petition to intervene here. The petition does not comply with the Commission's rules or Illinois law regarding intervention. First, it does not contain a plain and concise statement of the nature of the Committee's interest. See 83 Ill. Adm. Code § 200.200(a)(2). Rather, the Committee's alleged "interest"—essentially

the quality of life, property values and health of all Clark County residents—is overbroad, vague and generic; it is anything but obvious. The petition can be denied for this deficiency alone.¹

6. Nor has the Committee demonstrated it or any of its (unidentified) members possess a distinct legal interest which could be directly and adversely affected by the Commission’s order in this proceeding. The petition states the Committee consists of “residents and registered voters in the City of Marshall and Clark County.” But its actual members are unknown. Consequently, the actual legal interests at stake, if any, also are unknown. For instance, the petition alleges the Project will affect Clark County residents living near or who own businesses in proximity to the transmission line. However, it does not allege such residents are Committee members. Thus, it is unknown from the petition whether *any* of the Committee’s members actually own property or businesses along the routes—and, as such, possess any relevant property or business rights. Moreover, because the legal interests at stake, if any, are not plainly stated, the Committee has not shown the order here could have a direct and adverse affect on such rights. The Committee’s allegation that the Commission’s order will generally impact its members’ quality of life, property values and health is, without more, too tenuous to constitute the requisite “direct and adverse impact.” See Egyptian Elec., 33 Ill. 2d at 342-43. In short, the Committee has not demonstrated a nexus between the (unknown) legal rights of its (unknown) members and the general impacts alleged in its petition.

7. For these reasons, the Committee’s petition should be denied. To permit the Committee to intervene in this proceeding would force ATXI to litigate against unnamed individuals, who are unknown in number, and who may or may not possess any pertinent legal interests, let alone ones which could be directly and adversely impacted by the Commission’s

¹ ATXI also notes neither the Committee’s petition nor its notice of filing contain a certificate of service and, as of the time of filing, ATXI has not received proper service of the petition. See 83 Ill. Adm. Code § 200.150.

order. Before intervention is granted, the Committee should be required, as all are parties in accordance with the Commission's rules and Illinois law, to demonstrate that its members have an interest at stake in this docket which would warrant intervention.

WHEREFORE, Ameren Transmission Company of Illinois respectfully requests that the Illinois Commerce Commission deny the Petition for Leave to Intervene of Clark County Preservation Committee and grant such other and further relief as the Commission deems just and necessary.

Dated: November 29, 2012

Respectfully submitted,

Ameren Transmission Company of Illinois

/s/ Albert Sturtevant

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CERTIFICATE OF SERVICE

I, Albert Sturtevant, an attorney, certify that on November 29, 2012, I caused a copy of the foregoing *Ameren Transmission Company's Response in Opposition to the Petition for Leave to Intervene of Clark County Preservation Committee* to be served by electronic mail to the individuals on the Commission's Service List for Docket 12-0598.

/s/ Albert Sturtevant

Attorney for Ameren Transmission
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