

**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 8-503 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.)

Docket No. 12-0598

**STOP THE POWER LINES COALITION'S MOTION FOR LEAVE TO FILE
SUPPLEMENTAL DIRECT TESTIMONY INSTANTER**

Stop the Power Lines Coalition (“STPL”) moves for leave to file the attached Supplemental Direct Testimony of Perry D. Baird. In support of its motion, STPL states:

1. Based on its response to data requests in this case, it is evident that Ameren Transmission Company of Illinois (“ATXI”) knew before it filed its petition in this case that ATXI’s proposed Primary Route between the Kansas Substation and the Indiana state line crossed over a federally owned floodplain easement, and that the federal government’s ownership of the floodplain easement posed a significant obstacle to ATXI’s ability to construct its line over the federal floodplain easement. Dave Hiatt, a biologist employed by the United States Department of Agriculture-Natural Resources Conservation Service, sent ATXI’s spokesperson an email on October 17, 2012 in which he advised ATXI:

These easements must be avoided. There is very little to no authority for the NRCS to modify the terms of these conservation easements. The rights acquired under these conservation easements are quite inclusive and will be superior to any rights Ameren might obtain for an overhead power line right-of-way.

STPL Attach 1, Page 2 of 4. Mr. Hiatt also told ATXI in a follow-up email:

As it stands, we CANNOT allow the two identified easements to be impact[ed] by the PRIMARY proposed route.

Id. Page 1 of 4.

2. ATXI made no change or adjustment to its Primary Route in response to the information it received concerning the federal floodplain easement. Instead on November 7, 2012, ATXI filed its Petition requesting Commission approval to construct its Primary Route over the federally owned floodplain in the segment between the Kansas Substation and the Indiana state line.

3. STPL did not become aware that ATXI had prepared a so-called modified route to go around the federal floodplain easement until the morning of March 29, 2013, when STPL's counsel reviewed ATXI's answer to STPL data requests that were posted on ATXI's extranet website sometime in the late evening hours the day before or early that morning.

4. ATXI did not propose a modified route to go around the federal floodplain easement until it filed its rebuttal testimony on April 26, 2013. Further ATXI did not reveal its alternative plan to try and address the federal floodplain easement obstacles, by stringing its line at least one hundred feet in the air with no supporting structures located in the floodplain easement area, until it filed its rebuttal testimony. These two strategies were proposed by ATXI for the first time in the rebuttal testimony of Donnell Murphy and Jeffrey Hackman, respectively. ATXI Ex. 13.0 at 65:1905 to 66:1425; ATXI Ex. 13.10; ATXI Ex. 12.0 at 32:675 to 33:693.

5. Had ATXI properly identified its proposed routes and strategy in its direct testimony, STPL could have researched the issues and responded in its original direct testimony. Instead, STPL's witness, Perry Baird, was forced to conduct the requisite research only after ATXI filed its rebuttal testimony.

6. STPL's ability to respond to ATXI's new route and stratagem was further hampered by ATXI's refusal to respond to a data request asking ATXI to identify the landowners affected by the modified route, which ATXI ultimately answered after days of foot dragging and under threat of a motion to compel.

7. As reflected in the attached Supplemental Direct Testimony of Perry D. Baird, Mr. Baird's research has revealed:

A. It appears that ATXI did not give notice to four of the five owners of one of the parcels affected by the so-called modified route.

B. ATXI's alternate proposal to span the federal floodplain easement with tall structures on either side may not be a viable solution because:

(1) The topography of the federal floodplain easement area is very hilly and varies significantly in height; and

(2) The plan to span the federal floodplain easement area with lines at least 100 feet in the air would potentially conflict with the federal government's plans for use of the federal floodplain easement area, including the planting of trees which can exceed 100 feet in height.

8. This testimony could and would have been included in STPL's direct testimony had ATXI timely disclosed its actual proposed route and alternate stratagem for addressing the federal floodplain easement obstacles in ATXI's direct testimony. Instead STPL was forced to address those issues in the attached Supplemental Direct Testimony of Perry D. Baird.

WHEREFORE, Stop the Power Lines Coalition requests that the Administrative Law Judges grant it leave to file *instanter* the attached Supplemental Direct Testimony of Perry D. Baird.

Dated: May 13, 2013

Respectfully submitted,

STOP THE POWER LINES COALITION

/s/ Edward R. Gower

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