

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

Ameren Transmission Company of Illinois)
)
Petition for 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) No. 12-0598
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.)

INITIAL BRIEF OF MORGAN AND SANGAMON
COUNTY LANDOWNERS AND TENANT FARMERS

COMES NOW, ANDY DAVENPORT, JR., GARY MARTIN, MARJORIE DAVENPORT TRUST, LYNN DAVENPORT ESTATE, RACHEL & DAVID DAVENPORT, M & G FARMS, INC., ALAN FLINN, JUSTIN KING, GREG LEPPER, DON BEELEY, RUSSEL MAUL, MELVIN SCHOENEWEIS, PAUL & DEBBIE ARMSTRONG, DAVID STRAWN & DIANE HATCHER, JAMES B. SWAIN FARM TRUST, RICHARD & GARY SWAIN, ELINOR SWAIN, JIM & LOUISE ANGELO, ROBERT & FAY BROWN, NANCY & JASON MARR, DAVENPORT FAMILY FARMS, INC., RUTH & PHYLIS CHEESEMAN, MARY R. SMITH TRUST, JOHN W. WORKMAN TRUST, FRANCIS EDWARDS, ELIZABETH & SCOTT LONG, JAMES HAUGH, ROGER & EDWARD WARD, TAN FARMS, INC., DAVID & PATRICIA KIRCHER, KEITH KING, VIRGINIA KING, GARY BREHM, LUKE & RACHEL ARMSTRONG, ADAMS WEST II TRUST, DAN NEUMAN, NEUMAN FAMILY FARMS, LLC, PAUL & MICHELLE

MUELLER, MARY P. PERKINS, ESTATE OF THOMAS Y. PEARSON, DAVID & FRANCIS DAMBACHER (hereinafter referred to as the “MORGAN AND SANGAMON COUNTY LANDOWNERS AND TENANT FARMERS”), by their attorneys, Gates, Wise & Schlosser, P.C., pursuant to Section 200.800 of the Rules of Practice of the Illinois Commerce Commission (“the Commission”), 83 Ill.Admin.Code 200.800 and for their Initial Brief state as follows:

I. INTRODUCTION

On November 7, 2012, Ameren Transmission Company of Illinois (“ATXI”) filed a Petition with the Commission seeking a Certificate of Public Convenience and Necessity pursuant to Sections 8-406.1 and 8-503 of the Public Utilities Act, 220 ILCS 5/8-406, 8-502. ATXI is seeking authorization to construct, operate and maintain a 345 kilovolt (“kV”) electric transmission line, approximately 375 miles in length (the “Transmission Line”), and related facilities, including the construction or expansion of nine substations, in an area extending from the Mississippi River near Quincy, Illinois eastwards across the state to the Indiana State line, and including portions connecting the Sidney and Rising Substations and the Meredosia and Ipava Substations. As used throughout the testimony of the witnesses in this proceeding, such facilities, including substations, together with the Transmission Line, constitute the Illinois Rivers Project (the “Project”). *ATXI Ex. 1 at p. 3, l. 48-57*

Throughout the Commission proceedings, the Parties have referred to the various portions of the Transmission Line by the following designations: the Mississippi River - Quincy Segment; the Quincy - Meredosia Segment; the Meredosia - Ipava Segment; the Meredosia - Pawnee Segment; the Pawnee - Pana Segment; the Pana - Kansas Segment which has been further segregated into a

Pana - Mt. Zion Segment and a Mt. Zion - Kansas Segment; the Kansas - Indiana State Line Segment; and, the Sidney - Rising Segment.

The Morgan and Sangamon County Landowners and Tenant Farmers (“MSCLTF”) are owners of real estate in Morgan and Sangamon County, Illinois and/or tenant farmers of real estate in Morgan and Sangamon County, Illinois who will be affected by the location of the Transmission Line in the Meredosia - Pawnee Segment. *Stipulation Exhibit 1.*

On December 31, 2012, MSCLTF filed its Identification of Alternate Route, in which the group voiced opposition to ATXI’s proposed Primary Route for the Meredosia - Pawnee Segment, and instead stated a preference for ATXI’s proposed Alternate Route “as depicted in ATXI Petition Exhibit A (part 3 of 5) for that portion of the Project which runs from Meredosia, Illinois to Pawnee, Illinois.” *Stipulation Exhibit 1.* In an effort to resolve the concerns raised by MSCLTF, ATXI entered into a stipulation with MSCLTF in which the parties thereto agreed that ATXI will request Commission approval for ATXI’s proposed Alternate Route, as identified in Exhibit A attached to the stipulation, for that portion of the Project between Meredosia, Illinois and Pawnee, Illinois. *Stipulation Exhibit 1.* Said stipulation was admitted into the Record on May 14, 2013. *TR. 338.*

ATXI has also entered into a similar stipulation with another intervener, the FutureGen Industrial Alliance, Inc. (“FutureGen”) in which both ATXI and FutureGen both agreed to recommend ATXI’s Alternate Route as the route for the Meredosia - Pawnee Segment, as shown on ATXI Exhibit 13.1. *Stipulation Exhibit 2; ATXI Ex. 13.0 at page 30, line 641-646.* The stipulation between ATXI and FutureGen was admitted into the Record on May 14, 2013. *TR. 338.*

II. REQUIREMENTS FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

MSCLTF takes no position as to whether or not ATXI has met the requirements for a Certificate of Public Convenience and Necessity.

III. OVERALL NEED FOR THE PROPOSED FACILITIES

MSCLTF takes no position as to the overall need for the proposed facilities.

IV. LEAST-COST AND THE PROPOSED TRANSMISSION LINE ROUTES

A. Mississippi River - Quincy

MSCLTF takes no position as to the Recommended Route of the Transmission Line for the Mississippi River - Quincy Segment.

B. Quincy - Meredosia

MSCLTF takes no position as to the Recommended Route of the Transmission Line for the Quincy - Meredosia Segment.

C. Meredosia - Ipava

MSCLTF takes no position as to the Recommended Route of the Transmission Line for the Meredosia - Ipava Segment.

D. Meredosia - Pawnee

1. Length of the Line

Pursuant to the stipulations it entered into with MSCLTF and FutureGen, ATXI is recommending the route originally designated in its Petition as its "Alternate Route" as its Rebuttal

Recommended Route for the Meredosia to Pawnee Segment. This route is depicted on ATXI Exhibit 13.1. *See ATXI Exhibit 10.0C(2d Rev.) at page 30, line 634-646.* The length of the Rebuttal Recommended Route is 75.6 miles. *See ICC Staff Exhibit 1.0 at page 37, line 788.*

2. Difficulty and Cost of Construction

According to ATXI's comprehensive route siting analysis, the Rebuttal Recommended Route is a viable, cost effective route. *See ATXI Exhibit 10.0C(2d Rev.) at page 33, line 708-712.* Significantly, the Rebuttal Recommended Route has fewer dead-end structures than the proposed route which is designated in ATXI's Petition as "the Primary Route". *See ICC Staff Exhibit 1.0 at page 37, line 788.* The Cost of the Rebuttal Recommended Route has been estimated to be \$144,205.00. *See Intervener MSSCLPG Cross Exhibit 2.*

3. Difficulty and Cost of Operation and Maintenance

According to ATXI's comprehensive route siting analysis, the Rebuttal Recommended Route is a viable, cost effective route. *See ATXI Exhibit 10.0C(2d Rev.) at page 33, line 708-712.* It is assumed that ATXI considered the difficulty and cost of operating and maintaining a transmission line on the Rebuttal Recommended Route when determining the route to be viable and cost effective.

4. Environmental Impacts

According to ATXI's comprehensive route siting analysis, the Rebuttal Recommended Route best reduces the potential for environmental impacts. *See ATXI Exhibit 10.0C(2d Rev.) at page 33, line 708-712.*

Granted, the Morgan, Sangamon and Scott Counties Land Preservation Group ("MSSCLPG") asserts that placing the transmission line on the Rebuttal Recommended Route would present environmental concerns. *See e.g. MSSCLPG Ex. 1.0 at page 3, lines 53-54.* However, on cross-

examination, Paul Bergeschneider admitted that the MSSCLPG did not have any formal studies conducted which verified this claim. *TR. page 455, line 16 - page 456, line 12.* Mr. Bergeschneider further conceded that when viewed on an individual tract of land basis, the alleged environmental concerns would be present regardless of where the Transmission Line is located. *TR. page 457, lines 8-13.*

5. Impacts on Historical Resources

MSSCLPG contends that portions of the Rebuttal Recommended Route would impact historically significant land which has been the subject of documentation by the Illinois State Archeological Survey. *See e.g. MSSCLPG Ex. 1.0 at page 3, lines 56.*

Yet, the cross-examination testimony of Paul Bergeschneider suggests that the “historically significant land” is currently the site of an ongoing farming operation. *TR. page 457, line 22 - page 458, line 6.* Thus, it does not appear that any of the land along the Rebuttal Recommended Route possesses sufficient historical significance to warrant an attempt to preserve the land in its historical state.

Equally significant is the MSSCLPG’s failure to introduce the alleged documentation of the land by the Illinois State Archeological Survey. As a result, the nature of the alleged “documentation” is unknown. MSCLTF respectfully urges the Commission to refrain from simply assuming that the Illinois State Archeological Survey has prepared documentation which designates any of the land on the Rebuttal Recommended Route as having unique historical significance.

Finally, the Corrected Second Revised Rebuttal Testimony of Donnell Murphy indicates that

“ATXI will continue to work with the Illinois State Historic Preservation Agency (‘IHPA’), conduct any field studies and comply with all applicable regulations in advance of construction. Further... the placement of poles along a route will take into

account any known resources. Where the potential for impact to archeological resources cannot be spanned or avoided, ATXI will implement appropriate mitigation measures as identified in conjunction with IHPA.”

See ATXI Exhibit 10.0C(2d Rev.) at page 36, line 754-763.

Thus, to the extent that there are any historically significant sites located along the Rebuttal Recommended Route, ATXI will take such actions as may be appropriate to mitigate the Transmission Line’s impact upon said sites.

6. Social and Land Use Impacts

The testimony of Kenneth K. Humphreys of the FutureGen Industrial Alliance, Inc. (“FutureGen”), establishes that the placement of the Transmission Line along the Primary Route would negatively impact the development and operation of the FutureGen CO2 pipeline and storage facility. In addition to the potential for conflicts arising from overlapping construction schedules and increased community resistance from multiple public works projects impacting the same landowners (such as the landowners and tenant farmers who comprise the MSCLTF group), the placement of the Transmission Line on the Primary Route would negatively impact FutureGen’s subsurface monitoring technologies. *FutureGen Exhibit 1.0, page 2, line 8-17.* The only way to adequately prevent the potential disruption to and interference with subsurface monitoring technologies at the FutureGen 2.0 Project’s Storage Facility is to avoid locating the Transmission Line near FutureGen’s CO2 Pipeline and Storage Facility. *Exhibit 1.0, page 3, line 18- page 5, line 1.* In other words, the only way to avoid the dual impacts upon affected landowners and avoid interference with the FutureGen Project is to locate the Transmission Line on a route other than the Primary Route.

Admittedly, MSSCLPG contends that the placement of the Transmission Line on the Rebuttal Recommended Route would compromise the integrity and viability of the land located upon

the Rebuttal Recommended Route. *See e.g. MSSCLPG Ex. 1.0 at page 3, lines 51.* But, Paul Bergeschnieder conceded during cross-examination that MSSCLPG has no formal studies which support this contention. *TR. page 452, lines 6-18*

MSSCLPG also claims that the placement of the Transmission Line on the Rebuttal Recommended Route would negatively impact and interfere with the farming operations located on that route. *See e.g. MSSCLPG Ex. 1.0 at page 4, lines 69-91.* Yet, MSSCLPG concedes that it can present no study which corroborates this contention. *TR. page 452, line 19 - page 453, line 16.* Moreover, the cross-examination testimony of Paul Bergeschneider establishes that those alleged impacts would be equally felt by farmers on the Primary Route should the Transmission Line be placed upon that proposed right of way. *TR. page 453, line 17 - page 454, line 4; page 461, line 6 - page 464, line 22.*

The testimony of ATXI witness Donnell Murphy best sums up the concerns of the MSSCLPG interveners:

“The concerns raised by MSSCLPG will occur with equal frequency regardless of the route approved. Alteration of this route to accommodate concerns raised by MSSCLPG will merely shift the impact of these burdens to other landowners; it will not eliminate the impact.”

See ATXI Exhibit 10.0C(2d Rev.) at page 35, line 737-739.

7. Number of Affected Land Owners and Other Stake Holders

Approximately 302 landowners would be affected by the placement of the Transmission Line upon the Rebuttal Recommended Route for the Meredosia to Pawnee Segment. *ATXI Petition Exhibit C, pages 41-46.*

8. Proximity to Existing and Planned Development

Approximately 1.3 acres of developed land devoted to a high intensity use would be located within 500 feet of the Rebuttal Recommended Route. This equates to approximately 0.0% of the overall Rebuttal Recommended Route. *ATXI Exhibit 4.5, page 1 of 4.*

Approximately 18.2 acres of developed land devoted to a medium intensity use would be located within 500 feet of the Rebuttal Recommended Route. This equates to approximately 0.4% of the overall Rebuttal Recommended Route. *ATXI Exhibit 4.5, page 1 of 4.*

Approximately 167.4 acres of developed land devoted to a high intensity use would be located within 500 feet of the Rebuttal Recommended Route. This equates to approximately 3.6% of the overall Rebuttal Recommended Route. *ATXI Exhibit 4.5, page 1 of 4.*

9. Community Acceptance

The MSCLTF and FutureGen interveners each support the Rebuttal Recommended Route. *See Stipulation Exhibit 1, Stipulation Exhibit 2, ATXI Exhibit 10.0C(2d Rev.) at page 34, line 713-716.* The Rebuttal Recommended Route a/k/a ATXI's Alternate Route has also received support from the Pearce Family, who have expressed support for ATXI's Alternate Route as their first preference for the Meredosia to Pawnee Segment. *See ATXI Exhibit 10.0C(2d Rev.) at page 34, line 716-719.* The Rebuttal Recommended Route would also avoid property owned by Interveners Ms. Splain and Mr. Cody. Although these Interveners did not file Direct Testimony, it is assumed that they would support a route that does not affect their property. *See ATXI Exhibit 10.0C(2d Rev.) at page 34, line 719-721.* The Rebuttal Recommended Route addresses the concerns of multiple Interveners along the Primary Route. *See ATXI Exhibit 10.0C(2d Rev.) at page 36, line 771-772.*

10. Visual Impact

MSCLTF assumes that there would be no significant difference in visual impact regardless

of the route chosen by the Commission.

11. Presence of Existing Corridors

There is presently an existing 138 kV transmission line which runs from Meredosia, Illinois to Pawnee, Illinois as depicted in ATXI Petition Exhibit A (part 3 of 5).

F. Pawnee - Pana Segment

MSCLTF takes no position as to the Recommended Route of the Transmission Line for the Pawnee - Pana Segment.

G. Pana - Kansas Segment

MSCLTF takes no position as to the Recommended Route of the Transmission Line for the Pana - Kansas Segment.

1. Pana - Mt. Zion

MSCLTF takes no position as to the Recommended Route of the Transmission Line for the Pana - Mt. Zion Segment.

2. Mt. Zion - Kansas

MSCLTF takes no position as to the Recommended Route of the Transmission Line for the Mt. Zion - Kansas Segment.

H. Kansas - Indiana State Line

MSCLTF takes no position as to the Recommended Route of the Transmission Line for the Kansas - Indiana State Line Segment.

I. Sidney - Rising

MSCLTF takes no position as to the Recommended Route of the Transmission Line for the Sidney to Rising Segment.

V. MANAGING AND SUPERVISING THE CONSTRUCTION PROCESS

MSCLTF takes no position as to ATXI's ability to supervise and manage the construction process. However, MSCLTF does note the construction process may be made more difficult if the Transmission Line is placed upon the Primary Route do to the possibility of the FutureGen pipeline being simultaneously constructed along the same route.

VI. FINANCING THE PROPOSED CONSTRUCTION

MSCLTF takes no position as to ATXI's ability to finance the proposed construction.

VII. OTHER/CONCLUSION

MSCLTF has joined with ATXI and FutureGen in supporting ATXI's Rebuttal Recommended Route. As previously noted, the Rebuttal Recommended Route addresses the concerns of multiple interveners. Most notably, it avoids the potential for landowners along the Primary Route being doubly burdened by the construction of the Transmission Line and FutureGen's CO2 pipeline and storage facility. The selection of the Rebuttal Recommended Route advances the Commission's policy of encouraging parties in proceedings such as the instant matter from resolving their concerns in a mutually agreeable manner.

WHEREFORE, for the reasons set forth above, the MORGAN AND SANGAMON COUNTY LANDOWNERS AND TENANT FARMERS respectfully request that the Illinois Commerce Commission selected ATXI's Rebuttal Recommended Route as the route to be used for

the Meredosia to Pawnee Segment of the Illinois Rivers Project.

DATED this 3rd day of June, 2013.

By: Bradley B. Wilson
Bradley B. Wilson (#6238373)
Gates, Wise & Schlosser, P.C.
1231 South Eighth Street
Springfield, Illinois 62703
Telephone: (217) 522.9010
Facsimile: (217) 522.9020
Email: brad@gwspc.com

PROOF OF SERVICE

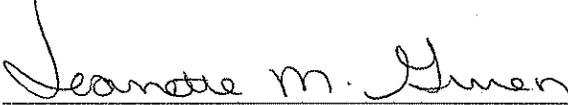
STATE OF ILLINOIS)
) SS
COUNTY OF SANGAMON)

I, Bradley B. Wilson, BEING AN ATTORNEY ADMITTED TO PRACTICE IN THE State of Illinois and one of the attorneys for , hereinwith certify that I did on the 3rd day of June, 2013, electronically file with the Illinois Commerce Commission, a on behalf of ANDY DAVENPORT, JR., GARY MARTIN, MARJORIE DAVENPORT TRUST, LYNN DAVENPORT ESTATE, RACHEL & DAVID DAVENPORT, M & G FARMS, INC., ALAN FLINN, JUSTIN KING, GREG LEPPER, DON BEELEY, RUSSEL MAUL, MELVIN SCHOENEWEIS, PAUL & DEBBIE ARMSTRONG, DAVID STRAWN & DIANE HATCHER, JAMES B. SWAIN FARM TRUST, RICHARD & GARY SWAIN, ELINOR SWAIN, JIM & LOUISE ANGELO, ROBERT & FAY BROWN, NANCY & JASON MARR, DAVENPORT FAMILY FARMS, INC., RUTH & PHYLIS CHEESEMAN, MARY R. SMITH TRUST, JOHN W. WORKMAN TRUST, FRANCIS EDWARDS, ELIZABETH & SCOTT LONG, JAMES HAUGH, ROGER & EDWARD WARD, TAN FARMS, INC., DAVID & PATRICIA KIRCHER, KEITH KING, VIRGINIA KING, GARY BREHM, LUKE & RACHEL ARMSTRONG, ADAMS WEST II TRUST, DAN NEUMAN, NEUMAN FAMILY FARMS, LLC, PAUL & MICHELLE MUELLER, MARY P. PERKINS, ESTATE OF THOMAS Y. PEARSON, DAVID & FRANCIS DAMBACHER as the “MORGAN AND SANGAMON COUNTY LANDOWNERS AND TENANT FARMERS”, and electronically served the same upon the persons identified on the Commission’s official service list.

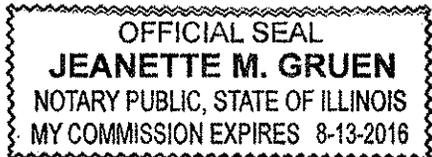


Bradley B. Wilson (#6238373)
Gates, Wise & Schlosser, P.C.
1231 South Eighth Street
Springfield, Illinois 62703
Telephone: (217) 522.9010
Facsimile: (217) 522.9020
Email: Brad@gwspc.com

SUBSCRIBED AND SWORN TO before me, a Notary Public, on this 3rd day of June, 2013



NOTARY PUBLIC



STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

Ameren Transmission Company of Illinois)
)
Petition for 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) No. 12-0598
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.)

NOTICE OF FILING

To: Commission's Service List of Docket 12-0598

PLEASE TAKE NOTICE that on May 9, 2013, I have filed with Chief Clerk of the Illinois Commerce Commission the following:

1. Morgan and Sangamon County Landowners and Tenant Farmers' Initial Brief of Morgan and Sangamon County Landowners and Tenant Farmers.

Respectfully submitted,



Bradley B. Wilson

Bradley B. Wilson (6238373)
Gates, Wise & Schlosser, P.C.
1231 S. Eighth Street
Springfield, IL 62703
217/522-9010

CERTIFICATE OF SERVICE

I, Bradley B. Wilson, certify that I served this Notice of Filing, and its accompanying MORGAN AND SANGAMON COUNTY LANDOWNERS AND TENANT FARMERS Supplemental Answers To Ameren's Data Requests, to each person on the attached service list, as indicated, on June 3, 2013, by electronic mail or in an envelope with proper postage affixed thereto, securely sealed and deposited in a United States Post Office Mailbox at Springfield, Illinois.



Bradley B. Wilson (#6238373)
Gates, Wise & Schlosser, P.C.
1231 S. Eighth Street
Springfield, IL 62703
217/522-9010
Email: Brad@gwspc.com