

**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 Act, to Construct, Operate and Maintain a)
New High Voltage Electric Service Line and Related) Docket No. 12-0598
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.)

**BRIEF IN SUPPORT OF STIPULATION ENTERED INTO BY AMEREN
TRANSMISSION COMPANY OF ILLINOIS AND N. KOHL GROCER COMPANY**

Now Comes N. KOHL GROCER COMPANY (“N. Kohl Grocer”), by and through its attorneys, and submits the following as its Brief In Support of the Stipulation Entered Into By Ameren Transmission Company of Illinois (“ATXI”) and N. Kohl Grocer, and in support thereof states as follows:

I. INTRODUCTION

1. On November 7, 2012, ATXI filed a petition with the Illinois Commerce Commission (the “Commission”) seeking issuance of 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 (the “Project”) in the Counties of Adams, Brown, Cass, Champaign, Christian, Clark, Coles, Edgar, Fulton, Macon, Montgomery, Morgan, Moultrie, Pike, Sangamon, Schuyler, Scott and Shelby, Illinois (the “Petition”). As part of its Petition, ATXI proposed a Primary Route (the “ATXI Primary Route”) and an Alternative Route (the

“ATXI Alternative Route”) for each section of the Project, including the portion of the Project between the Mississippi River and the substation in southeast Quincy, Illinois.

2. As described in its various filings in this docket, N. Kohl Grocer provides wholesale grocery distribution services to restaurants, hotels, supermarkets, schools, hospitals, nursing homes, retail groceries, caterers, taverns, and many other businesses throughout Iowa, Missouri, Illinois, and Indiana. It is a family-owned business that has been located in Quincy, Illinois since its founding in 1873. N. Kohl Grocer owns two parcels of real estate located at 4611 Gardner Expressway, just south of Quincy, Illinois, that would be bisected by the ATXI Primary Route, as well as three residential building lots that would also be impacted. N. Kohl Grocer is currently in the process of developing the two non-residential parcels as a new truck maintenance facility and a cutting edge warehouse utilizing advanced wireless order selection technology. To date, N. Kohl Grocer has invested significant capital preparing the property for that purpose. As a result of the ATXI Primary Route’s impacts on these parcels, N. Kohl Grocer opposes the portion of the ATXI Primary Route from the Mississippi River to the substation in southeast Quincy, Illinois.

3. On December 20, 2012, the Administrative Law Judges granted N. Kohl Grocer’s Petition to Intervene in this docket. On December 28, 2012, N. Kohl Grocer submitted its Alternate Route Proposal, which was revised by an Errata filed on January 24, 2013. Additionally, on March 29, 2013, Richard M. Ehrhart, Treasurer for N. Kohl Grocer, submitted Direct Testimony on behalf of N. Kohl Grocer in support of its Alternate Route Proposal.

4. Pursuant to an agreement entered into by ATXI and N. Kohl Grocer (the “Stipulation”), attached as Stipulation Exhibit 4 to that Motion to File and Admit a Stipulation Between Ameren Transmission Company of Illinois and N. Kohl Grocer Company filed on April

22, 2013 (the “Stipulation Motion”), N. Kohl Grocer supports and recommends the Commission’s approval of the ATXI Alternate Route for the portion of the Project between the Mississippi River and the southeast Quincy substation, as modified in that Stipulation to include Matt Holtmeyer Construction, Inc.’s “second alternative route” proposal filed in this Docket on March 1st, 2013 (the “Stipulated Route”). In addition, pursuant to the Stipulation, N. Kohl Grocer notes that there is support in the record for adoption of the Stipulated Route. Additionally, pursuant to the Stipulation, N. Kohl Grocer agrees that it will support the issuance of a final order by the Commission in this proceeding that grants ATXI’s Petition.

5. However, as set forth in the Stipulation Motion, the Stipulation “is expressly conditioned on the Commission’s issuance of an Order approving the Stipulated Route – River to Quincy in its entirety and without material alteration.”¹ Thus, in the event that the Commission denies the Stipulation Motion, N. Kohl Grocer would ask that Commission to take into consideration its Alternate Route Proposal and Direct Testimony.

II. REQUIREMENTS FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

6. Pursuant to Section 8.406.1 of the Illinois Public Utilities Act (“Act”), 220 ILCS 5/8-406.1(f), the Act requires the Commission to grant a Certificate of Public Convenience and Necessity, if, based upon the application filed with the Commission and the evidentiary record, it finds the Project will promote the public convenience and necessity and that all of the following criteria are satisfied:

- (1) That the Project is necessary to provide adequate, reliable, and efficient service to the public utility's customers and is the least-cost means of satisfying the service needs of the public utility's customers or that the Project will promote the development of an effectively competitive electricity market that operates efficiently, is equitable to all customers, and is the least cost means of satisfying those objectives.

¹ Stipulation Exhibit 4, ¶12.

- (2) That the public utility is capable of efficiently managing and supervising the construction process and has taken sufficient action to ensure adequate and efficient construction and supervision of the construction.
- (3) That the public utility is capable of financing the proposed construction without significant adverse financial consequences for the utility or its customers.

7. In the event that the Commission grants the Stipulation Motion and approves the Stipulation, N. Kohl Grocer believes that ATXI has met the above obligations and submitted sufficient evidence to the Commission justifying the issuance of a Certificate of Public Convenience and Necessity.

III. OVERALL NEED FOR THE PROPOSED FACILITIES

8. As set forth above, contingent upon the Commission's approval of the Stipulation Motion and Stipulation, N. Kohl Grocer supports ATXI's efforts to obtain a Certificate of Public Convenience and Necessity and believes that there is sufficient overall need for the Project to justify its construction.

IV. LEAST-COST AND THE PROPOSED TRANSMISSION LINE ROUTES

A. Mississippi River – Quincy

1. *Length of the Line*

9. As described in the Direct Testimony of Richard Ehrhart filed on March 29, 2013 (the "Ehrhart Testimony"), N. Kohl Grocer supports the Stipulated Route,² and believes that it provides length that is substantially the same as the ATXI Primary Route.³

² As a point of clarification, at the time that Richard M. Ehrhart filed his Direct Testimony, a settlement had not been reached between N. Kohl Grocer and ATXI. However, Mr. Ehrhart did address the possibility of adopting the ATXI Alternative Route and the Holtmeyer modification thereto, which together make up the Stipulated Route.

³ Ehrhart Testimony, p. 13.

2. *Difficulty and Cost of Construction*

10. As described in the Ehrhart Testimony, N. Kohl Grocer believes that the Stipulated Route will be less expensive and less difficult to construct than ATXI's Primary Route, as it eliminates several ninety-degree turns.⁴

3. *Difficult and Cost of Operation and Maintenance*

11. As described in the Ehrhart Testimony, N. Kohl Grocer believes that the Stipulated Route will be less difficult to construct, operate, and maintain than ATXI's Primary Route, as should minimize the amount of vegetation management and tree trimming required.⁵

4. *Environmental Impacts*

12. By minimizing the length of route, N. Kohl Grocer believes that the Stipulated will create less of an environmental impact than the ATXI Primary Route.

5. *Impacts on Historical Resources*

13. N. Kohl Grocer is not aware of any historical resources that would be impacted by the portion of the Project between the Mississippi River and the southeast Quincy substation.

6. *Social and Land Use Impacts*

14. As described in the Ehrhart Testimony, N. Kohl Grocer believes that the Stipulated Route will prevent interference with two new developments in the Quincy area, and thereby will avoid causing severe economic harm to the region.⁶

7. *Number of Affected Landowners and other Stakeholders and Proximity*

15. As described in the Ehrhart Testimony, N. Kohl Grocer believes that the Stipulated Route will prevent interference with two new developments in the Quincy area, and thereby will minimize the impact on landowners and other stakeholders.⁷

⁴ Ehrhart Testimony, p. 12-13.

⁵ Ehrhart Testimony, p. 12.

⁶ Ehrhart Testimony, p. 12-13.

8. *Proximity to Existing and Planned Development*

16. N. Kohl Grocer restates its answers to Sections IV.A.6 and IV.A.7 above.

9. *Community Acceptance*

17. As described in the Ehrhart Testimony, numerous governmental and community organizations including the County Board of Adams County, the Quincy City Council, the Great River Economic Development Foundation, and the Mill Creek Water District opposed the construction of the ATXI Primary Route due to its potential impact on an economic development area known as the South Quincy Development District.⁸ N. Kohl Grocer contends that the Stipulated Route will minimize these impacts.

10. *Visual Impact*

18. N. Kohl Grocer takes no position regarding the visual impacts of the Project.

11. *Presence of Existing Corridors*

19. As set forth in the Holtmeyer Construction Alternate Route Proposal, the Stipulated Route follows an existing transmission line route recorded in the offices of the Adams County Recorder of Deeds in Volume 11 of Right of Ways at page 440.⁹

B. Quincy - Meredosia

20. N. Kohl Grocer takes no position regarding the portion of the Project extending from Quincy to Meredosia.

C. Meredosia – Ipava

21. N. Kohl Grocer takes no position regarding the portion of the Project extending from Meredosia to Ipava.

⁷ Ehrhart Testimony, p. 12-13.

⁸ See Ehrhart Testimony, Exs. B, C, D, & F.

⁹ Holtmeyer Alternate Route Proposal, § 6.

D. Meredosia – Pawnee

22. N. Kohl Grocer takes no position regarding the portion of the Project extending from Meredosia to Pawnee.

E. Pawnee – Pana

23. N. Kohl Grocer takes no position regarding the portion of the Project extending from Pawnee to Pana.

F. Pana – Kansas

24. N. Kohl Grocer takes no position regarding the portion of the Project extending from Pana to Kansas.

G. Kansas – Indiana State Line

25. N. Kohl Grocer takes no position regarding the portion of the Project extending from Kansas to the Indiana state line.

H. Sidney – Rising

26. N. Kohl Grocer takes no position regarding the portion of the Project extending from Sidney to Rising.

V. MANAGING AND SUPERVISING THE CONSTRUCTION PROCESS

27. As set forth above, contingent upon the Commission's approval of the Stipulation Motion and Stipulation, N. Kohl Grocer supports ATXI's efforts to obtain a Certificate of Public Convenience and Necessity and believes that there sufficient evidence has been presented by ATXI concerning the management and supervision of the construction process to warrant Commission approval of the Project.

VI. FINANCING THE PROPOSED CONSTRUCTION

28. As set forth above, contingent upon the Commission's approval of the Stipulation Motion and Stipulation, N. Kohl Grocer believes sufficient evidence has been presented by ATXI concerning the financing of the proposed construction to warrant Commission approval of the Project.

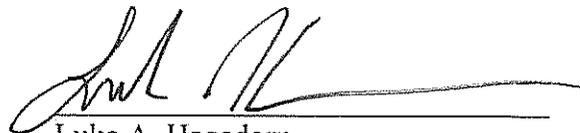
VII. OTHER

29. N. Kohl Grocer takes no position regarding any other issues related to the Project.

WHEREFORE, for the above reasons, N. Kohl Grocer submits this Brief In Support of Stipulation Entered Into By Ameren Transmission Company of Illinois and N. Kohl Grocer Company.

Respectfully Submitted,

N. KOHL GROCER COMPANY

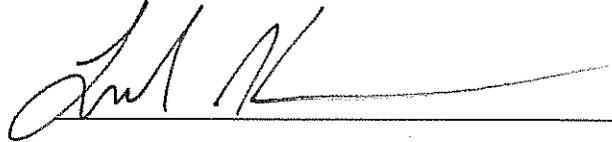
A handwritten signature in black ink, appearing to read 'Luke A. Hagedorn', is written over a horizontal line.

Luke A. Hagedorn
One of Its Attorneys

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VERIFICATION

I, Luke A. Hagedorn, certify that: i.) I am an attorney for N. Kohl Grocer Company; ii) I have read the foregoing Brief; iii) I am familiar with the facts stated therein; and iv) the facts are true to the best of my knowledge, information and belief.



Luke A. Hagedorn

STATE OF KANSAS)
) SS:
COUNTY OF JOHNSON)

SUBSCRIBED AND SWORN to before me this 24th day of May, 2013



Notary Public

My Commission expires _____

ANN-MARIE OTTLEY Notary Public - State of Kansas
My Appt. Expires <u>6-26-13</u>