

**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

**INITIAL BRIEF OF STOP THE POWER LINES COALITION, JDL BROADCASTING,
INC., TARBLE LIMESTONE ENTERPRISES, COLES COUNTY LANDOWNERS,
REED INTERESTS AND COLES AND MOULTRIE COUNTY LAND INTERESTS**

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INC., TARBLE LIMESTONE ENTERPRISES, COLES COUNTY LANDOWNERS AND
REED INTERESTS**

Stop the Power Lines Coalition, JDL Broadcasting, Inc., Tarble Limestone Enterprises and Coles County Landowners submit this initial brief in support of their respective positions concerning the location of the proposed 345 kV transmission line of Ameren Transmission Company of Illinois (“ATXI”) on the segments of the proposed line between the Pana and Kansas substation (assuming no Mt. Zion substation is required), between the Mt. Zion and Kansas substations, and between the Kansas substation and Indiana state line.

I. INTRODUCTION

Members of Tarble Limestone Enterprises (“Tarble”), the Coles County Landowners (“CCL”), and the Reed Interests (“Reed”) own property in Coles County that lies in the path of the original Primary Route for the segment of ATXI’s proposed 345 kV transmission line between the Mt. Zion and Kansas substations. Tarble, CCL and Reed all support the location of the proposed transmission line in the segment between the Mt. Zion and Kansas substations either on the Moultrie County Property Owner’s (“MCPO”) route alternative MCPO P-MZK,

Stop the Power Lines Coalition’s Initial Post-Hearing Brief

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which is the Stipulated Route identified in Stipulation 7 executed and filed by ATXI and MCPO (“ATXI-MCPO Stipulated Route”), or on the original ATXI Alternate Route, identified as ATXI’s Rebuttal Recommended Route between the Mt. Zion and Kansas substations in ATXI’s rebuttal testimony. *See, e.g.*, Stipulation 7 (filed May 10, 2013) and ATXI Ex. 13.1 (Rev.) (Page 7 of 9). Tarble, CCL and Reed are all opposed with a very minor exception to use of the original ATXI Primary Route in this segment, which no party to this proceeding supports, and to any other route that would utilize the original ATXI Primary Route in this segment.¹ The only proposed route that would utilize that part of the original Primary Route for this segment is MCPO’s alternative route from the Pana substation to the Mt. Zion substation, which MCPO no longer supports.

JDL Broadcasting, Inc. (“JDL”), Stop the Power Lines Coalition (“STPL”) and Tarble all own property located on the original Primary Route in the segment between the Kansas substation and the Indiana State line. These parties have all entered into a stipulation with ATXI to support ATXI’s original Alternative Route for this segment, which ATXI identified in its rebuttal testimony as ATXI’s Rebuttal Recommended Route (“Kansas to State Line Stipulated Route”). *See, e.g.*, Stipulation 5 (filed May 1, 2013); ATXI Ex. 13.1 (Rev.) (Page 8 of 9).

While no party to this proceeding currently supports ATXI’s original Primary Route for the Kansas substation to the Indiana state line segment of the project, ATXI contends the Primary Route for this segment is still “viable.” Ex. 13.0 at 13:265. JDL, STPL and Tarble all believe that the Primary Route for this segment is not viable because ATXI does not have lawful authority to use federal floodplain easement property that lies in the path of the Primary Route,

¹ The ATXI-MCPO Stipulated Route is parallel to ATXI’s original Primary Route for approximately one mile immediately east of the Mt. Zion substation. Tarble, Reed and CCL have no objection to the proposed use of the Primary Route for this short segment.

and ATXI failed to provide or serve notice of this proceeding either on the United States Government or all landowners affected by the crude modified route that ATXI developed to go around the federal floodplain easement area. *See* STPL Ex. 1.0 at 9:158 to 11:221. (Direct Testimony of Perry D. Baird identifying the federal floodplain easement area and explaining why it cannot be utilized to construct the project); STPL Ex. 1.14, 1.15, 1.16, 1.17 and 12.0 (identifying the location of the federal floodplain easement area and its location on the Primary Route); STPL Ex. 1.18 (certified copy of the warranty deed reflecting the creation of the federal floodplain easement); STPL Ex. 15.0 (NRCS Conservation Programs Manual Circular No. 7, Part 514, Infrastructure Policy on Easements, stating in bold type that federal floodplain easements must be avoided “because the agency has no authority...to modify their terms.”); STPL Cross Ex. 8, 9 and 18 (NRCS’ public comments and certified letter stating that the federal floodplain easement may not be used for ATXI project); ATXI Ex. 13.10 (ATXI’s Modified Route); STPL Cross Ex. 4 (reflecting that ATXI only identified Thomas Hutchings as a landowner on the Modified Route); Ex. C to ATXI Petition (reflecting that only Thomas Hutchings was identified as an affected landowner to be served with notice of this proceeding); STPL Ex. 16.0 (Clark County property tax card reflecting multiple owners of the Hutchings property); STPL Ex. 11.0 (Clark County warranty deed reflecting ten owners of the Hutchings property); 5/17/13 Hearing Tr. at 908:5 to 909:5 (D. Murphy testimony acknowledging that under Commission’s rules Deborah Hutchings should have been served with notice of this proceeding);

The following is an overview of the testimony and exhibits admitted into evidence for STPL, JDL, Tarble, CCL, and Reed.

Stop the Power Lines Coalition

STPL filed its original Verified Petition to Intervene in this matter on December 21, 2012. The Petition was granted on December 31, 2012. STPL filed an Amended Petition to Intervene and Second Amended Petition to Intervene requesting to add more intervening landowners to STPL on January 14, 2013 and February 21, 2013, respectively. The Amended Petition was granted on January 25, 2013, and the Second Amended Petition was granted on March 8, 2013.

STPL filed Direct Testimonies of Laura Te Grotenhuis, STPL Exhibit 2.0 with attached STPL Exhibits 2.1 and 2.2, and Margaret Sue Amacher Snedeker, STPL Exhibit 5.0 with attached Exhibits STPL 5.1 through 5.6, on March 28, 2103. Their affidavits verifying their testimony were filed on May 15 and May 8. Laura Te Grotenhuis' Direct Testimony, Exhibits and Affidavit were admitted into evidence on May 15, 2013. 5/15/13 Tr. at 625:3-8. Margaret Sue Amacher Snedeker's Direct Testimony, Exhibits and Affidavit were admitted into evidence on May 14, 2013. 5/14/13 Tr. at 487:16-21. The Direct Testimonies of Perry D. Baird, STPL Exhibit 1.0 with attached STPL Exhibits 1.1 through 1.29, Peggy Dix Mills, STPL Exhibit 3.0 with attached STPL Exhibit 3.1, and David W. Bush, STPL Exhibit 4.0 with attached STPL Exhibits 4.1 and 4.2 were filed on March 29, 2013. Affidavits verifying their testimony were filed on May 17, 13 and 8, respectively. Perry D. Baird's Direct Testimony, Exhibits and Affidavit were admitted into evidence on May 17, 2013. 5/17/13 Tr. at 1032:20-22. Peggy Dix Mills' Direct Testimony, Exhibits and Affidavit and David W. Bush's Direct Testimony, Exhibits and Affidavit were admitted into evidence on May 14, 2013. 5/14/13 Tr. at 485:21-22, 486:1-4 and 18-22 and 487:1.

STPL Cross Exhibit 1 was admitted into evidence on May 14, 2013, 5/14/13 Tr. at 396:10-12, and STPL Cross Exhibits 2, 4, 5, 8, 9 and 18 were admitted into evidence on May 16, 2013. 5/16/13 Tr. 922:1-4, 923:1-2, 11-13, 17-19 and 924:4-8.

JDL Broadcasting, Inc.

JDL filed its Petition to Intervene on December 17, 2012. It was granted on December 31, 2012.

JDL filed Direct Testimonies of Lori Spangler, JDL Exhibit 1.0 with attached JDL Exhibits 1.1 through 1.6, and Charles E. Ellis, JDL Exhibit 2.0 with attached JDL Exhibits 2.1 and 2.2, on March 28, 2013. JDL's Affidavits of Lori Spangler and Charles E. Ellis verifying their testimony were filed on May 8, 2013. and Lori Spangler's and Charles E. Ellis' Direct Testimonies, Exhibits and Affidavits were admitted into evidence on May 14, 2013. 5/14/13 Tr. 481:2-7, 19-20 and 482:1-4.

Tarble Limestone Enterprises

Tarble filed its Petition to Intervene on December 10, 2012. The Petition was granted on December 20, 2012.

Tarble's Direct Testimony of Jerald M. Tarble, Tarble Exhibit 1.0 with attached Tarble Exhibits 1.1 and 1.2, was filed on March 29, 2013. Jerald M. Tarble's Affidavit verifying his testimony was filed on May 8, 2013. Jerald M. Tarble's Direct Testimony, Exhibits and Affidavit were admitted into evidence on May 14, 2013. 5/14/13 Tr. at 484:10-15.

Coles County Landowners

CCL filed its Petition to Intervene on February 19, 2013. The petition was granted on March 8, 2013.

CCL's Direct Testimonies of Mike Popham, CCL Exhibit 1.0, Ron Popham, CCL Exhibit 2.0 with attached CCL Exhibit 2.1 and Scott R. Weber, CCL Exhibit 3.0 with attached CCL Exhibits 3.1 and 3.2 were filed on March 28, 2013. Mike Popham's and Ron Popham's Affidavits verifying their testimony were filed on May 10, 2013. Scott R. Weber's Affidavit verifying his testimony was filed on May 13, 2013. The Direct Testimonies of Mike Popham, Ron Popham with Exhibits and Scott R. Weber with Exhibits and their related Affidavits were admitted into evidence on May 14, 2013. 5/14/13 Tr. at 478:18-22, 479:10-15, 480:5-10.

Coles and Moultrie County Land Interests

The Coles and Moultrie County Land Interests ("CMCLI") filed its Petition to Intervene on March 4, 2013. The Petition was granted on March 14, 2013.

CMCLI's Direct Testimony of Bruce Daily, CMCLI Exhibit 1.0, was filed on March 29, 2013. Bruce Daily's Affidavit verifying his testimony was filed on May 10, 2013. Bruce Daily's Direct Testimony and Affidavit were admitted into evidence on May 14, 2013. 5/14/13 Tr. at 483:12-16.

Reed Interests

Reed filed its Petition to Intervene on February 8, 2013. The Petition was granted on March 14, 2013.

Reed's Direct Testimony of John Richard Reed, Reed Exhibit 1.0 and attached Reed Exhibit 1.1 was filed on March 28, 2013. John Richard Reed's Affidavit verifying his testimony was filed on May 10, 2013. John Richard Reed's Direct Testimony, Exhibit and Affidavit were admitted into evidence on May 14, 2013. 5/14/13 Tr. 482:717-22.

II. REQUIREMENTS FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

The applicable statutory criteria governing whether the Illinois Commerce Commission (“Commission”) should grant a certificate of public convenience and necessity at the conclusion of this proceeding are set forth in Section 8-406.1(f) of the Public Utilities Act, 220 ILCS 5/8-406.1(f). Section 8-406.1(f) provides that the Commission should grant the requested certificate of public convenience and necessity if:

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.
- (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.

The Intervenors’ positions in this memorandum address issues concerning whether certain routes do or do not satisfy the statutory criteria requiring proof that a particular route will promote the public convenience and necessity, is equitable to all customers, and is the least cost means of satisfying the other statutory criteria.

* * * * *

IV. LEAST-COST AND THE PROPOSED TRANSMISSION LINE ROUTES

* * * * *

F. Pana-Kansas

1. Need for Mt. Zion Substation

The Stipulation 7 between ATXI and MCPO stated in relevant part that the parties stipulated to the following with respect to the propriety and need for the Mt. Zion substation:

(i) A substation at Mt. Zion as proposed by ATXI will deliver the full benefits of the Project; (ii) that the geographic location from the Mt. Zion substation proposed by ATXI is appropriate assuming the substation is built; (iii) that ATXI's Rebuttal Recommended Route from Pana to Mt. Zion (ATXI's Primary Route) is supported by the record; and (iv) that MCPO's Potential Route 1 from Mt. Zion, Illinois to Kansas, Illinois, is also supported by the record, and that therefore MCPO's route alternative MCPO-P-MZK from Pana to Mt. Zion to Kansas (MCPO Ex. 1.0, p. 8) (Stipulated route) is the preferred route combination.

Tarble, Reed and CCL all agree with and support the findings and conclusions reflected in the ATXI-MCPO Stipulation 7. Furthermore, Tarble, Reed and CCL all believe that ATXI witness Dennis Kramer submitted compelling analysis in his revised rebuttal testimony to support both the need for and location of ATXI's proposed Mt. Zion substation if the Project is to be approved. ATXI Ex. 11.0 (Rev.) at 4:74 to 26:560. As ATXI and MISO can be expected to discuss these issues at length in their briefs, they will not be further addressed here.

2. Location of the Mt. Zion Substation

As noted above, this issue was addressed in ATXI witness Dennis Kramer's revised rebuttal testimony and presumably will be addressed at length in ATXI's and MISO's initial briefs.

3. Route Location

a. Pana-Kansas (if Mt. Zion substation deemed unnecessary)

Based on the rebuttal and hearing testimony, it would appear that no party supports this proposed route.

i. Length of the Line

MCPO originally proposed an alternative route to run from Pana to the Kansas substations, with the eastern part of the route proposed for construction on ATXI's original Primary Route. For simplicity's sake, this version of MCPO's multiple alternate routes will be called MCPO Alternate Route PK as designated by ATXI. *See, e.g.*, ATXI 13.7 (Page 1 of 13). As reflected in Stipulation 7, MCPO no longer supports this route. Furthermore, ATXI no longer supports the segment of the Primary Route on which MCPO Alternate Route PK would be constructed. Instead, in its rebuttal testimony, ATXI identified its original Alternate Route in this segment as its Rebuttal Recommended Route. ATXI Ex. 13.0 at 21:450 and ATXI Ex. 13.4. After filing its rebuttal testimony, ATXI then stipulated with MCPO thereafter in Stipulation 7 to support the MCPO Alternate Route MCPO-P-MZK.

The MCPO Alternate Route PK is shorter than any alternate route because it does not veer north to address electricity reliability concerns in the Decatur area, or to connect with the proposed Mt. Zion substation. As noted above, elimination of the Mt. Zion substation and support for the Decatur area electricity users appears unwise. Furthermore, as discussed below, constructing any line on the proposed Primary Route is contrary to the public convenience, would impose additional financial costs not considered by MCPO, and would raise environmental and other societal concerns not considered or addressed by MCPO.

ii. Difficulty and Cost of Construction

The original ATXI Primary Route on the Mt. Zion to Kansas substations segment in Coles County would involve taking of property containing proven limestone deposits having a net value in total of \$4,356,000, representing deposits on Tarble property with a net value of \$871,200 and deposits on adjacent landowners' property that Tarble plans to mine having a net value of \$3,484,800. Tarble Ex. 1.0 at 5:96 to 6:10. While ATXI witness Trelz tries to deflect

attention from these costs by suggesting that it is not clear that Tarble has or will have the right to mine the adjacent property, *see* ATXI Ex. 15.0 (Rev.) at 19:389 to 20:406, the plain fact is that ATXI will have to pay for the \$4,356,000 net value of the limestone deposits, whether the rights to those deposits are owned by Tarble, the fee simple landowner, or someone else.

There also will be extraordinary costs because the Primary Route would be directly at the end of the Reed restricted landing area runway, necessitating that the runway be taken out of service and deactivated. John Richard Reed Ex. 1.0 at 3:23-29. There also would be extraordinary costs to deal with the fact that the Primary Route in Coles County goes directly through a bald eagle nesting area, and anticipates that structures from the line will be placed in the dam located about eighty feet above the Embarras River that prevents hundreds of thousands of lake water from cascading into and flooding the Embarras River. CCL Ex. 2.0 at 5:85-88, 6:89-90, 107-111, 7:112.

None of these extraordinary costs were factored into ATXI's calculations for its Primary route costs, and MCPO's route designers were not aware of them when they proposed to use ATXI's Primary Route in Coles County. 5/15/13 Tr. 593:3-12.

iii. Difficulty and Cost of Operation and Maintenance.

STPL Witness David Bush is an electricity facilities and transmission line design professional engineer with forty years of experience in the electric utility industry, including thirty years at the Niagara Mohawk Power Corporation in Syracuse, New York. STPL Ex. 4.1. Mr. Bush testified that lime dust from quarry operations tends to collect on transmission line insulators, and that the lime dust must be scrubbed off to prevent deterioration of the insulators and interference with electricity transmission. STPL Ex. 4.0 at 5:72-83. While ATXI disputes Mr. Bush's analysis, *see* ATXI Ex. 12.0 at 27:558-568, there nevertheless is a risk of increased

maintenance costs if the ATXI lines were located on the original Primary Route adjacent to the Tarble limestone quarry.

iv. Environmental Impacts

As noted above, a bald eagle nesting area that has two small eagles raised this past spring is located immediately in the path of the original ATXI Primary Route on this segment. CCL Ex. 2.0 at 5:85-88, 6:89-90. The eagles are constantly flying around the area and the proposed Primary Route goes straight through the area where the nest was located and the eagles frequently feed. CCL Ex. 2.0 at 5:86-88; CCL Ex. 1.0 at 5:6-9. There are guidelines that must be followed when installing power lines near an eagle habitat. CCL Ex. 2.0 at 6:91-92. It also appears that the support structures for the Primary Route would be placed in a lake dam located about eighty feet above the Embarras River that prevents hundreds of thousands of gallons of water from pouring into and flooding the Embarras River. CCL Ex. 2.0 at 6:107-111 to 7:112.

* * * * *

vi. Social and Land Use Impacts

The original Primary Route in this segment, which MCPO PK Alternate would use, would preclude the mining of limestone deposits having a net value of \$4,356,000, Tarble Ex. 1.0 at 5:96-6:10; it would be placed at the end of a runway, precluding further use of the runway for crop dusting or any other purpose, Reed Ex. 1.0 at 3:23-29; it would destroy the vistas of beautiful new homes built on a lake, CCL Ex. 2.1 Photo 12 at 4:55-56, CCL Ex. 2.1 Photo 13 at 4:56-57 and CCL Ex. 21. Photo 14 at 4:57-59; it would interfere with farming operations and likely cause a permanent reduction in the value of adjacent farm land, Coles and Moultrie County Landowners Ex. 1.0 at 5:81-85, and CCL Ex. 1.0 at 3:13-18 and CCL Ex. 1.0 at 3:6-12; and it would involve the taking of extremely valuable prime farmland. Coles and Moultrie County Landowners Ex. 1.0 at 3:25-29.

vii. Number of Affected Landowners and Other Stakeholders and Proximity to Homes and Other Structures

Mike Popham built a house in the area only eight years ago. His brother, Ron Popham, built a new house only six months ago. The Primary Route would be as close as 250 feet from some of the houses in the area. CCL Ex. 1.0 at 3:18-20. 1100 North County Road is the road that the Primary Route follows. This route goes directly through the middle of Charleston Stone Company's future mining area. CCL Ex. 2.0 at 4:63-64.

Scott Weber has entered into a contract with Charleston Stone (Charleston Stone is a member of Tarble) to purchase approximately 150 acres of his 210 acres at the price of \$16,000 an acre allowing Charleston Stone to mine the limestone located on his property. CCL Ex. 3.0 at 3:39-41 (S. Weber Direct Testimony). If the transmission lines run along the Primary Route, Mr. Weber will lose significant amounts of money since Charleston Stone will not be able to mine the limestone underneath Scott Weber's property. CCL Ex. 3.0 at 4:63-64. Mr. Weber's future income will be destroyed as he planned on receiving that money as income for his retirement. He entered into the contract with Charleston Stone before he knew about the proposed power lines. CCL Ex. 3.0 at 5:79-83.

viii. Proximity to Existing and Planned Development

The original ATXI Primary Route, which is part of the MCPO PK Alternate Route, would take limestone quarry property and interfere with future quarry operations, Tarble Ex. 1.0 at 4:63-66; force the closure of a certified restricted landing area, Reed Ex. 1.0 at 3:25-29; and destroy the beautiful vistas of new homes constructed on a lake. CCL Ex. 2.1 Photo 12 at 4:55-56 and CCL Ex. 2.1 Photo 13 at 4:56-57, and CCL Ex. 2.1 Photo 14 at 4:57-59.

ix. Community Acceptance

One need go no further than a cursory review of ATXI Ex. 13.7 (Page 1 of 13) to appreciate the level of the opposition to the ATXI Primary Route on this segment. The people who live and make their living along the Primary Route in this segment most emphatically are opposed to the locating of the proposed ATXI Primary Route on the segment between the Mt. Zion and Kansas substations.

x. Visual Impact

Ron and Mike Popham both own homes on a 20 acre lake that is located on the edge of the proposed 1100 North County Road Primary Route. CCL 2.1 Photo 12 is a picture of Ron Popham's house that he built approximately six month ago. CCL Ex. 2.0 at 4:55-56. Photo 13 attached to Mr. Popham's testimony as CCL 2.1 is a picture that was taken from inside his house looking out over the beautiful lake. If the Primary Route is utilized, it would pass straight through this view and ruin the majestic view. A huge power line running through the majestic view of the natural trees would be a huge eyesore. The installation of the power line would destroy the trees and landscape and greatly diminish the value of the homes and property. CCL Ex. 2.0 at 4:55-59.

* * * * *

c. Mt. Zion – Kansas

Tarble, Reed and CCL have already addressed their comments concerning the original ATXI Primary Route on the Mt. Zion to Kansas segment in the discussion of the MCPO PK Alternate Route in the Pana to Kansas subsection of this brief. To be complete, those same comments are repeated below.

i. Length of the Line

The length of ATXI's Alternate Route, also known as its Preferred Rebuttal Route, for the Mt. Zion to Kansas segment is 66.42 miles. ATXI Ex. 3.4 (3d Rev.). The length of the Stipulated Route in this area, the MCPO-P-MZ-K, route is estimated by MCPO to be 69.2 miles. MCPO Ex. 1.4 (Page 1 of 2). The length of ATXI's original Primary Route for this segment is 68.32 miles. ATXI Ex. 3.4 (3d Rev.)

The Preferred Rebuttal Route is substantially shorter than the other routes under consideration.

ii. Difficulty and Cost of Construction

The projected cost to construct ATXI's Alternate Route, also known as ATXI's Preferred Rebuttal Route, is \$128,026,000. ATXI Ex. 16.3 (Rev.) (Page 7 of 9). The projected cost to construct the ATXI-MCPO Stipulated Route appears to be \$126,511,000. *Id.* ATXI has estimated the cost of the original ATXI Primary Route to be \$129,087,000. ATXI Ex. 16.3 (Rev.) (Page 7 of 9).

ATXI's estimated cost for the Primary Route is understated by more than \$4,356,000 due to the failure to take into account the extraordinary land acquisition costs ATXI would have to incur to purchase significant limestone deposits in the path of the Primary Route, and there will be additional unknown costs to avoid the impact on a bald eagle nesting area lying directly in the path of the Primary Route, as discussed more extensively below. Thus, a fair estimate of the cost of the Primary Route is an amount in excess of \$133,443,000, which is more than \$4 million in excess of the estimated cost for ATXI's Preferred Rebuttal Route or the ATXI-MCPO Stipulated Route.

* * * * *

vi. Social and Land Use Impacts

The original Primary Route in this segment would preclude the mining of limestone deposits having a net value of \$4,356,000,00. Tarble Ex. 1.0 at 5:105 to 6:106-110; it would be placed at the end of a runway, precluded further use of the runway for crop dusting or any other purpose, Reed Ex. 1.0 at 2:22-24 to 3:25-29; it would destroy the vistas of beautiful new homes built on a lake, CCL Ex. 1.0 at 4:57-59; it would interfere with farming operations and likely cause a permanent reduction in the value of adjacent farm land, CCL Ex. 1.0 at 3:29-37, and CCL Ex. 2.0 at 4:46-49 and it would involve the taking of extremely valuable prime farmland, CCL Ex. 1.0 at 4:46-48 and Coles and Moultrie County Land Interests Ex. 1.0 at 3:25-29.

* * * * *

vii. Number of Affected Landowners and other Stakeholders and Proximity to Homes and other Structures

Mike Popham built a house in the area only eight years ago. His brother, Ron Popham, built a new house only six months ago. The Primary Route would be as close as 250 feet from some of the houses in the area. CCL Ex. 1.0 at 3:18-20. 1100 North County Road is the road that the Primary Route follows. This route goes directly through the middle of Charleston Stone Company's future mining area. CCL Ex. 2.0 at 4:63-64.

Scott Weber has entered into a contract with Charleston Stone (Charleston Stone is a member of Tarble) to purchase approximately 150 acres of his 210 acres at the price of \$16,000 an acre allowing Charleston Stone to mine the limestone located on his property. CCL Ex. 3.0 at 3:39-41 (S. Weber Direct Testimony). If the transmission lines run along the Primary Route, Mr. Weber will lose significant amounts of money since Charleston Stone will not be able to mine the limestone underneath Scott Weber's property. CCL Ex. 3.0 at 4:63-64. Mr. Weber's future income will be destroyed as he planned on receiving that money as income for his retirement.

He entered into the contract with Charleston Stone before he knew about the proposed power lines. CCL Ex. 3.0 at 5:79-83.

viii. Proximity to Existing and Planned Development

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ix. Community Acceptance

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Ron and Mike Popham both own homes on a 20 acre lake that is located on the edge of the proposed 1100 North County Road Primary Route. CCL 2.1 Photo 12 is a picture of Ron Popham's house that he built approximately six month ago. CCL Ex. 2.0 at 4:55-56. Photo 13 attached to Mr. Popham's testimony as CCL 2.1 is a picture that was taken from inside his house looking out over the beautiful lake. If the Primary Route is utilized, it would pass straight through this view and ruin the majestic view. A huge power line running through the majestic view of the natural trees would be a huge eyesore. The installation of the power line would destroy the trees and landscape and greatly diminish the value of the homes and property. CCL Ex. 2.0 at 4:55-59.

G. Kansas – Indiana State Line

1. Length of the Line

ATXI has calculated the length of ATXI’s proposed Alternate Route, also known as ATXI’s Rebuttal Recommended Route, and the Stipulated Route –Kansas to State Line (“Kansas to State Line Stipulated Route”), to be 33.37 miles. ATXI Exhibit 3.4 (3d Rev.) ATXI has calculated the length of ATXI’s original Primary Route as 36.95 miles. *Id.* If ATXI were permitted to use its modified route to go around the federal floodplain easement area, its estimated distance would be 37.29 to 37.33 miles. *See* 5/16/13 Tr. at 1001:7-10 (modified route would add 1800 feet to 2000 feet to route distance). The ICC Staff has calculated the length of STPL Alternate Route 1 to be 24.7 miles, and has calculated the length of STPL Alternate Route 2 to be 33.7 miles. Staff Ex. 1.0 at 51. ATXI’s Primary Route is 11 to 12 percent longer than the Kansas to State Line Stipulated Route.

2. Difficulty and Cost of Construction

There are no meaningful difficulties or construction cost issues that have been identified with respect to the Kansas to State Line Stipulated Route. ATXI has estimated the cost to construct the Stipulated Route to be \$63,919,000..

ATXI estimated the cost to construct STPL Alternate Route 2 to be \$62,348,000. STPL no longer supports selection of this route. ATXI provided rebuttal testimony opposing this route and no doubt will express its objections in its initial brief, so its rebuttal testimony objections will not be restated here. *See* ATXI Ex. 13.0 (2d Rev.) at 59:1257-63.

ATXI has estimated the cost to construct its original Primary Route in this segment at \$68,236,000. ATXI Ex. 16.3 (Rev.). If ATXI were able to construct the Primary Route, an extremely doubtful proposition at best, then ATXI’s cost estimate is understated by at least \$1,817,200 to \$2,081,736.

The understated costs, as described more extensively below, are comprised of \$1,267,200 for known Tarble limestone deposits in the path of the Primary Route; \$400,000 to \$664,536 in additional costs associated with the federal floodplain area, and \$150,000 for Ms. Te Grotenhuis' tiled and terraced fields. The understated costs could be substantially more if ATXI is required to either buy JDL's radio station or pay to relocate or reconstruct its tower.

When the understated costs are added to ATXI's estimate for the Primary Route, the corrected estimated cost to construct the Primary Route is \$70,053,200 (\$68,836,000 + \$1,817,200) to \$70,317,736 (\$68,236,000 + \$2,081,736). When compared to the estimated cost to construct the Kansas to Indiana State Line Stipulated Route of \$63,919,000 the original Primary Route costs roughly \$6.13 to \$6.4 million more than the Stipulated Route, or, in terms of percentage, 9.6 to 10 percent more.

ATXI contends that the original Primary Route is still viable. ATXI Ex. 13.0 (2d Rev.) at 62:1282. The remaining discussion in this subsection explains why the Primary Route is not viable and cannot be constructed in Clark County for this segment and why, if it could be constructed, ATXI's cost estimate is understated by at least \$1.8 to \$2.1 million.

As noted in the introduction of this brief, there is a federal floodplain easement that lies in the path of the proposed Primary Route on the Kansas to Indiana segment in Clark County. The federal floodplain easement was established as part of a warranty deed purchase by the federal government in the amount of \$576,000 in March 2010. The acquiring federal agency was the Natural Resources Conservation Services ("NRCS"), which is part of the United States Department of Agriculture. A certified copy of the warranty deed establishing the federal floodplain easement was admitted into evidence as STPL Ex. 1.18. As reflected in STPL Ex. 1.17, ATXI's Primary Route originally was designed to bisect the federal floodplain.

Astonishingly, ATXI knew before this case was filed that there were problems with trying to cross the federal floodplain easement land in Clark County. On October 17, 2012, an NRCS biologist based in NRCS' Clark County office, Dave Hiatt, sent an email to ATXI's spokesperson in which he unequivocally told ATXI that the federal floodplain property in Clark County was not available for use by ATXI for this project.

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 Cross Ex. 8.

Mr. Hiatt's email was distributed, among others, to Donnell Murphy, who was ATXI's contract consultant charged with responsibility for selection of routes for its transmission line.

Ms. Murphy took no meaningful action:

I didn't feel he provided us with any information that would require us to necessarily do anything with the information he provided.

5/16/13 Tr. at 876:7-9.

Mr. Hiatt's email identified the Clark County property on which the federal floodplain easement is located as property owned by Carolyn Robinson. Ms. Clark testified ATXI did not serve the federal government with notice in this case because she did not consider the federal government to be a "landowner" for purposes of Section 200.150(h) of the Commission's Rules of Practice as the federal government was not listed in the Clark County property tax records. ATXI Ex. 13.0 (2d Rev.) at 65:1392-1405; 5/16/13 Tr. at 880:19 to 883:10.

Ms. Murphy has no background in property law. *Id.* at 883:1-3. Contrary to her understanding, a permanent easement is in fact a permanent interest in land. *Martin v. See*, 232 Ill. App. 3d 968, 977, 598 N.E.2d 321, 327 (4th Dist. 1992). Furthermore, had she or her staff

focused on the property tax card for the property in Clark County owned by Carolyn Robinson, while not a model of clarity, the property tax record should have alerted ATXI to the federal government's interest in the property, or at least should have caused ATXI to ask questions to discover that interest. *See* STPL Ex. 17.0.

ATXI's struthious approach to notice and to who has an interest in land that may be affected by ATXI's project does not comport with the Commission's service requirements, *see* Ill. Adm. Code §200.150(h), and if it does, then the Commission's service does not comport with basic principles of due process, which require meaningful notice and an opportunity to be heard. *Peacock v. Board of Trs. of the Police Pension Fund*, 395 Ill. App. 3d 644, 654, 918 N.E.2d 243, 251 (1st Dist. 2009). The failure to serve the NRCS, as the federal government's agent, with formal notice of this proceeding is sufficient reason standing alone to justify rejection of ATXI's Primary Route in the Kansas to Indiana segment of this project.

Furthermore, every piece of evidence in the record in this proceeding concerning the potential use of the federal floodplain easement demonstrates conclusively that the federal floodplain easement area cannot be used for this project.

When ATXI did nothing in response to Mr. Hiatt's October 17, 2012 email, he submitted a public comment on December 6, 2012 that is part of the Commission's record in this case. As will be explained more fully below, Mr. Hiatt's public comment reflects NRCS official policy on requests for use of NRCS floodplain easements for infrastructure projects:

My name is Dave Hiatt and I represent the United States Department of Agriculture's – Natural Resources Conservation Service. I am the Wetlands Reserve Program (WRP) and Floodplain Easement (FPE) coordinator. The USDA-NRCS has identified two conservation easements that will be directly impacted by the PRIMARY route of the proposed power line. Our federal policy is that all conservation easements MUST be avoided. Ameren has provided a SECONDARY route. This

SECONDARY route does not appear to impact any USDA-NRCS conservation easements. Therefore Ameren MUST utilize the SECONDARY route to construct the powerline.

When ATXI still failed to respond or take meaningful action, the NRCS State Conservationist sent a February 27, 2013 certified letter to one of ATXI's counsel of record in this case in which NRCS advised ATXI's counsel that, in addition to a Wetlands Reserve program ("WRP") easement in Brown County:

An Emergency Watershed Protection Program-Floodplain Easement located in Eastern Clark County has also been identified as being directly impacted by the proposed primary route.

* * * * *

The authority to modify a WRP easement is very limited. EWPP-FPE easements must be avoided as USDA-NRCS has no authority under this program to modify the terms of the conservation easement. NRCS asserts that the rights the USDA acquired under these two easements programs are superior to rights that Ameren Transmission Company of Illinois might acquire to construct the proposed transmission line.

In case a certified letter was not sufficient to get ATXI's attention, NRCS also advised ATXI's counsel that both the Office of General Counsel and National Headquarters had been consulted on the situation. *Id.*²

When ATXI failed to act, another NRCS official submitted a public comment in this docket on March 6, 2013. That NRCS public comment essentially repeated the cautionary language that was in the NRCS' certified letter. STPL Cross Ex. 18.

The NRCS' officials' email, letter and public comments are all consistent with the NRCS official published "Infrastructure Policy on Easements" that was admitted into evidence as STPL

² The NRCS sent a subsequent March 7, 2013 letter to ATXI's counsel in which it noted that the Warranty Easement Deed included with the certified February 27, 2013 letter was not the Clark County federal floodplain easement, as intended. A copy of the correct Clark County federal floodplain easement was enclosed with NRCS March 7, 2013 letter. The March 7, 2013 NRCS letter and enclosed floodplain easement are attached as STPL Ex. 19.0.

Ex. 15.0. The NRCS Infrastructure Policy on Easements specifically provides that it is applicable to Emergency Watershed Program-Floodplain Easements (“EWPP-FP”), which is what the Clark County federal floodplain easement is. *Id.* at 1. It also defines the infrastructure projects to which it applied to include “Overload and buried electrical transmission lines.” *Id.*

The NRCS Infrastructure Policy on Easements unequivocally states:

The first response to any infrastructure project request is to **avoid** NRCS easement lands. The infrastructure project proponent is responsible for proving to NRCS that the easement lands cannot be avoided. There may be a few instances where the easement cannot be avoided. Only WRP [Wetland Reserve Program] easements can be modified in limited circumstances with the Chief’s approval. **Proposed infrastructure projects must avoid FRPP, GRP, HFRP, and EWPP-FPE easements because the agency has no authority under those programs to modify their terms.**

Id. at 2 (bold typeface in original). The NRCS Infrastructure Policy on Easements further provides, subject to an exception for Federal highway projects not applicable here, that:

NRCS easement lands are not subject to condemnation through eminent domain proceedings.

Id. at 3.

The bottom line is that there is not a single shred of evidence in this proceeding that ATXI can build its transmission line on the federal floodplain easement area. Absent such proof, the Primary Route on the segment from Kansas to Indiana is not viable, and should be dismissed from further consideration.

ATXI did finally address the federal floodplain issues on the day when it had to respond to STPL’s data requests on the issue. On March 28, 2013, ATXI’s witnesses Donnell Murphy, Jeff Hackman, Rick Trelz and Jerry Murbarger participated in a webinar and came up with two overly simplistic potential solutions. *See* 5/15/13 Tr. at 891:17 to 892:11. One was to build tall structures on either side of the federal floodplain area and then string the power line across so

that it would hover more than 100 feet from the federal floodplain easement ground. ATXI 12.0 (Rev.) at 33:680-86. The other was a crude V drawn on an aerial photo to divert the transmission line south and then north to avoid the federal floodplain easement area. ATXI Ex. 13.0 (3d Rev.) at 65:1407 to 66:1419. *See* ATXI Ex. 13.10.

Notwithstanding Mr. Hackman's "can do" engineering confidence exhibited on the witness stand and his dismissal of the federal floodplain easement as a "piss ant" issue, *see* 5/17/13 Tr. at 1000:10-15,³ this solution does not solve the fact that the uncontroverted evidence in this proceeding is that ATXI cannot use the federal floodplain easement land, whether it wants to plant structures in the ground or whether it wants to string the line across and use the air rights.

Mr. Hackman candidly admitted on the stand that he did not know what the NRCS planned to do with the federal floodplain easement area, he had never set foot in the NRCS office in Clark County, he had never visited the site, and he never spoke to anyone at NRCS about the federal floodplain easement area. 5/17/13 Tr. at 1001:15-17, 1008:17-19, and 1012:9-17. In fact, the evidence in this case shows that NRCS has planted 435 tree seedlings per acre in the 148 acre federal floodplain area, or more than 64, 510 tree seedlings. STPL Ex. 14.0.

The federal floodplain easement states that its purposes are:

Purposes and intent. The purpose of this easement is to restore, protect, manage, maintain and enhance the functional values of floodplains, wetlands, riparian areas, and other lands; and for the conservation of natural values including fish and wildlife and their habitat, water quality improvement, flood water retention,

³ Mr. Hackman, Ameren Service Company's Director of Transmission Operations, testified:

This is not a – this is not a huge deal. I know that it's been the subject of quite a number of hours of testimony. My classic term for this is piss-ant. It's a very small component of the route that is easily solved.

5/17/13 Tr. at 1000:10-15.

groundwater recharge, open space, aesthetic values and environmental education; and to safeguard lives and property from floods, drought and the products of erosion.

STPL Ex. 19.0. Hanging a 345 kV line over and through the trees of an easement whose purpose is designed to be, among others, “open space” intended for “the conservation of natural values including fish and wildlife and their habitat” and is intended to promote “aesthetic values” would most assuredly not be consistent with the stated purposes of the easement. Further, there is no evidence in this record that the NRCS would consent to having NRCS dangle its transmission line over, in or among the forthcoming forest it has planted. Absent such evidence, it would be folly to approve a route for a \$1 billion project conditioned upon an assumption unsupported by a shred of evidence that the federal government would consent to have ATXI hang its 345 kV above or through its federal floodplain easement property.

Ms. Murphy’s suggestion that the modified route would work is also wrong. (Mr. Hackman and Ms. Murphy prefer to call it an “alternate pole placement”). Ms. Murphy testified that ATXI gave prior notice of this proceeding to the landowners of the five parcels who would be affected by this proceeding. 5/16/13 Tr. at 894:22 to 896:15; STPL Cross Ex. 2 and 4. One of the five affected landowners who was identified was Thomas Hutchings. STPL Cross Ex. 4; 5/16/13 Tr. at 899:10-12. The property card for the Thomas Hutchings property actually reflects that the landowners of record are “Hutchings Thomas A & Deborah L. et al.” STPL Ex. 16.0. Further, the warranty deed in the Clark County public records maintained by the Clark County Clerk/Recorder shows in addition to Thomas A. Hutchings and Deborah L. Hutchings, there are eight other owners of the Hutchings property. STPL Ex. 11.0. Neither Deborah Hutchings nor the remaining eight owners are listed as affected landowners on Exhibit C to ATXI’s Petition, and therefore did not receive notice of this proceeding.

Donnell Murphy, ATXI's witness on proper notice and service under the Commission's Rules of Practice, admitted at the hearing that if Clark County property tax record lists Thomas and Deborah Hutchings as the owner of the property at issue, then both should have received notice of this proceeding. 5/16/13 Tr. at 908:14 to 909:2. Neither Deborah Hutchings nor the other owners of the Hutchings property affected by ATXI's modified route received notice of this proceeding. ATXI therefore cannot build the modified route it designed to avoid the federal floodplain easement because it failed to give notice of this proceeding in accordance with the Commission's Rules of Practice, *see* 83 Ill. Adm. Code §200.150(a), and fundamental constitutional due process principles. *Peacock v. Board. of Trs. of the Police Pension Fund*, 395 Ill. App. 3d 644, 654, 918 N.E.2d 243, 251 (1st Dist. 2009).

If there were any remote possibility that the Commission might consider the Primary Route discussed above, the ATXI estimated construction cost is understated. ATXI would incur at least \$1,267,200 in increased costs to pay for known limestone deposits that Tarble plans to quarry; it might have to buy a radio station or pay \$500,000 or more to relocate a radio transmitter tower if JDL could establish possible interference with its signal; and it would have to compensate Laura Te Grotenhuis for the \$150,000 she spent to design and develop her tiled and terraced field. Tarble Ex. 1.0 at 6:110-119; JDL Ex. 1.0 at 5:71 to 10:209; STPL Ex. 2.0 at 4:63 to 5:72.

If the solution to the federal floodplain easement area was to build tall structures on either side of the easement area, that could add another \$400,000 to the already bloated price for the Primary Route is this segment. 5/17/13 Tr. at 1011:3-22. If the solution to the federal floodplain easement issue was to use the modified route to go around it, Mr. Hackman testified that modified route would add 1800 to 2000 feet to the length of the Primary Route. At ATXI's

estimated average costs per mile of \$1,846,711.77 (\$68,236,000 estimated cost for the Primary Route divided by the 36.95 mile length), and assuming an increase of 1900 feet for the modified route, the modified route would add \$664,536 to the cost of the Primary Route (\$1,846,911.17 x (1900 ft. ÷ 5280 ft. in one mile)).

If ATXI were permitted to dangle its lines over the federal floodplain easement area, that \$400,000 increased cost, when added to \$1,267,200 for limestone costs and \$150,000 for the tiled and terraced filed, would increase the estimated cost of the Primary Route by \$1,817,200 or to a total of \$70,053,200. If the modified route costs of \$664,536 are utilized, then the increased cost is \$2,081,736 or a total estimated cost of \$70,317,736. And neither of those costs take into account the extraordinary costs associated with the WMMC radio station, which could be very significant.

3. Difficulty and Cost of Operation and Maintenance.

The proposed Primary Route in the segment between Kansas to the Indiana state line would be constructed adjacent to the Quality Lime limestone quarry. STPL Ex. 1.0 at 8:150-154; STPL Ex. 1.13. Quality Lime is a member of Tarble.

STPL witness David W. Bush is an electricity facilities and transmission line design professional engineer with forty years of experience in the electric utility industry, including thirty years at the Niagara Mohawk Power Corporation in Syracuse, New York. STPL Ex. 4.1. Mr. Bush testified that the insulators on transmission lines operate in close proximity to limestone quarries tend to accumulate lime dust which can cause deterioration of the insulators, resulting in potential faults in the transmission line. STPL Ex. 34.0 at 3:40 to 6:93. Mr. Bush further testified that the only way to remove accumulated lime dust is to clean and wash the insulators. *Id.* at 80-81. Spray washing or rain are ineffectual. *Id.* “Mechanical washing of

some form is required.” *Id.* Mr. Baird did not quantify the cost of the additional maintenance, but concluded his testimony on the subject as follows:

Running the Primary Route on the Southern boundary of an active stone quarry is and will be persistent maintenance problem. For this portion of the Kansas to Sugar Creek segment, the continual presence of lime dust will increase the cost of line operations and maintenance, and it will substantially shorten the useful life of the insulators and hardware, requiring more frequent repair or replacement.

Id. at 104-08.

Mr. Hackman also testified that if ATXI were to construct its transmission line on the Primary Route by stringing it across the federal floodplain area, maintenance would have to be performed either by helicopter, a sky crane, or by attaching maintenance workers to the transmission line and somehow sliding them up and down the line extending over the federal floodplain easement area. 5/17/13 Tr. at 1016:2-13. Notwithstanding Mr. Hackman’s use of a pejorative term to describe the floodplain issues, his description of the maintenance procedures also could entail extraordinary maintenance costs.

4. Environmental Impacts

Laura Te Grotenhuis testified that construction of the Primary Route on the south end of a tiled and terraced field would require the redesign of terraces constructed to control soil erosion and could destroy the extensive soil erosion measures that she had constructed on that property at a cost in excess of \$150,000. STPL Ex. 2.0 at 2:63 to 3:72. *See* STPL Ex. 2.2. Ms. Te Grotenhuis also testified Primary Route construction could impact Conservation Practices (CP) 33 in effect on that property and one other parcel, and CP 21 in effect on another parcel. *Id.* at 3:73-78. CP 21 is a USDA sponsored program involving use of filter strips on land bordering waterways to assist with water quality. CP 33 is also a USDA sponsored program involving preservation or construction of quail habitat. *Id.*

5. Impacts on Historical Resources.

Margaret Sue Amacher Snedeker testified that the proposed Primary Route would go right down the middle of one Centennial Farm she owns and would take part of another Centennial Farm. STPL Ex. 5.0 at 3:34 to 4:50. A Centennial Farm is a farm that has been owned by the same family for a century or more. In this case, the two Centennial Farms have been in Ms. Snedeker's family for 133 years and 167 years, respectively. *Id.* In addition, Ms. Snedeker testified that the proposed Primary Route in Clark would go right over the Renner Family Cemetery on her land and the graves of her great-great grandparents. *Id.* at 3:40 to 4:46. *See* STPL 5.4.

6. Social and Land Use Impacts

As noted above, the Primary Route in Clark County runs on the south boundary line of the Quality Lime quarry, which is part of the Tarble group, and would require the taking of Tarble property with significant limestone deposits. The Tarble property in Clark County, on which the Primary Route would be located, has been core drilled and contains 264,000 tons of limestone. Tarble Ex. 1.0 at 5:83-90. The net value of this limestone is \$1,267,200. *Id.* at 6:116-19.

JDL is a family-owned business that owns and operates WMMC-FM radio station. JDL Ex. 1.0 at 2:5 and at 3:20-21. The Primary Route in Clark County would be within approximately 220 feet of WMMC's 500-foot tall broadcast tower and 70 feet of one of the tower's outer guy wire supports. *Id.* at 4:48, 4:51-52 and 4:56-57. As Lori Spangler, one of JDL's owners explained, WMMC provides important public and community services in Clark County:

WMMC is a 6,000 watt station serving Clark County. WMMC is the only radio station serving Clark County with news, weather, sports broadcasts and emergency notifications. It is truly a

“hometown” radio station. It broadcasts over 80 high school sporting events every year. It has civic leaders such as mayors, police chiefs, county sheriffs, high school coaches and city council members on the air on a regular basis. It airs many public service announcements promoting fundraising events for members of the community in need. It plays an important part in keeping the inhabitants of the rural communities in its area connected. It also provides a reasonably priced advertising medium for many of the small businesses located in Clark County. It is the only local radio station providing this type of service and it takes that responsibility seriously.

Id. at JDL Ex. 1.0 at 3:20-29. Construction of the Primary Route in this area could result in closure of the radio station and loss of this community asset, or force the relocation of its broadcast tower.

Charles Ellis is a registered professional electrical engineer who specializes, among others, in the design, operation and maintenance of FM radio stations. JDL Ex. 2.0 at 3:37 to 4:45. Mr. Ellis was retained by JDL to identify and evaluate any risks posed by the proposed construction of the ATXI transmission line on the Primary Route in close proximity to JDL’s broadcast tower. *Id.* at 3:26-29. Mr. Ellis prepared a report entitled “Effects of the Ameren Transmission Line on the WMMC Transmitting Facility” that was admitted into evidence as JDL Ex. 2.2. Mr. Ellis summarized the findings of his report as follows:

You would have a 500 foot radio tower located approximately 220 feet from a 345 kV high voltage transmission line... Broadcast towers can and do fall. If the 500 foot WMMC tower were to fall on the ATXI 345 kV transmission line, it could have potentially disastrous consequences. Second, radio frequency radiation from the 345 kV transmission line could cause interference with WMMC’s broadcast signal. Third, electric and magnetic fields generated by the 345 kV line likely will induce voltages and current in the tower, guy wires, anchors and transmitter building, possibly causing advance deterioration and raising safety concerns for tower workers. Fourth, the guy wires supporting the tower already are closer to the tower than normal. If the guy wires cannot be effectively relocated to support the tower, or if there is too much interference with WMMC’s signal, it likely will be very difficult for WMMC to relocate and the move certainly will be

costly. Finally, while I do not expect it to happen, it is possible that WMMC could experience broadcast difficulties if the WMMC microwave path was obstructed by a support tower for the 345 kV transmission line.

Id. at 4:57 to 5:74. Mr. Ellis further testified that in light of the Federal Communication Commission (“FCC”) governing regulations, he did not believe the tower could be relocated if WMMC were to keep its current broadcast operating power, and relocation would be very expensive. *Id.* at 7:132 to 8:149.

Lori Spangler evaluated the relocation or tower reconstruction costs, assuming the broadcast tower could be relocated on the same parcel. Her estimate of the partial cost to relocate or reconstruct the tower was \$125,000 to \$500,000, and those estimates did not include a host of significant additional costs. JDL Ex. 1.0 at 7:127 to 10:204. Ms. Spangler did not evaluate the cost of moving the tower to a different piece of property because the spacing analysis performed by Mr. Ellis reflected it could not be relocated elsewhere under the governing FCC criteria. *See Id.* at 10:205-09.

Laura Te Grotenhuis testified that she was concerned about the effect of stray voltage from the transmission line if it were located on the Primary Route due to nearby metallic structures used in her farming and animal breeding businesses. STPL Ex. 2.0 at 6:84 to 7:93. Ms. Grotenhuis expressed concern that stray voltage might affect a series of metal grain bins and a new metal grain leg to deliver grain from bins that she had just constructed at a cost of approximately \$500,000, and automatic animal waterers located 250 to 300 feet from the proposed transmission line location. *Id.* Although not expressed in exactly the same terminology, the concerns that Ms. Te Grotenhuis expressed with respect to stray voltage are very similar to Mr. Ellis’ concerns about the transferal of electrical voltage and current to the WMMC tower, guy wires, and broadcast transmitting station. Ms. Te Grotenhuis also expressed

concern about the number of fences that ATXI's Primary Route would cross on her property, given her prior experience with ATXI and its disregard for fence integrity and gates, and the potential escape by valuable livestock, including rodeo stock, world champion quarter horses, Appaloosa horses, beef cattle, grand and permanent champion goats, and champion rabbits. *Id.* at 6:79-83.

Margaret Sue Amacher Snedeker expressed concern about the proximity of a transmission line on the Primary Route to numerous homes in her subdivision, and the effects of the proposed transmission on the residents of a bucolic subdivision. STPL Ex. 5.0 at 4:54 to 5:84. Perry Baird testified about his concern that the Primary Route is very close to a single family home owned by the Thelma Worrick Revocable Trust property, for which Mr. Baird serves as the co-trustee, and the potential impact on prime farmland on that property. STPL Ex. 1.0 at 5:75 to 6:109.

* * * * *

8. Proximity to Existing and Planned Development

The substantive information that otherwise would be discussed in this subsection has all been addressed in the preceding subsections of this memorandum, with one exception. Jerry Tarble testified that in the past he has previously developed former mining into residential communities, such as the Golf-Lakes Subdivision in Marshall, Illinois. Tarble Ex. 1.0 at 6:128-29. Mr. Tarble testified that he would be unable to develop and market a residential development on property in proximity to a 345 kV line on the Primary Route. *Id.* at 7:133-139.

9. Community Acceptance

One only need look at the 100 or more intervenors running the entire length of the proposed Primary Route in Clark County to know that the communities lying in the path of the Primary Route in Clark County are adamantly opposed to construction of ATXI's proposed 345

kV line on the Primary Route in Clark County. *See* ATXI Ex. 13.8 (Page 1 of 5). The intense, focused opposition to the Project in this rivals that of any other potentially affected area in the State.

10. Visual Impact

This issue is addressed in the evidence identified in the preceding subsections of this memoranda.

* * * * *

VII. OTHER

For all the reasons set forth above, the Mt. Zion substation should be constructed and the ATXI transmission line should be constructed in the Mt. Zion to Kansas segment on either the ATXI-MCPO Stipulated Route or ATXI's Preferred Rebuttal Route. In the Kansas to Indiana state line segment, the transmission line should be constructed on the Kansas to State Line Stipulated Route. The Primary Route in the Kansas to Indiana state line segment should be eliminated from consideration because it is not viable.

Dated: June 3, 2013

Respectfully submitted,

STOP THE POWER LINES COALITION,
TARBLE LIMESTONE ENTERPRISES,
JDL BROADCASTING, INC., COLES
COUNTY LANDOWNERS, REED
INTERESTS AND COLES AND
MOULTRIE COUNTY LAND INTERESTS

/s/ Edward R. Gower

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