

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) No. 12-0598
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.)

**BRIEF OF ADAMS COUNTY LANDOWNERS AND TENANT FARMERS IN
OPPOSITION TO ATXI'S RECOMMENDED REBUTTAL ROUTE FROM QUINCY
TO MEREDOSIA WITHIN THE ILLINOIS RIVERS PROJECT**

TABLE OF CONTENTS

| | | |
|--------------|---|-----------|
| I. | INTRODUCTION | 1 |
| II. | REQUIREMENTS FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY..... | 2 |
| III. | OVERALL NEED FOR PROPOSED FACILITIES | 3 |
| IV. | LEAST-COST AND THE PROPOSED TRANSMISSION LINE ROUTES | 3 |
| | B. QUINCY – MEREDOSIA | 4 |
| | 1. Length of the Line | 4 |
| | 2. Difficulty and Cost of Construction | 6 |
| | 3. Difficulty and Cost of Operation and Maintenance | 6 |
| | 4. Environmental Impacts | 7 |
| | 5. Impacts on Historical Resources | 7 |
| | 6. Social and Land use Impacts..... | 7 |
| | 7. Number of Affected Landowners and other Stakeholders and Proximity to Homes and other Structures | 10 |
| | 8. Proximity to Existing and Planned Development | 14 |
| | 9. Community Acceptance | 14 |
| | 10. Visual Impact | 15 |
| | 11. Presence of Existing Corridors | 16 |
| V. | MANAGING AND SUPERVISING THE CONSTRUCTION PROCESS | 17 |
| VI. | FINANCING THE PROPOSED CONSTRUCTION | 17 |
| VII. | OTHER..... | 17 |
| VIII. | CONCLUSION | 17 |

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) No. 12-0598
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.)

**BRIEF OF ADAMS COUNTY LANDOWNERS AND TENANT FARMERS IN
OPPOSITION TO ATXI'S RECOMMENDED REBUTTAL ROUTE FROM QUINCY
TO MEREDOSIA WITHIN THE ILLINOIS RIVERS PROJECT**

COME NOW, the ADAMS COUNTY LANDOWNERS AND TENANT FARMERS (hereinafter "ACPO"), by their attorneys, Byron Carlson Petri & Kalb, LLC, and in support of their Brief of Adams County Landowners and Tenant Farmers in Opposition to ATXI'S Recommended Rebuttal Route From Quincy to Meredosia within the Illinois Rivers Project state:

I. INTRODUCTION

On November 7, 2012, Ameren Transmission Company of Illinois (hereinafter "ATXI") petitioned the Illinois Commerce Commission (hereinafter "Commission") for a Certificate of Public Convenience and Necessity (hereinafter "Petition") authorizing ATXI to construct, operate and maintain a new 345 kV electric transmission line and related facilities in the State of Illinois, known as the Illinois Rivers Project ("Transmission Line" or "Project"). ATXI has sought expedited review of this Petition in accordance with the Illinois Public Utilities Act

(hereinafter “Act”). 220 ILCS 5/8-406.1. ACPO has intervened because ATXI has failed to meet the least-cost means standard set by the Act in evaluating its recommended routes between Quincy and Meredosia. 220 ILCS 5/8-406.1(f)(1). An undeniable element of the Petition’s approval under the Act is that the approved route be the least-cost means, which “involves a comprehensive consideration and balancing of the overall costs and externalities against the benefits of the route proposals.” Order of Reopening 06-0706, Illinois Commerce Commission, Dated June 23, 2010. The testimony presented to the Commission in evidentiary hearings on May 8 and 13-17, 2013, exemplifies ATXI’s failure to recommend the least-cost route available between Quincy and Meredosia, as it fails to recommend the route which will have the least economic impact on the communities the transmission lines are aimed at serving. For these reasons, and the arguments that follow, ACPO respectfully request that the Commission deny the Petition as it relates to ATXI’s recommended route from Quincy and Meredosia. If the Commission must grant the Petition, ACPO respectfully request the Commission adopt ACPO’s Alternative #1 Route.

II. REQUIREMENTS FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

When evaluating the need for a Certificate of Public Convenience and Necessity, the Act requires “[t]hat the Project [be] necessary to provide adequate, reliable, and efficient service to the public utility's customers and [be] 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, [be] equitable to all customers, and [be] the least cost means of satisfying those objectives.” 220 ILCS 5/8-406.1(f)(1) (emphasis added). “What constitutes the public convenience and necessity is within the discretionary powers of the Commission.” *Citizens United for Responsible Energy Development, Inc. (CURED) v. Illinois*

Commerce Com'n, 285 Ill. App. 3d 82, 89, 673 N.E.2d 1159, 1165 (5th Dist. 1996). The forthcoming arguments will decisively establish ATXI's failure to meet the least cost-means standard required by the Act, particularly the Project segment from Quincy to Meredosia, Illinois.

III. OVERALL NEED FOR THE PROPOSED FACILITIES

ACPO have no reason to believe the proposed facilities are unneeded. Rather, ACPO take issue with ATXI's proposed recommended route and thus, ATXI failed to meet its burden in this regard.

IV. LEAST-COST AND THE PROPOSED TRANSMISSION LINE ROUTES

ATXI has filed for expedited approval of Petition under §406.1 of the Act (hereinafter "§406.1"). Section 406 of the Act (hereinafter "§406") allows for a non-expedited certification process. Though the two sections' timeline for consideration and requirements for initial filings differ, their least-cost means analysis requirement is effectively identical. (§§406 and 406.1). In a §406.1 analysis, no specified factor or factors have held substantially more weight than others, making the least-cost means standard resemble a totality of the circumstances test. However, §406(d) specifically instructs that:

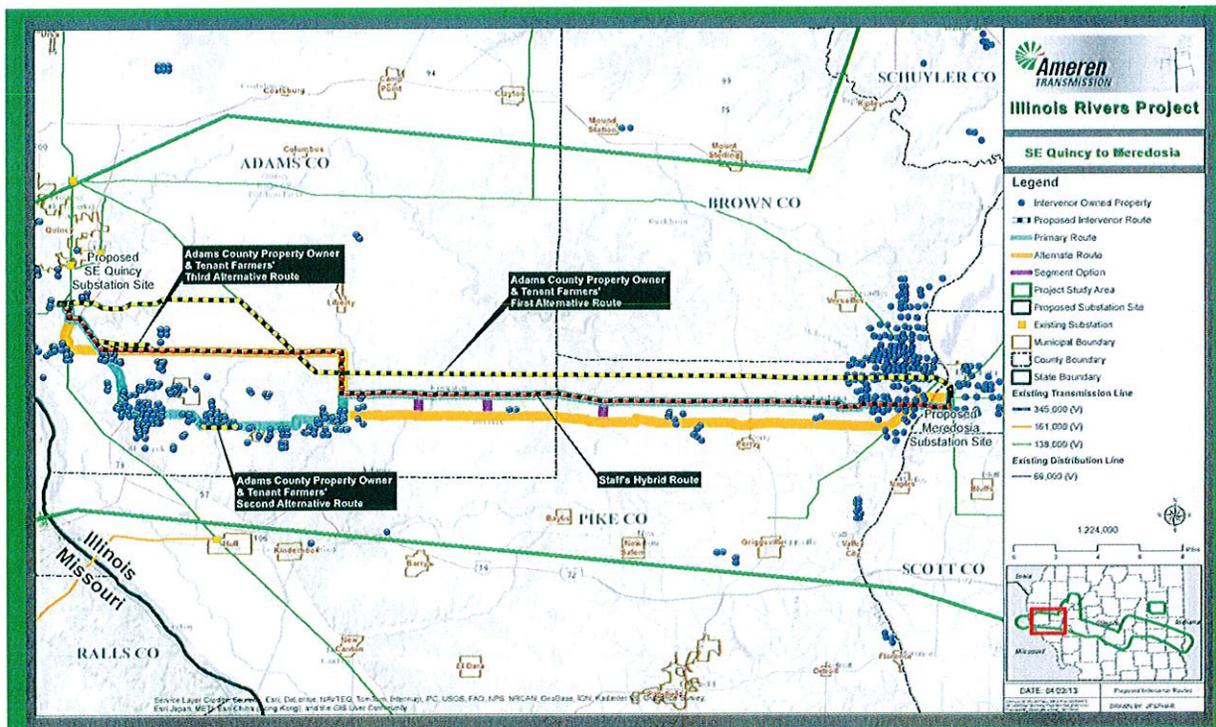
In making its determination, the Commission shall attach primary weight to the cost or cost savings to the customers of the utility. The Commission may consider any or all factors which will or may affect such cost or cost savings, including the public utility's engineering judgment regarding the materials used for construction.

220 ILCS 5/8-406(d). The Commission and Illinois courts have considered a number of factors when determining what constitutes least-cost means, including but not limited to, the length of the transmission lines, their cost of construction and maintenance, their impact on surrounding agricultural land, the number of impacted landowners and structures, and the availability of

existing rights of way. Given the Commission’s discretion to determine what constitutes public convenience and necessity, attaching primary weight to cost or cost savings in a §406.1 analysis is well within the Commission’s purview and is prudent considering the substantial cost the Project will pass onto utility consumers.

B. Quincy – Meredosia

ACPO’s Alternative #1 Route predominantly follows a preexisting Ameren 138 kV in Adams and Pike Counties (hereinafter “138 kV Line”). Conversely, ATXI’s Recommended Rebuttal Route divides land primarily used for agriculture that is presently not encumbered by easements for Ameren transmission lines. The below map is offered for demonstrative purposes.



1. Length of the Line.

A straightforward and easily quantifiable factor of the least-cost means standard is route length, which has a direct impact on both the initial cost of the construction and the cost of operation and maintenance. According to Commission Senior Electrical Engineer Greg

Rockrohr, the shortest, straightest route is preferable. Revised Direct Testimony of Greg Rockrohr, Ins. 440-45. Typically, the shorter the route, the lower the initial building cost, because less material and labor is necessary. Moreover, the straighter the route, the less need for costly “structures that support uneven forces from conductors due to changes in route direction.” *Id.* For example, each structure used to support the transmission lines with angles less than or equal to 1° cost approximately \$33,000.00, whereas the cost to support a structure for angles in the line between 1° and 15° more than doubles to approximately \$74,250.00. *Id.* at 448-51. The cost for structures to support angles greater than 15°, known as dead-end structures, is approximately \$107,250.000 a piece—more than three times the cost of a structure to support lines with angles of 1° or less. *Id.* at 451-53. Examination of the ATXI’s Recommended Rebuttal Route and ACPO’s Alternative #1 Route, shows that ACPO’s is not only the shortest in distance, but is straighter and contains significantly fewer dead-end structures. *See* Table 1.

TABLE 1

| | ATXI’s Primary Route | ATXI’s Alternate Route | Hybrid/Rebuttal Rec. Route | ACPO’s Alternative #1 |
|--|---------------------------------|-----------------------------------|---------------------------------------|----------------------------------|
| Estimated¹ Length | 48.7 miles | 48.2 miles | 46.3 miles | 43.6 miles |
| Estimated # Dead-End Structures | 23 | 32 | 21 | 6 |

In both his direct testimony and cross examination, Mr. Rockrohr testified that ACPO’s Alternative #1 Route would be the “**best choice**,” given its shorter distance and need for far fewer dead-end structures than ATXI’s Recommended Rebuttal Route. *Id.* at 646-48 and ACPO’s Cross-Examination of Greg Rockrohr, p. 195.

¹ Revised Direct Testimony of Greg Rockrohr, Dated April 10, 2013, Ins. 644-45.

2. *Difficulty and Cost of Construction.*

Another straightforward and readily calculable factor of the least-cost means standard is construction costs. Because a percentage of the expense of the route is passed along to the consumer, keeping costs at a minimum is imperative. The cost of ACPO's Alternative #1 Route will be nearly \$97 million whereas ATXI's Recommended Rebuttal Route will cost nearly \$106 million. Utilizing ACPO's Alternative #1 Route would offer a cost savings of well over \$9 million. Accordingly, ACPO's Alternative #1 Route is the preferable route option. See Table 2.

TABLE 2

| | ATXI's Primary Route | ATXI's Alternate Route | Hybrid/Rebuttal Rec. Route | ACPO's Alternative #1 |
|-----------------------------------|---------------------------------|-----------------------------------|---------------------------------------|----------------------------------|
| Estimated Cost² | \$105,957,000.00 | \$104,264,000.00 | \$105,859,000.00 | \$96,738,000.00 |

In addition to ACPO's Alternative #1 Route being the shortest and straightest option for the Project from Quincy to Meredosia, utilizing an already existing route that has already met analysis for another project "makes sense," since the least-cost means requirement was in place when the 138 kV Line was approved by the Commission. ACPO's Cross-Examination of Greg Rockrohr, p. 196. It would logically follow that utilizing already cleared, accessible rights of way would prove less difficult to build upon than land that has not previously been utilized for transmission lines.

3. *Difficulty and Cost of Operation and Maintenance.*

Jerry A. Murbarger, transmission design specialist for Ameren Services Company, made no comparison between the cost of operation and maintenance of ATXI's Recommend Rebuttal Route and the ACPO's Alternative #1 Route. However, ACPO's Alternative #1 Route runs along the 138 kV Line, which contains existing rights of way for transmissions lines. As such, it

² ATXI Exhibit 16.3.

follows that the difficulty and cost of operation and maintenance of two sets of transmission lines along the same route would be less to operate and maintain as compared to the same lines located in two separate locations.

4. *Environmental Impacts.*

ACPO is unaware of any significant difference in environmental impacts between ATXI's Rebuttal Recommend Route and the ACPO's Alternative #1 Route, except as identified in Sections 6, 7, 10, and 11 herein.

5. *Impacts on Historical Resources.*

ACPO is unaware of any significant difference between the impact on historical resources of ATXI's Rebuttal Recommend Route and the ACPO's Alternative #1 Route. There is no reason to believe either would be preferable.

6. *Social and Land use Impacts.*

An additional consideration of the least-cost means standard is the Transmission Line's social and land use impacts. For communities impacted by the Project, agriculture is a significant source of income and concern for many property owners. As such, any impact the Project may have on farming is potentially considerable and should not be discounted. In *Ness v. Illinois Commerce Commission*, the Illinois Supreme Court affirmed the Circuit Court's reversal of a Commission decision to grant a Certificate of Public Convenience and Necessity because it neglected to take into account the impact on agriculture in the area. 67 Ill. 2d 250, 254, 367 N.E.2d 672, 674 (1977). In *Ness*, the Court considered factors such as interference with present land uses, particularly farm splitting and number of farms affected, type or quality and productivity of the farms impacted, greater costs to farmers in the area, and detrimental effect to "high productivity farms or superior soil." *Id.*

ACPO object to the Petition because of its intrusion on prime Illinois farmland. If the Commission grants the Petition, then ACPO request that the Commission utilize ACPO's Alternative #1 Route because of the undesirable impact ATXI's Recommend Rebuttal Route will have on the ACPO's farming operations. The negative environmental impact on the ACPO's farming operations for properties as follows:

a. Soil Compaction: The transmission line towers will involve disrupting the soil. When construction equipment is continually operated over farm ground, there is a loss of yield at the location of the construction. When heavy equipment operates over farm ground, it impacts the ability of plant roots to penetrate to the soil to reach water and nutrients (e.g., fertilizer), which results in lesser or no yield. ACPO believe they will experience a reduction in yields for up to seven years. Direct Testimony: Stuart Kaiser Ex. 7.0, p. 2; Marvin Miller Ex. 11.0, p. 2; Brent Mast Ex. 10.0, p. 2; John W. Peters Ex. 12.0, p. 3; Melvin Loos Ex. 9.0, p. 2; David Lewis Ex. 8.0, p. 2; Edward George Behrensmeyer Ex. 1.0, p. 3.

b. Drainage: ACPO have drainage tiles in the vicinity of the proposed ATXI's Recommend Rebuttal Route. The construction of the lines will likely disrupt or destroy the drainage tiles. Direct Testimony: Marvin Miller Ex.11.0, p. 3; Brent Mast Ex.10.0, p. 2; Melvin Loos Ex. 9.0, p. 2; David Lewis Ex. 8.0, p. 2.

c. Aerial Spraying: ACPO use aerial spraying in their farming operations. The proposed placement for the Recommend Rebuttal Route will split the properties owned by ACPO on which both sides of the properties are used for agricultural purposes. The Transmission Line will make it difficult or impossible to conduct effective aerial spray applications. Direct Testimony: Stuart Kaiser Ex. 7.0, p. 2; Marvin Miller Ex. 11.0, p. 3; John W. Peters Ex. 12.0, p. 3; Melvin Loos Ex. 9.0, p. 2; David Lewis Ex. 8.0, p. 2.

d. Field Efficiency: The possible placement of transmission line towers on properties will have a negative impact on field efficiency, because of the need for farmers to reroute their planting and harvesting routes to work around the structures supporting the Transmission Line. Direct Testimony: Stuart Kaiser Ex. 7.0, p. 3; Marvin Miller Ex. 11.0, p. 3; Melvin Loos Ex. 9.0, p. 3; David Lewis Ex. 8.0, p. 2.

e. Weed Control: If the towers are placed on the properties, the properties will need to perform weed control on and around the towers. The presence of weeds reduces yield because the weeds will consume water and nutrients otherwise utilized by surrounding crops. Direct Testimony: Marvin Miller Ex. 11.0, p. 3.

f. Irrigation: At least one member of ACPO uses center pivot irrigation systems. The placement of the Transmission Line through his property may inhibit this system and make necessary irrigation more costly and time consuming for the farmer. Direct Testimony: Marvin Miller Ex. 11.0, p. 3.

g. GPS: Many ACPO utilize GPS navigation systems in their equipment. The placement of the Transmission Line through their properties may interfere with or render these systems useless. Direct Testimony: Marvin Miller Ex. 11.0, p. 3; Brent Mast Ex. 10.0, p. 3; John W. Peters Ex. 12.0, p. 4; Melvin Loos Ex. 9.0, p. 3; David Lewis Ex. 8.0, p. 2.

h. Dairy Farm: One ACPO owns a dairy farm. The barn where all the dairy cattle are housed lies adjacent to ATXI's Recommended Rebuttal Route and would subject the dairy cattle to stray voltage, causing a decrease in milk production and negatively impacting their disposition. Direct Testimony: Greg Edwards on behalf of Paul Edwards Jr. Trust and Hi Blue Dairy Farms Ex. 2.0, p. 3.

PROOF OF SERVICE

STATE OF ILLINOIS)
) SS
COUNTY OF MADISON)

I, Brian R. Kalb, BEING AN ATTORNEY ADMITTED TO PRACTICE IN THE State of Illinois and one of the attorneys representing ADAMS COUNTY LANDOWNERS AND TENANT FARMERS, hereinwith certify that I did on the 3rd day of June, 2013, served the **BRIEF OF ADAMS COUNTY LANDOWNERS AND TENANT FARMERS IN OPPOSITION TO ATXI'S RECOMMENDED REBUTTAL ROUTE FROM QUINCY TO MEREDOSIA WITHIN THE ILLINOIS RIVERS PROJECT** by sending same by electronic mail.



Brian R. Kalb, #6275228
Byron Carlson Petri & Kalb, LLC
411 St. Louis Street
Edwardsville, IL 62025
Telephone: (618) 655-0600
Facsimile: (618) 655-4004
Email: brk@bcplaw.com

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



NOTARY PUBLIC

