

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)	No. 12-0598
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.)	

REPLY BRIEF OF FUTUREGEN INDUSTRIAL ALLIANCE, INC.

The FutureGen Industrial Alliance, Inc. (the “FutureGen Alliance”), by its undersigned counsel, pursuant to Section 200.800 of the Rules of Practice of the Illinois Commerce Commission (“the Commission”), respectfully submits its Reply Brief in the above-captioned docket. Specifically, the FutureGen Alliance submits this Reply Brief to respond to assertions made in the Initial Brief filed by prospective Intervenors Steven and Donna Ruholl (the “Ruholls”). In support thereof, the FutureGen Alliance state as follows:

I. INTRODUCTION

On November 7, 2012, Ameren Transmission Company of Illinois (“ATXI”) filed a Petition with the Commission seeking a Certificate of Public Convenience and Necessity pursuant to Sections 8-406.1 and 8-503 of the Public Utilities Act, 220 ILCS 5/8-406, 8-502. ATXI is seeking authorization to construct, operate and maintain a 345 kilovolt (“kV”) electric transmission line, approximately 375 miles in length (the “Transmission Line”), and related facilities, including the construction or expansion of nine substations, in an area extending from the Mississippi River near Quincy, Illinois eastwards across the state

to the Indiana State line, and including portions connecting the Sidney and Rising Substations and the Meredosia and Ipava Substations. As used throughout the testimony of the witnesses in this proceeding, such facilities, including substations, together with the Transmission Line, constitute the Illinois Rivers Project (the "Project"). *ATXI Ex. 1 at 3, line 48-57.*

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

On November 21, 2012, the FutureGen Alliance filed its Petition to Intervene in this case, and the ALJs granted the Petition on December 3, 2012. On December 28, 2012, the FutureGen Alliance filed its Identification of Alternative Route, in which the Alliance objected to ATXI's Primary Route, and instead stated a preference for ATXI's Alternate Route. (*See FutureGen Alliance Identification of Alternative Route, ¶3.*)

On March 29, 2013, the FutureGen Alliance filed its Application for Certification to Construct and Operate a Carbon Dioxide Pipeline with the Commission. *See ICC Docket No. 13-0252.* The Alliance's Application is pending.

To resolve the concerns raised by the FutureGen Alliance, ATXI entered into a Stipulation with the Alliance pursuant to which ATXI agreed to request Commission approval for ATXI's Alternate Route for the Meredosia – Pawnee Segment of the Project. The Stipulation was filed on March 29, 2013 as Exhibit B to Kenneth Humphreys Direct Testimony. The

Stipulation between ATXI and the FutureGen Alliance was admitted into the Record on May 14, 2013. *TR. 338.*

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

II. REQUIREMENTS FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

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

III. OVERALL NEED FOR THE PROPOSED FACILITIES

The FutureGen Alliance takes no position as to the overall need for the proposed facilities.

IV. LEAST-COST AND THE PROPOSED TRANSMISSION LINE ROUTES

A. Mississippi River – Quincy

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

B. Quincy - Meredosia

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

C. Meredosia - Ipava

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

D. Meredosia - Pawnee

1. Length of the Line

Pursuant to the stipulations it entered into with the FutureGen Alliance and MSCLTF, ATXI is recommending the route originally designated in its Petition as its "Alternate Route" as its Rebuttal Recommended Route for the Meredosia to Pawnee Segment. This route is depicted on ATXI Exhibit 13.1. *See ATXI Exhibit 10.0C (2d Rev.) at 30, line 634-646.* The length of the Rebuttal Recommended Route is 75.6 miles. *See ICC Staff Exhibit 1.0 at 37, line 788.*

2. Difficulty and Cost of Construction

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

In their Initial Brief, the Roholls assert that ATXI, notwithstanding the Stipulation ATXI entered into with the FutureGen Alliance, has nevertheless "addressed" the concerns the FutureGen Alliance has raised about conflicts between the Illinois Rivers Project and the FutureGen Alliance's clean coal project. The Roholls' Initial Brief suggests that ATXI has dismissed the FutureGen Alliance's conflicts with the Project. The Roholls' Initial Brief is mistaken.

In the Direct Testimony submitted by the FutureGen Alliance's CEO, Kenneth Humphreys, Mr. Humphreys stated that overlapping construction schedules for the Project and the FutureGen 2.0 clean coal project could present unavoidable conflicts for the projects since the Primary Route for the Project and the FutureGen 2.0 project's carbon dioxide pipeline and storage facility follow the same route in Eastern Morgan County. The Roholls suggest that Mr. Humphreys' concerns are unwarranted because ATXI witness Jeffrey Hackman testified that "it is always necessary" for ATXI to "coordinate with property owners, road commissioners and other ongoing construction processes during the construction of transmission line projects." *See* ATXI Ex 12.0 (Revised Rebuttal Testimony of Jeffrey Hackman at 31.) Although ATXI undoubtedly will coordinate with landowners and other projects, the overlapping schedule and routes of the Primary Route and the FutureGen 2.0 project will lead to unavoidable, and potentially unresolvable, conflicts, as Mr. Humphreys indicated in his testimony, and Mr. Hackman did not specifically address those conflicts in his testimony. Moreover, as the Stipulation between ATXI and the FutureGen Alliance indicates, ATXI agreed to pursue the Alternate Route "to resolve certain concerns" raised by the FutureGen Alliance relating to the conflicts between the Illinois Rivers Project and the FutureGen 2.0 clean coal project.

3. Difficulty and Cost of Operation and Maintenance

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

In his Direct Testimony, Mr. Humphreys also raised concerns about the impact the

Illinois Rivers Project would have on the operations of the FutureGen 2.0 clean coal project if Primary Route is approved for the Illinois Rivers Project. Mr. Humphreys testified that the EMF produced by the high voltage power lines of the Project would interfere with the highly sensitive monitoring equipment designed to track the behavior of carbon dioxide stored as part of the FutureGen 2.0 project. Mr. Humphreys testified that the EMF would degrade the performance of the monitoring technologies used as part of the FutureGen 2.0 project.

In their Initial Brief, however, the Roholls claim that ATXI witness Jeffrey Hackman testified that because the magnetic field strength of the Illinois Rivers Project's power lines would be equivalent to that of a blender for objects located more than one foot away, the Project should have no impact on the FutureGen 2.0 project. This is incorrect. First, Mr. Hackman did not testify about the potential impact of the EMF on the FutureGen Alliance's carbon dioxide sensitive monitoring equipment. More important, Mr. Hackman's testimony indicates that the most effective way to avoid interference with wireless technology and other electronics is to put distance between the power lines and the equipment. If the Primary Route is selected for the Illinois Rivers Project, it will run through the middle of the FutureGen 2.0 project's CO₂ storage facility, which means that proximity to monitoring equipment would be unavoidable. As Mr. Humphreys testified, "the addition of a 345 kv power line coupled with [existing] small power lines [in the area of the FutureGen Project's Storage Facility] creates an extremely complex EMF that will unquestionably make filtering out the effects on seismic data extremely difficult and in some cases impossible." (*See Direct Testimony of Kenneth Humphreys*, at 4). If the Primary Route is selected, the conflict between the Illinois Rivers Project and the FutureGen 2.0 project will therefore be unavoidable, which explains why ATXI and the FutureGen Alliance entered into their Stipulation to request approval of the ATXI's Alternate Route for the Meredosia –

Pawnee Segment of the Project.

4. Environmental Impacts

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

5. Impacts on Historical Resources

The Corrected Second Revised Rebuttal Testimony of Donnell Murphy indicates that:

"ATXI will continue to work with the Illinois State Historic Preservation Agency ('IHPA'), conduct any field studies and comply with all applicable regulations in advance of construction. Further... the placement of poles along a route will take into account any known resources. Where the potential for impact to archeological resources cannot be spanned or avoided, ATXI will implement appropriate mitigation measures as identified in conjunction with IHPA."

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

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

6. Social and Land Use Impacts

The testimony of Kenneth Humphreys, CEO of the FutureGen Alliance, establishes that the placement of the Transmission Line along the Primary Route would negatively impact the development and operation of the FutureGen CO₂ pipeline and storage facility. In addition to the potential for conflicts arising from overlapping construction schedules and increased community resistance from multiple public works projects impacting the same landowners, as discussed above, the placement of the Transmission Line on the Primary Route would negatively impact FutureGen's subsurface monitoring technologies. *FutureGen Ex. 1.0*

at 2, line 8-17. The only way to adequately prevent the potential disruption to and interference with subsurface monitoring technologies at the FutureGen 2.0 Project's Storage Facility is to avoid locating the Transmission Line near FutureGen's CO₂ Pipeline and Storage Facility. *FutureGen Ex. 1.0, at 3, line 18*. In other words, the only way to avoid the dual impacts upon affected landowners and avoid interference with the FutureGen Project is to locate the Transmission Line on a route other than the Primary Route.

7. Number of Affected Land Owners and Other Stake Holders

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

8. Proximity to Existing and Planned Development

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

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

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

In their Initial Brief, the Ruholls assert that: "The Alternate Route would also impact a coal mine whereas the Primary Route impacts none. See AXTI Ex. 4-5, at 1-4 and Intervener MSSCLPG Ex. 1 at 7-8." (Ruholls' Brf. at 8.) Yet, the cited portions of the record do not say

how the coal mine would be impacted or describe the extent of the impact. Absent such details, the Commission should avoid assuming that the impact would be significant. In any event, given the fact that no coal company has intervened in this docket, it would be reasonable to assume that such an impact will not be significant.

The Ruholls also assert in their Initial Brief that “*Many* of the parcels of real estate affected by the proposed Alternate Route already contain easements from the Panhandle Eastern Pipeline Company, LP.” (Ruholls’ Brf. at 8.) (Emphasis added). The cited portions of the record, however, do not reveal how many parcels on the Alternate Route are already burdened by Panhandle easements. Thus, there is no basis for the claim that “many” parcels have pipeline easements, let alone a basis for determining that any impact or conflict would be significant.

Similarly, the Ruholls also assert in their Initial Brief that Panhandle has a natural gas pipeline and storage area which would be directly affected by the proposed Alternate Route. Yet, Panhandle did not file a Petition to Intervene in this proceeding. Surely had Panhandle believed that the Project would affect the operation of its natural gas pipeline, it would have filed to intervene in this case. In any event, the testimony cited by the Ruholls does not indicate the nature or extent of the alleged impact, and the Commission should therefore avoid assuming that such alleged impact, if any, would be significant.

9. Community Acceptance

The FutureGen Alliance and MSCLTF each support the Rebuttal Recommended Route. *See Stipulation Exhibit 1, Stipulation Exhibit 2, ATXI Ex. 10.0C (2d Rev.) at 34, line 713- 716.* The Rebuttal Recommended Route a/k/a ATXI's Alternate Route has also received support from the Pearce Family, who have expressed support for ATXI's Alternate Route as their first preference for the Meredosia to Pawnee Segment. *See ATXI Ex. 10.0C (2d Rev.) at*

34, line 716-719. The Rebuttal Recommended Route would also avoid property owned by Interveners Ms. Splain and Mr. Cody. Although these Interveners did not file Direct Testimony, it is assumed that they would support a route that does not affect their property. *See ATXI Exhibit 10.0C (2d Rev.) at 34, line 719-721.* The Rebuttal Recommended Route addresses the concerns of multiple Interveners along the Primary Route. *See ATXI Exhibit 10.0C (2d Rev.) at 36, line 771-772.*

10. Visual Impact

The FutureGen Alliance assumes that the visual impact will be substantially the same regardless of the route chosen by the Commission.

11. Presence of Existing Corridors

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

F. Pawnee - Pana Segment

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

G. Pana - Kansas Segment

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

1. Pana - Mt. Zion

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

2. Mt. Zion - Kansas

The FutureGen Alliance takes no position as to the Recommended Route

of the Transmission Line for the Mt. Zion - Kansas Segment.

H. Kansas - Indiana State Line

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

I. Sidney - Rising

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

V. MANAGING AND SUPERVISING THE CONSTRUCTION PROCESS

The FutureGen Alliance takes no position as to ATXI's ability to supervise and manage the construction process. However, as Kenneth Humphreys indicated in his Direct Testimony, the construction process will invariably be made more difficult if the Transmission Line is placed upon the Primary Route do to the possibility of the FutureGen pipeline being simultaneously constructed along the same route.

VI. FINANCING THE PROPOSED CONSTRUCTION

The FutureGen Alliance takes no position as to ATXI's ability to finance the proposed construction.

VII. CONCLUSION AND REQUEST FOR RELIEF

The FutureGen Alliance has joined with ATXI and MSCLTF in supporting ATXI's Rebuttal Recommended Route. As previously noted, the Rebuttal Recommended Route addresses the concerns of multiple interveners. Most notably, it avoids the potential for conflicts with the construction and operation of the FutureGen 2.0 project's CO2 pipeline and storage facility. The selection of the Rebuttal Recommended Route advances the Commission's policy of encouraging parties in proceedings such as the instant matter from resolving their concerns in a

mutually agreeable manner. Accordingly, the FutureGen Alliance respectfully request that the Commission approve ATXI's Rebuttal Recommended Route as the route to be used for the Meredosia to Pawnee Segment of the Illinois Rivers Project.

Dated: June 10, 2013

Respectfully submitted,

FUTUREGEN INDUSTRIAL ALLIANCE, INC.

A handwritten signature in black ink, appearing to read 'KCB', with a long horizontal flourish extending to the right.

By: _____
One of its Attorneys

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