

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) Docket No. 12-0598
 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 INTERVENORS MAGDI, BARBARA, AND ADAM RAGHEB
("RAGHEB FAMILY")

NOW COME Intervenors, Magdi, Barbara, and Adam Ragheb ("Ragheb Family") and respectfully state for their Reply Brief as follows:

I. INTRODUCTION

This Reply Brief will address points raised by ATXI, MISO, Staff of the Illinois Commerce Commission, the Illinois Agricultural Association, CSLPG, and Champaign/Savoy in each of those parties' Initial Briefs. This brief will then close with a proposed, albeit partial, Proposed Partial Order. This Reply Brief is not, and should not be construed as, a waiver of any argument previously advanced by the Ragheb Family, and our failure to address a specific point raised by another party is not to be taken as an endorsement of that point. The Ragheb Family reincorporates the arguments made in its Initial Brief filed in this proceeding.

II. INITIAL BRIEF OF ATXI

ATXI would have the commission believe that “Dr. Ragheb’s (*sic*) appears to be more concerned with the location of the transmission line near his property,” (Initial Brief of ATXI, p. 8) based on his response that siting a 765 kV line across the Ragheb Family’s property would not alleviate the concerns expressed in the case. Based on ATXI’s own testimony, and Mr. Rockrohr’s unbiased evaluation, the ATXI Primary Route has been demonstrated to be superior to all other Sidney to Rising routes proposed in this docket. Any reasonable person would not have their concerns alleviated if the line were sited along a route that the constructing company had previously testified and quantitatively demonstrated was inferior to the Primary Route. Dr. Ragheb’s response to the question posed by ATXI does not indicate he is more concerned with the location of the transmission line, but that he is aware that the Primary Route is unequivocally superior to the Alternate Route between Sidney and Rising, regardless of the voltage level at which the transmission lines are built.

ATXI has also demonstrated that it is adept at exhibiting exactly why the expedited procedures are preventing a complete and accurate record from being developed in this case. While we agree with ATXI in regards to its evaluation that the ATXI Primary Route from Sidney to Rising would be significantly cheaper than the ATXI Alternate Route, we wish to point out an inconsistency in the ATXI statements that follow. In its Initial Brief, ATXI states that “the Ragheb Family’s ... modification of ATXI’s Alternate Route ... would raise the cost to construct that route.” (*Id*, p. 8, from ICC Staff Ex. 1.0R, p. 20-21) yet states in the accompanying table for the “Ragheb Family Route” an estimated baseline cost of “Not specified but < \$65.122 million.” (*Id*, p. 8) The “<” sign is commonly known to represent “less than,” and given the high level of competency demonstrated by ATXI’s legal team, this error is undeniably due to the adopted schedule not affording sufficient time for proofreading, and not at all due to a lack of knowledge of mathematical symbols. Once again, as has been a theme expressed by numerous parties throughout this case, the schedule as dictated by the

expedited proceedings does not allow a project of this magnitude the proper amount of time for an accurate and complete record to be developed in the case.

The Ragheb Family also takes issue with the opinion of Donell Murphy that was presented as fact in ATXI's Initial Brief. ATXI states in regards to the Ragheb Family flightpark that "requests for regulatory approvals from the Federal Aviation Administration were submitted after this proceeding was initiated" (ATXI Initial Brief, p. 92) but ATXI's "proof" for this is Donell Murphy's statement that "I believe that the Ragheb [F]amily's planned ultralight flightpark was proposed after this proceeding began." (ATXI Exhibit 13.0C, p. 73) ATXI has no hard evidence to back up Ms. Murphy's belief, and incorrectly presents her mere belief as a fact in its Initial Brief.

Despite the aforementioned issues with ATXI's initial brief, the Ragheb Family wishes to highlight the points on which we agree with ATXI. We agree with ATXI that "ATXI's Primary Route is the preferred option between Sidney, Illinois and Rising, Illinois." (ATXI Initial Brief, p. 86) We agree with ATXI that the Primary Route "follows an existing unoccupied corridor of easements". (*Id.*, p. 87) We agree with ATXI that the Primary Route between Sidney and Rising is the shortest, would be cheaper to construct, would cost less to operate and maintain, would address CSLPG's concerns, would affect less property owners than ATXI's Alternate Route, that community acceptance favors the Primary Route, and that the presence of existing corridors favors the Primary Route. (*Id.*, pp. 90-93)

III. INITIAL BRIEF OF MIDCONTINENT INDEPENDENT SYSTEM OPERATOR, INC.

("MISO")

In its Initial Brief, MISO claims that "Dr. Ragheb admitt[ed] that he neither read nor considered MISO Witness Webb's direct testimony prior to submitting his own direct

testimony.” (Initial Brief of MISO, p. 7) This is a clear misrepresentation of Dr. Ragheb’s testimony. MISO references the hearing transcript of May 16, 2013, pages 660-667 for this contention. A review of said transcript reads:

Q [MS. BOJKO]. So am I to understand that you have reviewed MISO witness Mr. Webb’s both direct testimony as well as his rebuttal testimony?

A [DR. RAGHEB] Yes. I reviewed his testimony but not the other projects, the first two. In that timeframe, I haven’t been able to review all the project (*sic*) that he’s referring to ...

This is, admittedly, a slightly-confusing response, but “Yes. I reviewed his testimony...the first two” (Transcript, Testimony of Dr. Ragheb, p. 660-661) could be reasonably concluded to refer to Mr Webb’s direct and rebuttal testimony. As any good lawyer would do, MISO’s Counsel sought clarity with the next question:

Q [MS. BOJKO]. And I’m sorry. Just so the record is clear ... you have reviewed Mr. Webb’s both direct testimony as well as his rebuttal testimony?

A [DR. RAGHEB]. Yes.

MISO may be referring to a portion of the testimony at the end of a series of rapid-fire questions where Dr. Ragheb was asked “Isn’t it true that Mr. Webb’s direct testimony was originally filed in this case on November 8th, a day after MISO or ATXI filed its application?” (*Id*, p. 666) to which he replied “I haven’t had a chance to look at this information.” (*Id*, p. 66) Considering that when the pace of questioning was not rushed, Dr. Ragheb **twice** identified that he had read the testimony of Mr. Webb, and when confronted with questions about a specific date at the end of a line of rapid-fire questions, a vague statement about not being familiar with “this information,” it would reasonably be concluded by truly objective party that the answer was referring to whether or not he was familiar with the specific date of MISO’s submission of Mr. Webb’s testimony. Dr. Ragheb repeatedly demonstrated his familiarity with MISO, Mr. Webb’s testimony, and it was a well-known fact that he was nervous as this was his first time on the witness stand.

Dr. Ragheb **did read and consider** Mr. Webb’s testimony prior to submitting his own direct testimony. In addition to that, MISO’s MTEP 2009 Report was referenced in Dr. Ragheb’s direct testimony (Ragheb Family Exhibit 1.0R, lines 670-674), and the 2011 NERC Long Term Reliability Assessment data submittals were referenced (*Id*, lines 680-686), which includes information submitted by MISO. It would be preposterous to think that these relatively obscure documents that were not submitted to this docket would be reviewed, but that MISO’s direct testimony that was submitted to this docket would not have been reviewed. What was not personally reviewed by Dr. Ragheb prior to the submission of his direct testimony (but was indeed reviewed by other intervening members of the Ragheb Family) was the information in MISO’s MTEP11 **specific to the other 13 MVPs**, and this is what Dr. Ragheb was referring to when he stated “Yes. I reviewed his testimony but not the other projects”. (Transcript of May 16, 2013, pp. 660-661)

MISO has targeted the only person calling into question the vague process by which the 765 kV and HVDC options that it evaluated for the Illinois Rivers Project were rejected in favor of a 345 kV solution. Simply providing quantitative numbers may presumably alleviate these concerns, and unequivocally demonstrate that the 345 kV option provides a larger benefit-cost ratio than the 765 kV or HVDC options. Instead of doing this, MISO attempted to discredit Dr. Ragheb’s technical merits, trying to pigeonhole him into appearing as only a landowner (*Id*, p. 656). When he successfully thwarted this attempt by clarifying that he is very knowledgeable in “wind power generation and power in general” (*Id*, p. 657) but is appearing on behalf of himself as an expert, MISO appears to have reverted to presenting these patently false statements about not having read the testimony of Mr. Webb prior to his submission of direct testimony.

IV. INITIAL BRIEF OF STAFF OF THE ILLINOIS COMMERCE COMMISSION

In regards to points brought up by the Staff of the Illinois Commerce Commission, the Ragheb Family wishes to express that it agrees with multiple points raised in the Initial Brief of Staff. We agree with Staff that in regards to the Sidney to Rising portion, “it is unnecessary for ATXI to construct additional substations rather than terminating its 345 kV transmission line at AIC’s existing substations.” (Staff Initial Brief, p. 37) As stated multiple times prior, we agree with Staff that ATXI’s Primary Route is “preferable” (*Id.*, p. 37) Based on Staff’s uncertainty regarding “how ATXI will continue to exist or complete the project if its single employee ... were to leave ATXI” and that “ATXI’s response that someone else would replace Ms. Borkowski does not entirely alleviate Staff’s concern” (*Id.*, p. 40), we also question how ATXI would continue to exist or complete the project. Finally, based on the fact that ATXI has no standalone credit rating nor “sufficient assets and financial size to be rated” (ATXI Exhibit 6.0, lines 133-134 and Initial Brief of the Ragheb Family, p. 9), and Staff’s statement that it is unsure that the Commission could “find that ATXI is capable of financing the proposed construction without significant adverse consequences for the utility [*i.e.*, Ameren Corporation)] or its customers, as Section 8.406.1(f)(3) requires” (Staff Initial Brief, p. 40), the Ragheb Family does not feel that ATXI has demonstrated it is fully capable of financing the proposed construction within the requirements of Section 8.406.1.

V. INITIAL BRIEF OF ILLINOIS AGRICULTURAL ASSOCIATION

The Illinois Agricultural Association (“Farm Bureau”) raised some excellent points in its Initial Brief, relating primarily to the expedited procedures. These expedited procedures, from which ATXI was offered two chances to withdraw, create a “high risk” (Initial Brief of Illinois

Agricultural Association, p. 3) to Illinois ratepayers and landowners that they will not be afforded “due process afforded under the fourteenth amendment to the United States Constitution and article I, section 2, of the Illinois Constitution” (*Id*, p. 3) due to the “lack of time, length of the proposed transmission line, and number of interveners in this proceeding.” (*Id*, p. 3) The Ragheb Family agrees with this position. It should be stressed that the second chance to withdraw this petition from the expedited review process was “[o]n the eve of the evidentiary hearings” (*Id*, p. 3), after ICC Staff Engineer Mr. Greg Rockrohr testified that the schedule does not allow for development of a complete and thorough record upon which the Commission can base its decision (ICC Staff Exhibit 1.0R, p. 54) The Ragheb Family agrees with this position and questions the motivations behind ATXI’s repeated refusal to voluntarily withdraw its petition from the expedited process at the cost of generating a complete and thorough record in the case and at the risk of denying Illinois ratepayers and landowners their constitutionally-guaranteed due process.

The Ragheb Family also agrees with the Farm Bureau that “the routing methodology used by ATXI is flawed and fails to support an evidentiary record upon which this Commission can issue a CPCN for the entire Project.” (Initial Brief of Illinois Agricultural Association, p. 4) As the Farm Bureau expertly points out, the Primary and Alternate Routes were selected by ATXI from a computer desktop and then helicopter flyovers were conducted. (*Id*, p. 4) We find it shocking “that the number of potentially affected residences along ATXI’s proposed routes were not only overinflated but also inaccurate.” (*Id*, p. 4) With inaccurate numbers, there is no way ATXI can quantitatively prove that its Rebuttal Recommended Routes are “the least-cost means of satisfying the service needs of the public utility’s customers” and “is the least cost means of satisfying those objectives.” (220 ILCS 5/8-406.1(f)(1))

Following on this point, the Farm Bureau notes that ICC Staff witness Mr. Greg Rockrohr states that “a specific activity that we perform normally would be to drive in field various sections of every route segment, and this case there was not an opportunity to do that because of the schedule.” (Transcript of May 13, 2013, p. 208) The Farm Bureau continues on to reason that “each segment of the proposed routes should have been driven and observed on the ground in order develop (*sic*) a complete and accurate evidentiary record upon which this Commission can base a decision as to the least cost route.” (Initial Brief of Illinois Agricultural Association, p. 6) The Ragheb Family strongly agrees with this point. Without a complete record of the actual (and not perceived) number of affected residences, and without having driven each route and modified the routes accordingly, ATXI is unable to quantitatively prove that the routes concocted by ATXI and ERM are in fact the least-cost means.

The Farm Bureau concludes their brief by noting that this is not the first time that a member of the Ameren conglomerate has submitted poorly-performed routing analyses. The Ragheb Family finds it surprising and unsettling that despite the fact that 3 years ago almost to the day (June 23, 2010), AmerenIP was ordered to “to do a much better job of evaluating future transmission line route alternatives before bringing its next request for authority to construct a transmission line to the Commission” (Initial Brief of Illinois Agricultural Association, p. 7), and that it has callously ignored that order in this docket.

VI. INITIAL BRIEF OF COLFAX-SCOTT LAND PRESERVATION GROUP

The Ragheb Family is in complete agreement with the Colfax-Scott Land Preservation Group (CSLPG) that “[t]he proposed Primary Route is far and away the least cost option” (Initial Brief of CSLPG), p. 2) presented in this proceeding for the Sidney to Rising. CSLPG quantitatively

proves that if the Primary Route is not selected, approximately 50% more landowners will be affected (154 for the Alternate versus 105 for the Primary). (*Id*, p. 3) The Ragheb Family agrees that for these, and a number of other reasons articulated in the CSLPG Initial Brief, “the clear least cost choice of routing options presented for the segment of the Project from Sidney to Rising would be the ATXI proposed Primary Route.”

VII. INITIAL BRIEF OF CHAMPAIGN/SAVOY

First of all, we wish to apologize to the City of Champaign and the Village of Savoy for slightly mischaracterizing their testimony in our Initial Brief. Additionally, we wish to thank the Village of Savoy for their support of our modification to ATXI’s alternate route. (City of Champaign and Village of Savoy’s Initial Hearings Brief, pp. 7 and 8) The Ragheb Family agrees **in part** with Savoy regarding the route suggested in the Champaign/Savoy Initial Brief (*Id*, p. 8) While we feel it would be superior to ATXI’s unmodified Alternate Route, and to ATXI’s Alternate Route with the Ragheb modification, we still stand firm with Mr. Rockrohr, CSLPG, Michael Lockwood, and ATXI that the Primary Route is, in the words of Staff witness Mr. Rockrohr, “the best choice.” (ICC Staff Exhibit 1.0R, p. 53) ATXI’s Primary Route utilizes an existing easement corridor, and is the shortest of the now 4 proposed routes between Sidney and Rising.

VIII. PROPOSED PARTIAL ORDER

The Ragheb Family, having reviewed the documents in the record of the Illinois Rivers Project (ICC Docket 12-0598), respectfully is of the opinion that:

- (1) if the Commission elects to approve the portion of the Illinois Rivers Project between Sidney, Illinois and Rising, Illinois, the route should follow ATXI's Primary Route which is also ATXI's Rebuttal Recommended Route;
- (2) ATXI's requested expedited schedule does not allow for development of a complete and thorough record in this case, and does not follow the intent of the law;
- (3) ATXI's routing methodology had been proven to be flawed, and has been flawed in the past;
- (4) ATXI was unable to quantitatively demonstrate that all of its routings for the Project adhere to the least-cost requirement set forth in Section 8-406.1(f)(1);
- (5) ATXI was unable to demonstrate that it is capable of financing the proposed construction without the possibility of significant adverse financial consequences for the utility or its customers as set forth in Section 8-406.1(f)(3);
- (6) ATXI should be made to supplement its petition with at least
 - a. a summary of the results after it performs driving reconnaissance of the entirety of its routes and those proposed and defended by interveners;
 - b. accurate numbers of residences, both occupied and unoccupied, along the routes based on the aforementioned driving reconnaissance;
 - c. corrected maps that accurately reflect the location of existing 138 kV and above transmission lines;

- d. and quantitative information comparing the benefit-cost ratio of the selected 345 kV voltage level with that of the 765 kV and HVDC options that MISO has testified it has already evaluated.

Respectfully submitted,

/s/ Magdi Ragheb, /s/ Barbara Ragheb, /s/ Adam Ragheb

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DATED this 10th day of June, 2013

PROOF OF SERVICE

STAR OF ILLINOIS :
 :
 : SS
COUNTY OF CHAMPAIGN :

We, being property owners on the Alternate Route of Ameren's Illinois Rivers Transmission Project, herewith certify that we caused to be served copies of the foregoing REPLY BRIEF OF THE RAGHEB FAMILY via electronic delivery to the Parties of Record named on the Commission's official service list for ICC Docket No. 12-0598 on this 10th day of June, 2013.

Respectfully Submitted,

/s/ Magdi Ragheb, /s/ Barbara Ragheb, /s/ Adam Ragheb

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