

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.)

**REPLY BRIEF OF ADAMS COUNTY
LANDOWNERS AND TENANT FARMERS**

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**REPLY BRIEF OF ADAMS COUNTY
LANDOWNERS AND TENANT FARMERS**

COME NOW, the ADAMS COUNTY LANDOWNERS AND TENANT FARMERS (hereinafter “ACPO”), by their attorneys, Byron Carlson Petri & Kalb, LLC, and in support of their Reply Brief state:

A. Introduction

In its Initial Brief, Ameren Transmission Company of Illinois (hereinafter “ATXI”) offers a number of excuses for its refusal to adopt the ACPO Alternative Route #1 (hereinafter “ACPO Route”) from the Southeast Quincy substation to Meredosia, Illinois in its Illinois Rivers Project (hereinafter “Project” or “Transmission Line”), despite substantial evidence offered in favor of ACPO Route. ATXI Initial Brief, p. 30-37. Instead, ATXI advocates for a route combining its primary and alternate routes first proposed in ATXI’s petition (hereinafter “Hybrid Route”). *Id.* at p. 30. The Hybrid Route was originally proposed as an alternative to the ACPO Route by Illinois Commerce Commission (hereinafter “Commission”) Senior Electrical Engineer Greg Rockrohr. *Id.* Despite the Staff’s preference for the ACPO Route, ATXI argues that the Hybrid Route is the best option for this segment of the Project because “it is cost-effective, has been fully analyzed, and eliminates concerns raised by almost all Intervenors” for this segment. *Id.* However, none of these reasons are factors in establishing the least-cost means standard set forth in the Public Utilities Act. 220 ILCS 5/8-406.1. Furthermore, this conclusion discounts the factors that not only favor the adoption of the ACPO Route but also ignores factors necessary to the analysis used by the Commission and Illinois Courts when evaluating the least-cost means standard. *See* Order of Reopening 06-0706, Illinois Commerce Commission, Dated June 23, 2010 and *Ness v. Illinois Commerce Commission*, 67 Ill. 2d 250, 367 N.E.2d 672 (1977). As the

ACPO Initial Brief outlines and this Reply Brief reiterates, the ACPO Route is the superior choice for the route from Quincy to Meredosia, Illinois.

B. Least-Cost Means Standard

ATXI commits the fallacy of division by assuming that because the Project as a whole will be the least-cost means solution for solving the reliability issues identified by Mid-Continent Independent System Operator (hereinafter "MISO") each part or segment it recommends inherently becomes the least-cost means option by virtue of being an intended part of the necessary whole. ATXI Initial Brief, p. 15 and 20-21. Such is not the case. Each segment is unique, with any number of potential route alternatives, all of which offer unique benefits (opportunities) and costs (sensitivities). *Id.* at 2 and 19-20. From the very beginning of the docket, the Administrative Law Judges have requested the parties present evidence on specific routes between substations, which ACPO has done. ACPO has presented a potential route that is shorter, more direct, and less costly than those proposed by ATXI and that utilizes existing rights-of-way owned by Ameren Company, while also minimizing the impact on prime farmland and assumed existing residences. As indicated by the Commission and Illinois courts, the least-cost means standard considers a number of factors, including but not limited to the length of the line, its overall cost of construction, maintenance, and repair, its environmental impacts, and the number of landowners and stakeholders affected. *See* Order of Reopening 06-0706. Though the ACPO Route is preferable or comparable to the Hybrid Route in every factor examined, ATXI still recommends the Hybrid Route. ACPO Initial Brief, p. 17. A review of the ACPO Initial Brief illustrates the superiority of the ACPO Route, and the remainder of this brief addresses the mischaracterizations and deficiencies of the analysis in ATXI's Initial Brief.

C. Existing Rights-of-Way

In section of its Initial Brief dedicated to the line between Quincy and Meredosia, ATXI criticizes the ACPO Route for its proposed utilization of a route on which Ameren Company already possesses rights-of-way. ATXI Initial Brief, p. 15 and 30-31. However, the undesirable features ATXI attributes to the ACPO Route are specious and fail to take into account the degree of the potential benefits and costs associated with each.

1. Parallel Lines

The ACPO Route proposes the use of parallel lines along an existing 138 kV transmission line. In her cross examination, Donell Murphy explained that when considering routing options, it is advantageous to utilize “opportunities” that would allow like features to be placed by like features. Cross-Examination of Donell Murphy, p. 727-29. Ms. Murphy described that, as linear features, transmission lines are “more compatible for parallel co-location” near linear corridors, such as property, section and field lines or existing transmission line rights of way. *Id.* at 729. Further, Ms. Murphy indicated that the more similar the feature, the better the opportunity for placement, i.e. a transmission line is more like another transmission line than a property line, as such placement would be better suited parallel to the other transmission line. *Id.* at 731.

Though ATXI sometimes prefers to rely on the opinion of Mr. Rockrohr (*See* ATXI Initial Brief, p. 5), it ignores his testimony stating that he has no reliability concerns from the parallel lines. Cross-Examination of Greg Rockrohr, p. 200. ATXI offers three reasons to avoid the use of parallel lines: First, the existing line must be taken out of service during construction of the second. ATXI Initial Brief, p. 17. Further, should maintenance be needed on either of the parallel lines, the line not requiring service *may* need to be taken offline to complete the repairs. *Id.* Finally, the parallel lines are more susceptible to “common-mode failures,” meaning if one

line were to be taken out of commission because of weather disasters or the like, both lines would likely be impacted instead of just one. *Id.* Despite offering these reasons to avoid the use of parallel lines, ATXI recommends parallel lines for nearly eighty (80) miles of its recommended route. *Id.* Indeed, ATXI proposes running the 345 kV Transmission Line parallel; yet, ATXI then sites operational and reliability concerns as its rationale for discounting the use of the ACPO Route. *Id.* ATXI's position simply does not logically follow, as it offers no specific reason as to why the use of parallel lines in the ACPO Route is less desirable than it is anywhere else. ATXI merely indicates that parallel lines "should be used sparingly in order to minimize the risk of common-mode failures," but gives no reason why the use of parallel line in the ACPO Route is not an instance where such use would be welcome, particularly given the fact that approximately 50% of the route runs along rights-of-way previously acquired by Ameren Company. *Id.* at p. 30-31. The only way to comprehend ATXI's position is to understand that ATXI will run the Transmission Line parallel to existing transmission lines, unless it does not want to, and then, the Commission should be concerned about reliability. ACPO trust that the Commission will see through ATXI's fallacies.

2. Existing Corridors/Previously Acquired Rights-of-Way

ATXI offers no logical explanation for its opposition to the ACPO Route, which offers rights-of-way already acquired by Ameren Company for the erection of transmission lines. ATXI now reasons that the present easements for the 138 kV lines, approximately 50% of the ACPO Route, are too narrow for the Project's 345 kV line and thus "does not offer any meaningful routing advantage." *Id.* Nevertheless, ATXI plans to acquire the entirety of the Hybrid Route's rights-of-way. ATXI appears to be speaking out of both sides of its mouth. When it is convenient, ATXI is confident that it can acquire any land needed by fully

compensating the landowner for any impact the Project may have on the land. *Id.* at p. 23-24. Yet in the present instant, it implies that it does not have enough land to make the ACPO Route feasible and is not able to acquire the additional rights-of-way that would ensure the success of the route. *Id.* at p. 31.

D. Home Displacement

ATXI argues that its Hybrid Route is favorable to the ACPO Route because it supposedly will not displace any residents. *Id.* at p. 36. However, this conclusion assumes facts that have yet to be confirmed or finalized. First, this assessment assumes that all ATXI identified “residences” are in fact occupied as residences. However, in her cross-examination, Donell Murphy admitted that ATXI made the assumption that residences were occupied when the building “appeared to be a residence” without further inquiry. Cross-Examination of Donell Murphy, p. 753. Therefore, it is entirely possible that the buildings identified by ATXI as occupied residences are neither residences nor occupied. Furthermore, Ms. Murphy confirmed that, because the detailed route has not been finalized, it would be possible for ATXI engineers to propose an easement route that would avoid the displacement of these assumed residences. *Id.* at 750-751. ACPO takes issue with the factual assertion offered by ATXI. The Greg Edwards’ dairy farm lies on the Hybrid Route, where the proposed transmission lines are placed nearly on top of his home and dairy barn. Mr. Edwards’ dairy farm is circled and marked as “A” below. While ATXI will not commit to saying how close the proposed transmission lines will be to any structure, ACPO can say with certainty that the transmission line will come within 75 feet of Greg Edwards’ dairy farm. Greg Edwards measured the distance and the Commission can consult the scale on the map introduced into evidence as ACPO Murphy Cross Exhibit 2.

Given these facts, ATXI's Hybrid Route offers no advantage over the ACPO Route as it does not necessarily require the displacement of any residents.



ACPO Murphy Cross Exhibit 2

E. Clearing forty (40) additional acres

When it compares the difficulty and cost of construction between the routes favored by ATXI and ACPO, ATXI implies that because the ACPO Route will require the removal of an additional forty (40) acres of trees is significant, yet these additional forty (40) is insignificant of the total acreage that will need to be cleared. ATXI Initial Brief, p. 34. Furthermore, ATXI offers no evidence of the quality of the forestry, e.g. whether its scrub brush or mature oak trees. Finally, ATXI makes no mention of the fact that the ACPO Route is estimated to cost more than \$9 million less than the Hybrid Route.

F. Conclusion

ATXI, in its Initial Brief, pays lip service to the categories that the Commission will evaluate in deciding to grant or deny the Petition. ATXI, however, does not show that it presented evidence that it met its burden for most of the categories. For instance, ATXI did not

present any evidence regarding the difficulty and cost of operation. It was ATXI's burden to put forth such evidence. By not submitting evidence to support its Petition, the Commission has no choice but to deny the Petition. After review of ATXI's Initial Brief, and read in the light most favorable to ATXI's claims therein, the Commission should make the following findings regarding each of the categories on which it will be considering:

<u>Least-Cost Means Factor</u>	<u>Preferred Route</u>
1. Length of the Line	ACPO's Alternative Route 1
2. Difficulty and Cost of Construction	ACPO's Alternative Route 1
3. Difficulty and Cost of Operation and Maintenance	No Evidence
4. Environmental Impacts	No Evidence
5. Impacts on Historical Resources	ATXI's Hybrid Route
6. Social and Land Use Impacts	Disputed
7. Number of Affected Landowners and Other Stakeholders and Proximity to Homes and Other Structures	Disputed
8. Proximity to Existing and Planned Development	No Evidence
9. Community Acceptance	ACPO's Alternative Route 1
10. Visual Impact	ACPO's Alternative Route 1
11. Presence of Existing Corridors	ACPO's Alternative Route 1

Throughout its Initial Brief, ATXI continuously reminds the Commission of the potential tradeoffs when considering the ACPO Route; however, it conveniently forgets to recognize those tradeoffs when considering its own Hybrid Route. The above-table of categories begs the question of ATXI: what trade-offs does ATXI expect the ACPO or the Commission to make, all but one of the categories fall in ACPO's favor. For the reasons discussed in this Reply Brief and those outlined in the ACPO Initial Brief, the ACPO respectfully request the Commission deny ATXI's Petition. If it does not deny the Petition, the ACPO requests that Commission reject the Hybrid Route and instead adopt the ACPO Route, the utilization of which will maximize the potential use of already existing transmission rights-of-way and avoid inconvenience to property owners whose land would be unnecessary sacrificed.

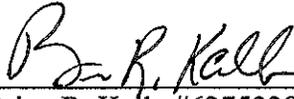


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PROOF OF SERVICE

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 10th day of June, 2013, served the REPLY BRIEF OF ADAMS COUNTY LANDOWNERS AND TENANT FARMERS by sending same by electronic mail.



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SUBSCRIBED AND SWORN TO before me, a Notary Public, on this 10th day of June, 2013.



NOTARY PUBLIC