

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.)

**ADAMS COUNTY LANDOWNERS AND TENANT FARMERS’
APPLICATION FOR REHEARING**

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**ADAMS COUNTY LANDOWNERS AND TENANT FARMERS'
APPLICATION FOR REHEARING**

Pursuant to Section 200.880 of the Rules of the Illinois Commerce Commission, 83 Ill. Admin. Code § 200.880, the Adams County Landowners and Tenant Farmers (“ACPO”) requests rehearing of the August 20, 2013 Order of the Illinois Commerce Commission (the “Commission”) (“Order”) in the above-captioned proceeding. As required by 83 Ill. Adm. Code 200.880 (b), the issues for which rehearing is sought are as follows:

I. ATXI FAILED TO MEET ITS BURDEN REGARDING THE LEAST-COST MEANS FOR THE ENTIRE PROJECT.

The Commission’s decision to grant the Petition is irreconcilable with its factual findings contained in the Order. The Commission was required to satisfy itself that ATXI produced evidence pursuant to § 8-406.1 that the Illinois Rivers Project (the “Project”) is the least-cost means of satisfying the service needs of the impacted public utilities customers. The Commission is required to fully investigate whether a proposed transmission line route satisfies the least-cost means analysis. The Commission, however, acknowledged in the Order that it did not have sufficient time to fully analyze the Petition, but nevertheless issued ATXI a Certificate for Convenience and Necessity (“CCAN”). The Order outlines the following concerns that went unanswered or unknown:

1. Landowner rights: The Commission stated that ATXI had over seven years to prepare its Petition and to file it at the time of its choosing, but property owners had only three weeks to identify and propose an alternative route, which involved many factors to consider. The Commission noted that “[t]o what degree landowners were able to satisfactorily consider such factors in preparing their alternate routes is unknown.”

(Order p. 8.)

2. Other courses of action: The ALJs requested ATXI to consider withdrawing the Ipava to Meredosia segment and/or the Sidney to Rising segment, which ATXI declined. ATXI stated that any withdraw of a segment from the Petition would jeopardize its 2016 in-service date. The Commission chided ATXI, noting, “[t]he expenditure of resources by ATXI to implement its decisions does not ... justify the decisions and ...preclude other courses of action on its part.” (**Order p. 8.**)
3. “hastily developed routes”: The ALJs requested ATXI to amend the Petition to proceed under § 8-406 rather than § 8-406.1 because of the large number of routes under consideration. ATXI refused, arguing that it had entered stipulations with various property owners that would ease the burden on the Commission. The Commission found that it “has no assurance that as of yet unidentified shortcomings in these hastily developed routes will not later emerge if adopted under one of the stipulations. (**Order p. 8.**) The Commission also found that “[t]he fact that the routes ATXI developed for this proceeding on its own schedule appear to have shortcomings does not provide the Commission with any confidence in the decision to expedite the Illinois Rivers Project.” (**Order p. 9.**)
4. ATXI’s route analysis lacked credibility: The Commission noted that ATXI’s witness, Ms. Murphy, did not verify if residences along the route, were indeed, occupied. The Commission noted that “[b]ecause the number of occupied residences along the various proposed routes is a factor in determining the suitability of each route, it is easy to see how such assumptions by ATXI can lead to errors in choosing a route. **How many ATXI assumptions about its route and those proposed by intervenors are incorrect is not known.**” (**Order p. 9**) (Emphasis added.)

5. The Staff Engineer testified that the record is incomplete. The Commission quoted the Staff Engineer, who testified, “due to the length of ATXI’s proposed Project, and the number of intervenors submitting proposals, some information about potential routes will not be thoroughly addressed in the record.” (**Order p. 9**)

Based on the foregoing, the Commission expressed serious concerns about the ability of intervenors, i.e. landowners, to prepare and submit alternative routes, as well as evaluate or investigate the “hastily developed” routes before the Commission. Despite the serious shortcomings identified by the Commission and its admission that the record is incomplete, the Commission granted a CCAN. Illinois law, however, prohibits such results. If the Commission chooses to evaluate the Petition on a least-cost means basis, then it must develop a record to support its decision, or deny the Petition. The case *Citizens United for Responsible Energy Dev., Inc. (CURE) v. Illinois Commerce Commission*, 673 N.E.2d 1159 (5th Dist. 1996) is instructive.

In the *CURE* case, the Illinois Municipal Electric Agency (“Agency”) petitioned the Commission for a certificate of convenience and necessity for a 138 kV transmission line from Aviston to Highland. The Agency considered two alternative routes but put on evidence of the Aviston-Highland route. CURE opposed the petition. CURE took the position at the evidentiary hearing that the transmission line was not convenient, necessary or the least-cost means. CURE proposed two alternative routes. The Commission granted the Agency’s petition and CURE appealed. On appeal the Court of Appeals found that the Staff Engineer did not properly evaluate the least-cost aspects of the project or investigate it. The Court of Appeals held that it is an abuse of discretion to grant a petition for convenience and necessity when the record of least-cost means is incomplete. *Id.* at 1167. The Court of Appeals remanded the case with directions to conduct a “complete” investigation into the requirement of least-cost means.

The Staff Engineer and the ALJ conducted a more extensive inquiry into cost than in *CURE*. The record, however, is not complete. The Commission went to great lengths in the Order to admonish ATXI for choosing to proceed with § 8-406.1, and admits that there are “unidentified shortcomings in these hastily developed routes.” Given all of the concerns and shortcomings the Commission identified, its remedy was to further investigate them, not issue the CCAN despite them.

The Order also sets bad precedent by sending mixed messages. The Commission slaps ATXI on the hand for moving forward under § 8-406.1 and requiring the Commission to rule on an incomplete record with serious shortcomings, yet the Commission overlooks these concerns by granting the CCAN. The Commission attempts to reproach ATXI for creating a docket with unreasonable deadlines, an incomplete record, “hastily developed routes” and due process concerns, but by granting the CCAN, the Commission blesses such tactics instead of deterring them. The Commission has now created a blue print whereby a utility can push through a petition for convenience and necessity under § 8-406.1 without giving intervenors an opportunity to meaningfully participate in the proceedings or establish a complete record where all of the evidence can be properly scrutinized. If the Commission intended to admonish utilities from using § 8-406.1 in the manner ATXI used in this docket, the Order will have the opposite impact.

In addition to creating bad precedent, the Order undermines the role of the Commission as an oversight body of utilities in Illinois. The Commission was created for the purpose of applying numerous regulatory police powers over public utilities and is an administrative body created to carry out the will of the State expressed by the General Assembly. The purpose of a certificate of public convenience and necessity is to prevent unnecessary duplication of facilities and to protect the public from inadequate service and higher rates. *Amalgamated Trust &*

Savings Bank v. Village of Glenview, 98 Ill.App.3d 254, 260, 53 Ill.Dec. 426, 430, 423 N.E.2d 1230, 1234 (1981). The Order does not protect the public from inadequate service and higher rates. In the Order, the Commission outlines the shortcomings in ATXI's own routes and ATXI's own analysis, and at the same time, the Commission expresses its concerns about ATXI's analysis. Moreover, the Commission cites Staff Engineer Rockrohr who testified that further investigation might have led to different proposals and conclusions that are not included in the record. A fair reading of the Order leads a reader to conclude that the Commission did not trust ATXI's evidence because of the expedited process that ATXI chose to pursue. Yet, the Commission inexplicably issued ATXI the CCAN. The Commission failed to fulfill its mandate of protecting the interests of Illinois citizens by issuing an Order that shows a lack of faith in the evidentiary record before it, but at the same time grants ATXI relief based on the insufficient record.

Wherefore, ACPO requests the Commission grant ACPO rehearing in this docket and deny the Petition for the reasons set forth above.

II. ATXI FAILED TO MEET ITS BURDEN REGARDING THE LEAST-COST MEANS FOR THE QUINCY-MEREDOSIA SEGMENT.

Although ATXI failed to meet its burden for the entire project, ATXI was inept in meeting its burden with regard to the Quincy-Meredosia segment. In the Commission's analysis in Section IV of the Order, titled, "Propriety of the Petition", the Commission appropriately stated that it "is troubled by the very real possibility that the expedited schedule for considering such a massive project may result in less than optimal outcomes. Alternatives may be overlooked and shortcomings may be missed." (**Order p. 9.**) Unfortunately, the fears expressed in the Order became a reality with regard to the Quincy-Meredosia portion of the Project. The Order inexplicably allows ATXI to proceed with a route that is anything but thoroughly

considered and will absolutely result in less than optimal outcomes. The Order accepts as true numerous statements made by ATXI’s witnesses, but seemingly disregarded the credibility issues brought out by the same witnesses on cross-examination. Moreover, the Order shifts the burden of putting forth evidence of the least-cost means on ACPO rather than on ATXI, where it belongs. As more fully set forth in the argument below, ACPO moves for rehearing on the Order relating to the segment from Quincy-Meredosia.

A. The Hybrid Route for the Quincy-Meredosia segment is not the least-cost means.

The Commission, in the Order, analyzed ATXI’s Hybrid Route and ACPO’s Alternative 1 route based on eleven criteria. The Commission concluded that there did not seem to be much difference between the proposed routes. Indeed, the statement that there “does not seem to be much of a difference between the proposed routes” is a startling statement given the evidence adduced in these proceedings. Such a statement ignores the fact that the ACPO Alternate Route 1 cost \$9,000,000.00 less to build.

	ATXI’s Primary Route	ATXI’s Alternate Route	Hybrid/Rebuttal Rec. Route	ACPO’s Alternative #1
Estimated Cost¹	\$105,957,000.00	\$104,264,000.00	\$105,859,000.00	\$96,738,000.00

¹ ATXI Exhibit 16.3.

Furthermore, ACPO Alternate Route 1 requires 15 less dead end structures and 3 miles less of line.

	ATXI's Primary Route	ATXI's Alternate Route	Hybrid/Rebuttal Rec. Route	ACPO's Alternative #1
Estimated² Length	48.7 miles	48.2 miles	46.3 miles	43.6 miles
Estimated # Dead-End Structures	23	32	21	6

Finally, the Hybrid Route requires the purchase of 100% new right of way where no lines currently exist and knowingly (not an assumption) placing a line within 75 feet of a dairy farm and numerous residences. ACPO Alternate Route 1 uses existing right of way for 50% of the route, runs parallel to existing lines, and satisfies **all** of the intervenors. Indeed, ACPO is unaware of any intervenors who objected to ACPO Alternate Route 1. To say there is not much of a difference is to ignore the evidence put before the Commission.

Despite being over \$9 million less and being passing over partially acquired land, the Commission concluded that ACPO Alternate Route 1 “does not appear to be ‘least cost’ as compared to the Hybrid Route.” (**Order p. 40.**) To somehow support this conclusion, the Commission states four concerns with ACPO Alternate Route 1. First, the Commission is concerned by the evidence that ACPO Alternate Route 1 would traverse an existing residential area near Interstate 172, “potentially” requiring displacement of at least six “assumed” residences. (**Order p. 40.**) Second, the Commission is concerned about tree removal. Third, the Commission concluded that utilizing the partially-acquired corridor would require acquisition of

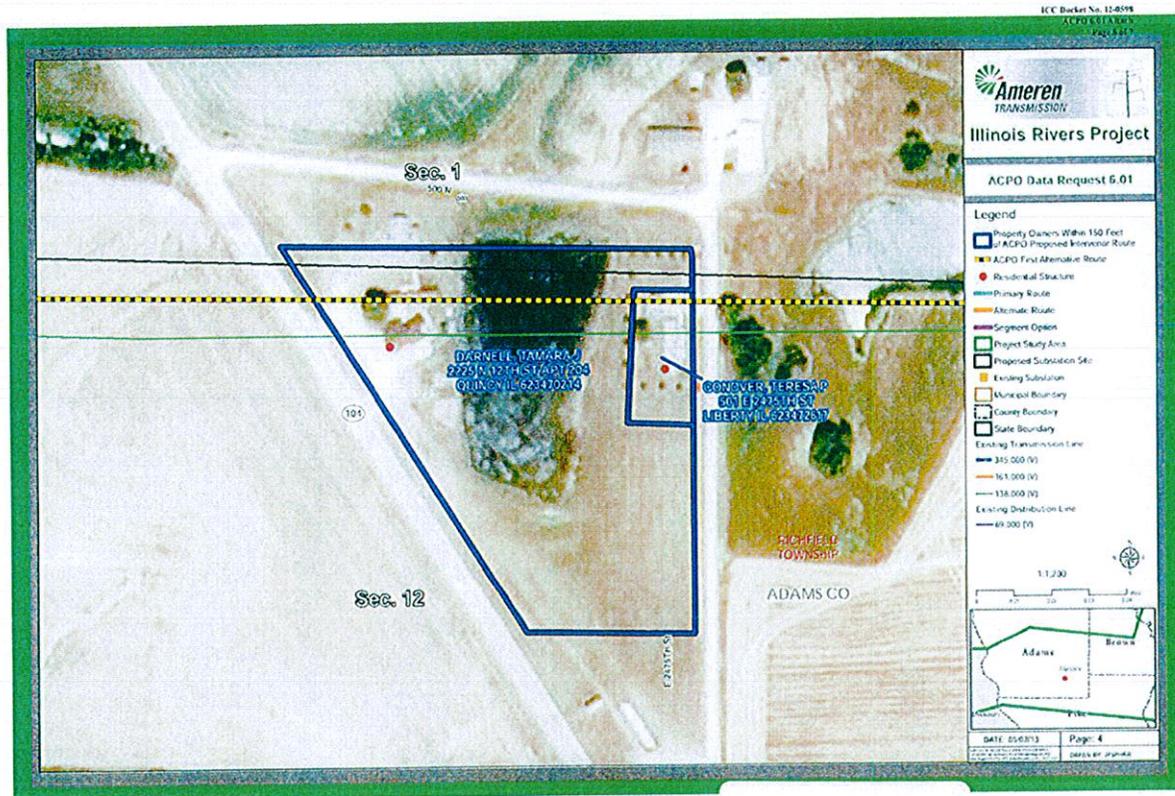
² Revised Direct Testimony of Greg Rockrohr, Dated April 10, 2013, Ins. 644-45.

more property. Finally, The ACOP Alternate Route 1 poses reliability concerns. ACPO will briefly address each of the concerns raised by the Commission in the Order.

- i. There is no credible evidence in the record that ACPO Alternate Route 1 will displace six residences.**

Although it was ATXI's burden to prove ACPO Alternate Route 1 traverses an existing residential area and would displace six residences, all ATXI could prove was that ACPO Alternate Route 1 may **potentially** traverse an existing residential area and could potentially displace six **assumed** residences. That is, the Commission's decision to expend over \$9 million on the Quincy-Meredosia segment is not based on evidence, but on assumptions and potentialities. For that reason alone, the Commission should deny the Hybrid Route. Moreover, a review of ATXI's evidence regarding the potential impact on residences demonstrates the issues with this docket. Donell Murphy, ATXI's own witness, admitted that ATXI made the assumption that residences were occupied when the building "appeared to be a residence" without further inquiry. (**Tr. at 753.**) The idea that ACPO Alternate Route 1 would displace six residences was based solely on aerial maps that were proven to be inaccurate. Using an aerial map of the existing ATXI line that ACPO Alternate Route 1 parallels, it would appear that the existing ATXI line traverses multiple residences. That is, ATXI's own maps show its existing lines crossing over existing residences.

Ms. Murphy could not state with any accuracy where the existing 138kV transmission line or ACPO proposed transmission line are indeed located. For example, Ms. Murphy stated that the alleged residence shown on ACPO Cross-Exhibit 9 would be displaced.



ACPO Murphy Cross Exhibit 9

The green line shown in ACPO Cross-Exhibit 9 represents the existing 138kV line. The existing 138kV line is shown going over the alleged house. Ms. Murphy testified that she could “not attest to the accuracy of where that existing line actually occurs.” Murphy Cross-Examination, p. 751, Ins 15-18. The same is true with the alleged residence impacted in Murphy Cross-Examination 8. Ms. Murphy stated, “And looking at the particular map, it appears that that green line goes right over the top of homes, but there very well...that line is likely not in that exact location. I couldn’t tell you for sure.” Cross-Examination of Murphy, p. 752, Ins. 8-12. If Ms. Murphy cannot attest to, or “be sure” about, the accuracy of where the existing 138kV line occurs, then it follows that she cannot testify where ACPO Alternate Route 1 occurs in relation to existing structures since the two lines are proposed to run parallel to each other. Indeed, when asked whether her maps may not accurately depict where ACPO Alternate Route #1 was located,

she stated, “[w]ell right, right, because the route has not been approved or assigned.” *Id.*, lns. 16-19.

Donell Murphy admitted she could not state whether such aerial footage, the exact aerial surveillance she was using to say ACPO Alternate Route 1 would displace six residences, was in fact, accurate. **(Tr. at 751-52.)** Such inexact gathering of information is the exact problem the Commission espoused as a concern in Section IV of the Order. In fact, the Order points out in Section IV that ATXI admits it did not take the necessary steps to confirm whether the structures it assumed were residences were in fact residences. Moreover, Staff Engineer Rockrohr questioned the reliability of relying on satellite images because it is difficult to determine when the pictures were taken and what has changed since the picture was taken **(May 13 Trans. Rockrohr, p. 300, lns. 11-14.)**

The Order adopts the conjecture and speculation of ATXI as fact while ignoring the unquestionable certainty that the Hybrid Route will come within 75 feet of Greg Edwards’ dairy farm and home and the Thomures’ newly built home. The Order ignores the real impact on ACPO intervenors and gives weight to supposed residents who did not intervene and who may not actually occupy the structures. It turns the proceedings upside down to give greater weight to alleged property owners that did not intervene than to property owners that did intervene and who engaged in these proceedings only to be minimized in favor of those that did not participate. The Commission raised concerns over the “potential” that ACPO Alternate Route 1 would displace six “assumed” residences, but showed absolutely no concern about those property owners who are actually on the record as being concretely impacted by the Hybrid Route.

The Commission should allow rehearing regarding the displacement of residents that it expressed as a concern in the Order.

ii. There is no evidence of the trees that need to be removed from ACPO Alternate Route 1.

The Commission concluded that the additional \$9 million and additional acreage to construct the Hybrid Route over ACPO Alternate Route 1 is justified because ACPO Alternate Route 1 would require approximately 40 additional acres of tree removal. ATXI admits, however, that these additional forty are 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. The Commission makes no economic difference between the removal of scrub brush and the removal of mature oak or pine trees. The removal of scrub brush would be desirable and benefit the landscape. The removal of mature oak or pine may or may not be desirable. Since there is absolutely no evidence in the record about the type of trees that will need to be removed, it is impossible to determine whether their removal justifies the \$9 million difference between the Hybrid Route and ACPO Alternate Route 1. Assuming the fact was true (which ATXI has no evidence to support that it is in fact true), the idea that forty acres of tree removal impacts the analysis on an approximate \$100 million project to the point of being significant in the “least cost” analysis is missing the forest for the trees. ATXI had the burden to show that the Hybrid Route was the least-cost means. ATXI did not put on evidence that the forty acres of trees had any negative cost or environmental impact. Without such evidence, the Commission could not logically make a finding regarding the impact of the forty acres on the overall analysis of the Quincy-Meredosia segment. The Commission places the absence of evidence regarding the economic and environmental impact of the tree removal against ACPO, and not against ATXI, where it belongs.

The Commission should allow rehearing regarding the economic or environmental impact on the removal of the forty acres of tree that it expressed as a concern in the Order.

iii. The utilization of the partially acquired corridor will have a meaningful advantage over the Hybrid Route.

ACPO respectfully disagrees with the Commission's finding regarding the impact of the partially-acquired occupied corridor on the least-cost means analysis, and contends that the Order does not make sense in this regard. Ameren has acquired land for the purpose of constructing a transmission line to the north of the Hybrid Route. ACPO proposed utilizing the partially-acquired corridor for purposes of its ACPO Alternate Route 1.

The logic behind utilizing a partially-acquired corridor is clear. The impact on property owners will be less given that Ameren has already made arrangements to acquire the ground, which spans several miles. Why would a reasonable person choose to place a transmission line on un-acquired ground when he could place a transmission line on partially-acquired ground? The Commission answers this question by stating that only approximately 50% of the corridor has been acquired and any existing easements are too narrow to accommodate an additional 345 kV transmission line. Said another way, the Commission found that there is some property that has been acquired on which to place the transmission line, but the land that has been acquired does not accommodate all of the land requirements for the 345kV line. The Commission inexplicably concluded, however, that it is better to place the transmission line on a route where **none** of the land has been acquired (the Hybrid Route) versus placing it on land where **some** of the land has been acquired (ACPO Alternate Route 1). The Commission would rather place a greater burden on property owners and farmers by requiring ATXI procure 100% of the Hybrid Route transmission line easement versus a lesser burden by requiring ATXI procure less than 100% of ACPO Alternate Route 1. Strangely, the Commission dismisses the cost savings of utilizing a partially-acquired corridor and selected a route where it would be necessary to pay for 100% of the transmission line easement.

In addition to dismissing the cost savings of utilizing a partially-acquired corridor, the Order also fails because it is not supported by any evidence of the cost savings of moving forward with the Hybrid Route in this regard. ACPO pointed to a route whereby some of the land for the transmission line was already acquired, but the Commission concluded that whatever land that was partially acquired did not represent a cost savings for the Project. The Commission chose to reject a route where at least some of the land was partially acquired in favor of a route where none of the land was acquired and made such a decision without any support in the record that the route where none of the land was acquired was less costly. Not only is the Commission's finding regarding the partially-acquired corridor against the manifest weight of the evidence that would somehow support the decision, it is based on no evidence.

The Commission should allow rehearing regarding the economic and practical advantages of utilizing a partially-acquired corridor.

iv. ACPO Alternate Route No. 1 does not pose reliability concerns.

ACPO Alternate Route 1 proposes the use of parallel lines along an existing 138 kV transmission line. In her cross examination, ATXI witness, 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. (**Tr. at 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.**) Although ATXI's own witness admits the use of parallel lines may be the better option,

the Commission simply ignores said fact. Moreover, the Staff Engineer testified that there was not a reliability issue by placing two transmission lines parallel to each other. Mr. Rockrohr testified:

13 Q. And you testified a lot earlier today about
14 these parallel lines having 138 K line and a 345 K
15 line run next to each other. From a technical
16 engineering standpoint, are there any problems with
17 those two rights-of-way running next to each other?

18 A. There is nothing unsafe or inherently
19 unreliable about having two transmission lines that
20 do not serve the same function or area routed
21 adjacent to each other.

(May 13, 2013 Report of Proceeding, p. 278.)

To summarize, ATXI's own witness testified that it was desirable to place transmission lines next to like structure, e.g., other transmission lines. The Staff Engineer testified that there is no reliability issue with placing transmission lines parallel to each other. Moreover, ATXI utilizes parallel easements on other parts of the project (**See page 18 of the Order.**) Despite this uncontroverted evidence, the Commission found the Hybrid Route preferable to ACPO Alternate Route 1 because ATXI suggested it "may" present reliability, operational, and maintenance concerns. (**Order p. 41.**)

III. THE COMMISSION MUST ORDER REHEARING WHERE THE RECORD IS INCOMPLETE REGARDING THE QUINCY-MEREDOSIA SEGMENT.

The Order states that it was troubled by the fact that none of the owners of the six residences have intervened in this proceeding, to indicate whether they support one route versus another. The Commission's concern for property owners who did not appear is frustrating because it gave the Adams County property owners, who did appear, less consideration than the six property owners who did not appear. ATXI came forward with evidence that ACPO

Alternate Route 1 may impact six residences. As set forth above, however, ATXI's evidence is not credible, which the Commission acknowledges in the Order. The Commission, however, should have made sure the record was complete and their concerns addressed before making its ruling, particularly since the open questions were resolved against ACPO, which consisted of a group of people who would be negatively impacted by the transmission lines. The Commission is required to investigate the least-cost means of the proposed routes and must make a complete evidentiary record to make its decision. *See Citizens United For Responsible Dev., Inc. v. Illinois Commerce Commission*, 673 N.E.2d 1159, 1167 (5th Dist. 1996). If there were questions that remained open regarding the appropriate route under a least-cost means analysis, then the Commission should have utilized its powers under its Rules of Procedure to further investigate the questions. Instead, the Commission allowed its concerns to go unresolved and then ruled against those property owners who intervened based on the unresolved questions. The irony of the Commission's decision should not go unnoticed. In Section IV of the Order the Commission stated, "[t]he fact that the routes ATXI developed for this proceeding on its own schedule appear to have shortcomings does not provide the Commission with any confidence in the decision to expedite the [Project]." (**Order p. 9.**) The Commission found that such shortcoming became apparent during the evidentiary hearing in that ATXI could not say whether any residences were, in fact, occupied. (*Id.*) Because the number of occupied residences along the various proposed routes is a factor in determining suitability of each route, the Commission concluded that "it is easy to see how such assumptions by ATXI can lead to errors in choosing a route." (*Id.*) The Commission acknowledged that ATXI's evidence of residences along the various routes was based on assumptions that can lead to error, yet it used ATXI's flawed evidence to persuade it to choose the Hybrid Route rather than ACPO Alternate Route 1.

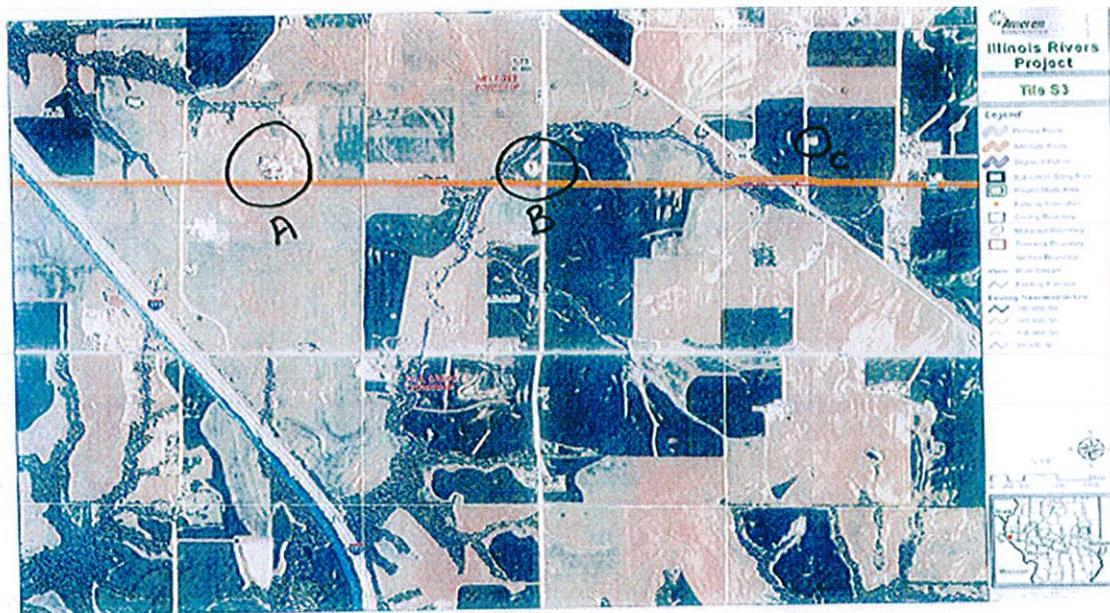
The Commission should allow rehearing regarding to complete the evidentiary record and eliminate the concerns regarding the proposed transmission line routing that it expressed as a concern in the Order.

IV. THE COMMISSION FAILED TO CONSIDER THE NEGATIVE IMPACT OF THE TRANSMISSION LINE ON ACPO PROPERTY OWNERS.

As stated above, the Commission chose the Hybrid Route, in part, because of six phantom property owners who may or may not have residences along ACPO Alternate Route 1. The Commission dismissed entirely those ACPO Intervenors who do have homes and businesses along the Hybrid Route, which include Hi-Blu Dairy and Katherine and Jerry Thomure.

A. Greg Edwards and Hi-Blu Dairy

The Hybrid Route does not address some of the largest concerns for ACPO Intervenors, including the dairy farmer who is in danger of having a transmission line within 50 to 60 feet of his dairy barn. Greg Edwards' dairy farm, known as Hi-Blu Dairy, lies on the Hybrid Route, where ATXI proposes to place the transmission lines nearly on top of his home and dairy barn. Mr. Edwards' dairy farm is circled and marked as "A" below. Mr. Edwards' home is directly to the west of the dairy farm, and is also approximately 50-60 feet from the transmission line site. Greg Edwards measured the distance from the proposed centerline of the easement and the Commission can consult the scale on the map introduced into evidence as ACPO Murphy Cross Exhibit 2 to verify the distance.



ACPO Murphy Cross Exhibit 2

The transmission lines will negatively impact Hi-Blu's dairy operation. The dairy barn where all the dairy cattle are housed lies just 50 to 60 feet from the transmission line route and would subject the dairy cattle to stray voltage, causing a decrease in milk production and negatively impacting their disposition. (See **Direct Testimony: Greg Edwards on behalf of Paul Edwards Jr. Trust and Hi Blue Dairy Farms Ex. 2.0, p. 3.**)

There was evidence submitted in this docket that the hum of the transmission lines will create undue stress on cattle, thereby decreasing their daily weight gain, which will lead to lower profits and higher costs of feed inputs. (See **Direct Testimony of Ginger Durbin, Ins. 40-48.**) Moreover, transmission lines produce "stray voltage," which causes a low level electrical shock to animals in confined areas. (*Id.* at 54-57.) Stray voltage from transmission lines may reduce water and feed intake, thereby reducing daily weight gain, and thereby negatively affecting the dairy barn's operations. (*Id.* at 56-58.)

Despite the uncontroverted evidence of the close proximity of the transmission lines to the residence of the Edwards and to their dairy farm operation, and the uncontroverted evidence

of the negative impact on their livestock, the Commission completely ignored this evidence and gave deference to six, possibly occupied, residences ATXI suggested in its evidence.

B. Katherine and Jerry Thomure

Katherine and Jerry Thomure reside in the home circled with the letter “B” in the map above. The Hybrid Route is only 230 feet from the Thomures’ residence. Ms. Thomure testified that she and her husband built their current home on the property in 2011 with knowledge of the landscape and with the intent that it be free of obstructions, such as the proposed transmission lines. She testified that she intends to provide child day-care services from her home and that the proximity of the transmission lines to her home poses health and safety concerns that may impact her home business pursuits.

The Commission should allow rehearing regarding the negative impact of the Hybrid Route on the Edwards’ home and dairy barn and the Thomures’ home, which was not referenced in its analysis adopting the Hybrid Route.

V. THE EXPEDITED PROCEEDING UNDER § 8-406.1 DID NOT PROVIDE THE INTERVENORS OR THE COMMISSION TIME TO FULLY INVESTIGATE THE PETITION.

ATXI filed the Petition on November 7, 2012. ACPO filed its Petition for Leave to Intervene on December 5, 2012. After a status conference to discuss scheduling, the ALJs set the date for intervenors to submit alternate routes by December 31, 2012. As pointed out by the Commission, ATXI had over seven years to plan and evaluate its proposed routes, but the intervenors had less than three weeks to do the same. It was an impossible task for intervenors, including ACPO, to investigate experts, evaluate alternative routes, and locate property owners along those routes, at least to the same degree as ATXI. ATXI was required to provide the property owners along the primary route and the alternative route notice of the proceedings, but

if the notice is given without enough time to adequately participate in the proceedings, then it is effectively no notice at all. Simply put, the 225 day time limitation set forth in § 8-406.1 did not allow the Commission or ACPO time to conduct discovery and hearings in a manner commensurate with the magnitude of the property rights at risk. As the Illinois Farm Bureau articulated in its opening brief, and which was cited with approval by the Commission, the lack of time, length of the proposed transmission line, and the number of intervenors in this docket resulted in a violation of property owners due process afforded under the Fourteenth Amendment to the United States Constitution and Art. I, Sec. 2 of the Illinois Constitution. *Abandonment of Wells Located in Illinois by Leavell*, 796 N.E.2d 623 (Ill. 2003). Staff Engineer Rockrohr testified that the expedited proceeding did not allow for development of a complete and thorough record upon which the Commission could base its decision. The normal transmission line docket typically has five rounds of testimony, but the statutory deadline required under § 8-406.1 did not allow enough time for the parties to engage in the discovery and rebuttal testimony process which is standard for the project like the one in this docket.

The Commission should allow rehearing to allow ACPO sufficient time to address the questions raised by the Commission in the Order regarding the Quincy-Meredosia segment.

VI. CONCLUSION

The Commission should grant rehearing for the reasons set forth above so that the property owners, farmers and dairymen negatively impacted by the transmission lines on their property may be fully heard, and so that the decision of the Commission is based on a complete, evidentiary record.

Brian R. Kalb

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

PROOF OF SERVICE

STATE OF ILLINOIS)
) SS
COUNTY OF MADISON)

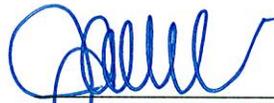
I, Brian R. Kalb, BEING AN ATTORNEY ADMITTED TO PRACTICE IN THE State of Illinois and one of the attorneys representing ADAMS COUNTY LANDOWNERS AND TENANT FARMERS, hereinwith certify that I did on the 19th day of September, 2013, served the **ADAMS COUNTY LANDOWNERS AND TENANT FARMERS' APPLICATION FOR REHEARING** 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@bcpklaw.com

SUBSCRIBED AND SWORN TO before me, a Notary Public, on this 19th day of September, 2013.





NOTARY PUBLIC

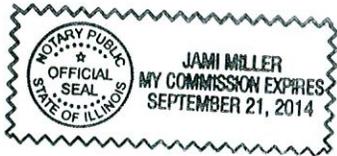
VERIFICATION

I, Brian Kalb, counsel for Adams County Property Owners and Tenant Farmers, being first duly sworn, states that he has read the foregoing Application for Rehearing of Adams County Property Owners and Tenant Farmers, that he is familiar with the statements made therein, and that the statements made therein are true and correct to the best of his knowledge.



Brian R. Kalb, #6275228
Byron Carlson Petri & Kalb, LLC
411 St. Louis Street
Edwardsville, IL 62025

SUBSCRIBED AND SWORN TO before me, a Notary Public, on this 19th day of September, 2013.



NOTARY PUBLIC