

**STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION**

AMEREN TRANSMISSION COMPANY )  
OF ILLINOIS, )  
)  
Petition for a 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, ) No. 12-0598  
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. )

**RESPONSE TO AMEREN TRANSMISSION COMPANY OF ILLINOIS’  
OPPOSITION TO EDGAR COUNTY CITIZENS’ PETITION FOR INTERVENTION  
AND MOTION TO STRIKE PROCEEDINGS**

EDGAR COUNTY CITIZENS ARE ENTITLED TO DUE PROCESS submits this Response to AMEREN TRANSMISSION’S Response to Edgar County Citizens Are Entitled To Due Process’ Petition for Intervention and Motion to Strike Proceedings, and states that said Petition for Leave to Intervene and Due Process Motion to Strike the Proceedings and Application for Rehearing are timely, proper, with merit, and should be allowed.

**I. INTRODUCTION**

EDGAR COUNTY CITIZENS ARE ENTITLED TO DUE PROCESS are a group of owners of real estate located in Edgar County, Illinois, directly on or immediately adjacent to the

Alternate Route proposed by AMEREN TRANSMISSION COMPANY OF ILLINOIS (“ATXI”), which was not previously disclosed to Petitioners until AMEREN mailed letters to Petitioners on September 6, 2013, some fifteen days after the ICC entered the Order on August 20, 2013, thereby denying all Petitioners due process afforded to them in both the Illinois and United States Constitutions. Petitioners have alleged in their Petition for Leave to Intervene and their Motion to Strike and Apply for Rehearing they were not afforded an opportunity to participate in, present evidence, propose alternate routes, present direct and rebuttal testimony following reasonable notice, which they were not provided in this case.

## II. ARGUMENT

### A. THE PETITION TO INTERVENE IS TIMELY.

One of the Petitioners, Mrs. Mary Elizabeth Morley, is a legal owner of farmland and residential property in Edgar County, and her property would be directly affected by the Order of the Commission entered herein on August 20, 2013. Mrs. Morley’s home address is 293 Pleasant Street, Laconia, New Hampshire. She owns numerous parcels of real estate in Edgar County, and for numerous years has received real estate tax bills for said farmland mailed to her home address in the State of New Hampshire. Mrs. Morley has stated by Affidavit that the first notice she received from AMEREN concerning the proposed transmission line project, which is subject matter of ICC Docket No. 12-0598, was after September 16, 2013, when she received a certified letter from AMEREN dated September 6, 2013. (See previously filed Affidavit C.)

Mrs. Morley is not a resident of the State of Illinois, and unless AMEREN can establish that it had public meetings in New Hampshire and published newspaper articles for Illinois

landowners in the State of New Hampshire, she was not given an opportunity to intervene. There can be no question as to Mrs. Morley that there was a “lack of notice” that AMEREN alleges that everyone else in Edgar County, Illinois, received. Her position is also supported by previously filed Affidavits A through M.

**B. AMEREN CLAIMS THAT PETITIONER MORLEY LACKS STANDING TO BRING HER MOTION.**

AMEREN alleges in its Response that Petitioners are strangers to this proceedings. AMEREN is correct that Mrs. Morley is, in fact, a stranger to AMEREN and their actions to deny Mrs. Morley and her fellow Petitioners in Edgar County an opportunity to be heard. AMEREN elected not to investigate where landowners reside, *i.e.*, out of the State of Illinois, and, instead, merely went forward with the hearing on August 20, 2013, without allowing out-of-State landowners to receive proper notice. By allowing AMEREN to adopt a *laissez-faire* attitude in notifying out-of-State residents, this Commission would be allowing all out-of-State residents who own real estate in the State of Illinois not to be heard, not to be a party, and not to receive proper notice.

Mrs. Morley is entitled to have a rehearing, present new evidence, provide alternate routes for the purposes of objecting to AMEREN’S proposed alternate route. Section 10-25(a) of the Administrative Procedure Act states: “[i]n a contest case all parties shall be afforded an opportunity for a hearing after reasonable notice.” *People ex rel. Illinois Commerce Commission v. Operator Communication, Inc.*, 281 Ill.App.3d 297, 300 (1<sup>st</sup> Dist. 1996). When, in fact, a landowner’s due process rights have been trampled on, as Mrs. Morley’s has by AMEREN, she should be allowed a second chance to retry the case *de novo*.

**C. PETITIONER MORLEY'S CLAIMS OF NOT HAVING NOTICE IS CREDIBLE.**

As stated above, Mrs. Morley is a resident of New Hampshire, and she has been receiving real estate tax bills for numerous years, which AMEREN could have discovered using reasonable diligence. AMEREN elected not to look for out-of-State landowners in order to give them proper notice of their Petition before the Illinois Commerce Commission. Therefore, Petitioner Morley did not have an opportunity to present her concerns to the Commission during the evidentiary phase of this case. Mrs. Morley should be allowed to come in and present her concerns to the Commission based upon ATXI'S failure to properly notify her by mail, public hearing, or newspaper publication in her home State of New Hampshire.

AMEREN also changed their route through Edgar County at the last minute. They did not disclose the new route to Petitioners until the ICC had entered its Order on August 30, 2013. AMEREN then waited two weeks to send Notice by letter (See previously filed Affidavits A through M), disclosing the new route to Petitioners. Again, the cavalier attitude of AMEREN to fail to provide Petitioners with specific Alternate Route information should not be rewarded by the ICC to the detriment of Citizens of the State of Illinois.

**III. CONCLUSION**

Petitioners' Motions do raise legitimate due process concerns. Petitioners were not aware of the proceedings, and were not allowed to participate. Their request for intervention and rehearing are not belated, and should be allowed.

Dated this 1<sup>st</sup> day of October, 2013.

Respectfully submitted,  
“Edgar County Citizens Are Entitled To Due Process”  
By Asher & Smith, their Attorneys

/s/ S. Craig Smith

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#### **CERTIFICATE OF SERVICE**

The undersigned, an attorney licensed to practice in the State of Illinois, hereby certifies that a copy of the foregoing instrument was filed and electronically served on the individuals identified in the Illinois Commerce Commission’s official services list for Docket No. 12-0598 on the 1<sup>st</sup> day of October, 2013.

/s/ S. Craig Smith

S. Craig Smith, of Asher & Smith, Attorneys for  
“Edgar County Citizens Are Entitled To Due  
Process”