# ILLINOIS COMMERCE COMMISSION

## DOCKET NO. 12-0598

## REBUTTAL TESTIMONY

## OF

**DAN E. LONG**
**SPI ENERGY GROUP**

**December 2, 2013**

1 **Rebuttal Testimony of**
2 **Dan E. Long**

3 **on Behalf of**

4 ***The Coalition of Property Owners and Interested***

5 ***Parties in Piatt, Douglas and Moultrie Counties***

6 ***("PDM"), the Channon Family Trust and The***

7 ***Village of Mt. Zion***

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9 **WITNESS IDENTIFICATION**

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11 Q. Would you please state your name, business address and basic
12 background relevant to this proceeding?

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14 A. Yes. My name is Dan Long. I am a partner with SPI Energy Group. My
15 business address is 2621 Montega, Suite D, Springfield, Illinois 62704.

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17 Q. Are you the same Dan Long that previously filed testimony in this
18 proceeding?

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20 A. Yes, I am.

**INTRODUCTION**

Q. What is the purpose of your rebuttal testimony?

A. My rebuttal testimony will address issues raised in the direct testimony of ATXI witnesses Kramer and Hackmann and the consequences of those issues.

**DIRECT TESTIMONY OF DENNIS KRAMER**

Q. Have you reviewed the Direct Testimony of Dennis Kramer?

A. Yes, I have.

Q. Has Mr. Kramer introduced any issues that cause you to be concerned?

A. Yes, he has. The first issue I would like to address is that of generator stability.

Q. What is your understanding of the concept of generator stability?

A. My understanding of generator stability is that the generator, as a synchronous electrical device, must exist and operate in conditions when connected to the electric grid that allow it to operate in synchronism with other devices as well as maintain constant speed that matches that of the system as well as other synchronous devices. When these conditions exist, and the generator operates in a nominal fashion, it is stable.

Q. What do you mean by the term synchronous when applied to a generator?

A. Synchronous is a condition that is established and maintained such that a generator can operate at a precise speed, within specified system operating tolerances that match the electric frequency (cycles per second) of the interconnected system to which it is connected.

Q. What is the stability issue raised by Mr. Kramer?

A. Mr. Kramer, at page 8 of his direct testimony, cites a portion of MISO witness Webb's testimony regarding operating conditions at the Coffeen power station. It is in this portion of Mr. Webb's testimony where a

stability issue is raised with regards to future operating conditions at Coffeen. Mr. Webb states that generator instability arises at Coffeen when a fault occurs on the 345kv substation equipment at Coffeen under the projected future system conditions. There is no argument that generator instability is a serious problem, however, the manner in which the system improvements sought by ATXI are now linked to generator instability is suspect in that it attempts to create a "red herring". I am not an engineer, so this is only my layman's opinion. It may be helpful for the Staff witness to evaluate the stability issue as it relates to system capacity additions.

Q. Would you describe your concern with respect to the discussion of stability at Coffeen?

A. Yes. Mr. Webb's testimony as cited by Mr. Kramer indicates the stability arises from a fault on substation equipment at Coffeen under "the projected future system conditions". It does not state what gives rise to the fault, nor how "projected future system conditions" somewhere else on the system cause this fault. While a fault on equipment at the power station is serious, to categorize this as causing instability is unusual. A fault that close to the generator would likely cause relay equipment to begin to take the generator off-line unless the fault were isolated in such a manner that the generator could continue to operate. My biggest concern is the lack of specificity concerning what creates this fault, and why if it is due to system conditions not located at the power station itself, the fault is created near the generator versus further away from the generator where other relay schemes would isolate the fault. Also no mention is made as to the severity of this fault. Mr. Webb's testimony goes on to state that the ATXI proposal provides additional capability to deliver output from Coffeen through new outlets at Pana. I do not dispute this at all, however I would not characterize this as a stability issue. I would assume this to be an issue related to system capacity or unit availability. Mr. Kramer and Mr.

Webb have failed to provide the specificity necessary to determine the magnitude of importance of the problem they attempt to identify and have failed to identify its specific origin. They allude to a problem on a system that is interconnected to such a degree as to virtually eliminate the idea that a fault (as yet not identified) could occur that would take a generator offline.

Q. Is there any other portion of Mr. Kramer's testimony that you see as a problem?

A. Yes. Mr. Kramer addresses certain statistics associated with the relative value of stability improvements. He indicates that there are percent improvements in stability at Kincaid and Coffeen in response to the Pana connection. He discusses a 5% improvement at Kincaid and a 10% improvement at Coffeen. I am not able to identify the specific value Mr. Kramer is attempting to assign to these improvements because the specific numerical values that are being improved by 5% and 10% respectively are not identified. As a result, he has not identified either statistically or specifically whether stability at either station is in need of improvement.

**DIRECT TESTIMONY OF JEFFREY HACKMAN**

Q. Have you reviewed the Testimony of Jeffrey Hackman?

A. Yes, I have.

Q. Does Mr. Hackman discuss the construction of substations that are a part of the ATXI proposed project?

A. Yes. Mr. Hackman discusses the need for substations associated with the proposed 345kv line. Some of these substations are new from the ground up, including the real estate on which they would be sited. Some of these will be located at, and use land at substations already in service and in the

rate base of AIC. Mr. Hackman's testimony also refers to ATXI being authorized by the Commission to construct substations at some of the locations requested by ATXI. We find the way this statement is made to be of concern. While we do not take issue with what the Commission may or may not authorize to be built in response to legitimate system requirements, we do take issue with who is tasked with making the request for authorization. Of particular interest is the fact that existing AIC owned substations will be modified by ATXI to add equipment associated with this project. Mr. Hackman states that while ATXI will be adding to certain AIC substations, AIC will continue to own its equipment and ATXI will own the equipment associated with this project. This is information that suggests that while ATXI is certainly the entity that should be seeking a certificate for the line portion of the proposal, ATXI is not the entity that should be seeking certificates for the substations, particularly when ATXI proposes to share real estate owned by AIC, and paid for by AIC retail customers. This is complicated by the fact, as stated by ATXI, AIC will be required to connect to, and use, and presumably pay for, the substations to be built and owned by ATXI.

Q. Are you challenging the need for any of these substations?

A. No, not at this time. In fact, the Commission, in its order allowing re-hearing, suggested there was a need for the "Mt. Zion" substation. As a result, we are not addressing the absolute need for any of the substations.

Q. Does Mr. Hackman refer to the Commission's findings on the Mt. Zion substation?

A. Yes, Mr. Hackman quotes from the Commission's Order on page 23 of his direct testimony.

Q. Did the Commission in its Order recognize its own separate jurisdiction from that of MISO with respect to the Mt. Zion substation?

A. Yes, while recognizing that MISO engaged in significant planning, the Commission specifically stated that it "can not simply abdicate its authority and responsibility to MISO." This part of the Order is quoted by Mr. Hackman at page 23, line 514-15 of his direct testimony.

Q. Does Mr. Hackman's testimony raise any issue that impacts the Commission's jurisdiction separate and apart from MISO?

A. Yes, ATXI's proposal to seek the certificate for the Mt. Zion substation, rather than AIC, creates a problem for the Commission that directly impacts its jurisdiction over the planning process.

Q. What is the nature of this problem?

A. We have come to the conclusion that the ATXI proposal to seek certificates for the substations may preclude the ICC from determining when, or even how much, AIC customers should be required to pay for those substations once they are built. This proceeding may be the only opportunity the Commission has to evaluate how much of the cost of these assets should be borne by retail ratepayers as well as when they should begin paying for the substations. We believe this is the most important single issue facing the Commission in this proceeding.

Q. What is your understanding of the purpose of this proceeding that was initiated by ATXI, specifically concerning the substations discussed by Mr. Hackman?

A. My understanding is that ATXI filed a petition requesting certificates of public convenience and necessity for the facilities described in the petition. Those facilities include a 345kv line and six new 345kv substations.

Q. What is your understanding of the benefit or need for such a certificate for the substations described by Mr. Hackman?

A. Traditionally, an entity such as a public utility (AIC) might require such a certificate in order to facilitate condemnation proceedings to secure property on which they wish to construct facilities. If the entity seeking to undertake construction cannot obtain rights of way outright, then the certificate is useful in initiating legal proceedings to obtain the rights of way. In this case, not only does ATXI seek certificates for new property on which to locate substations, ATXI also seeks to build facilities on existing AIC substation locations that are paid for by Illinois ratepayers. In our opinion, that creates a problem.

Q. Is ATXI a public utility as that term is contemplated by the Illinois Public Utilities Act?

A. By their own description, they are not.

Q. Why does ATXI then need to secure a certificate?

A. ATXI plans to construct a transmission line and the various substations described by Mr. Hackman. ATXI requires property to do that. In the event they cannot secure the property willingly, the certificate would aid them in acquiring property in a court of law. Specifically, we are concerned about the substations discussed by Mr. Hackman that will eventually be used by AIC.

Q. Is it your understanding that the line proposed by ATXI will be used to directly serve retail load?

A. No. ATXI represents that the line is a "multi-value project" that will aid in bulk electric system transactions of a wholesale nature. The line was planned in association with MISO, and is now undertaken by ATXI subject to a determination by MISO that this project is needed and is part of a MISO sanctioned expansion plan. However, ATXI does discuss at length the benefits to AIC (and presumably its customers) of the substations proposed by Mr. Hackman.

Q. Would you describe your understanding of the difference between wholesale and retail in the context of electric sales?

A. Retail sales are sales of electricity made directly to ultimate consumers, while wholesale transactions occur between utilities or suppliers. Wholesale sales are considered interstate commerce and as such are subject to federal jurisdiction. The ultimate use of the substations described by Mr. Hackman will be for delivery of power and energy used by retail customers.

Q. Who regulates retail sales in Illinois?

A. With respect to retail sales by a public utility, the Illinois Commerce Commission regulates rates. In addition, various landowners that are parties to this proceeding may be served by electric cooperatives or municipal utilities. While these "customer" owned systems do not utilize rates that are regulated by the ICC, they will be impacted by the costs of the ATXI project because these customer owned systems are connected directly to the AIC system and pay a share of AIC system costs related to delivery of power and energy over the AIC system. The landowners are served by systems that connect directly to the substations discussed by Mr. Hackman.

Q. Who regulates wholesale transactions?

A. The Federal Energy Regulatory Commission, or FERC.

Q. What sort of entity is ATXI?

A. ATXI is not a regulated public utility in Illinois, but rather will be a transmission owner under the jurisdiction of the FERC, and within the operating area of MISO, a FERC creature that administers electric transmission throughout the area in which the proposed line will exist.

Q. Will the substations discussed by Mr. Hackman facilitate wholesale transactions?

A. I do not believe so, or at least not initially nor directly. It has been described by ATXI that it will be necessary for Ameren Illinois Corporation to connect to these substations in order to facilitate energy delivered through those substations to be passed to retail end users and ultimately realize all of the benefits of the proposed line and substations. However, the substations may later be used as designated delivery points for wholesale delivery of power to wholesale entities within the AIC area.

Q. In your experience, is it typical that a non-regulated (Illinois retail jurisdiction) entity would seek a certificate for facilities that will serve retail load, such as the substations described by Mr. Hackman?

A. No it is not. Typically, the entity seeking the certificate would be a regulated public utility owning and operating the electric transmission and distribution system used for serving end use load, such as AIC. This allows the Commission, once it renders judgement on the need for the facilities, to determine how ratepayers pay for those facilities.

Q. Is it your understanding that a proceeding such as this one is designed to allow cost recovery for the facilities addressed in the petition for a certificate?

A. No. Cost recovery is not normally dealt with in determining whether a certificate should be issued.

Q. Typically, when and where is cost recovery sought for substations such as those described by Mr. Hackman?

A. Generally, once substations such as those described by Mr. Hackman have been built, the public utility (such as AIC) would file a request, with the Commission, for cost recovery in the form of a request for a change in rates. The Commission would then be tasked with determining how it

should be included in rates for cost recovery from the end users of electricity.

Q. Are you challenging the need or necessity of the substations discussed by Mr. Hackman?

A. No. We are raising this issue not because we challenge whether the substations will be needed, or whether they will be used and useful. Rather, our concern is that the Commission should be allowed to determine how retail ratepayers pay for these facilities, since it appears they will ultimately be used by AIC to serve those ratepayers.

Q. Would ATXI, in your opinion, normally file for such cost recovery?

A. I do not believe so, as they do not serve retail customers under Commission approved rates.

Q. Where would ATXI normally seek cost recovery for the substations discussed by Mr. Hackman?

A. With respect to the substations, it is my understanding that they would not be used to facilitate interstate commerce or wholesale sales, so ATXI could not seek cost recovery from the FERC. Presumably ATXI would be paid by Ameren Illinois Corporation for their use once the project is complete. Such payment would be mandated as a part of the transmission agreements AIC is a party to.

Q. Do you foresee a problem with the structure of the ATXI petition regarding the substations discussed by Mr. Hackman that may conflict with the normal procedure for cost recovery within each jurisdiction, those being state (Illinois Commerce Commission) and federal (FERC)?

A. Yes. Cost recovery through retail rates is not addressed in a proceeding such as this one. Normally there would exist at a future date, an opportunity for the Commission to make a determination of how, and to

what extent, the substations at issue in this proceeding are included for cost recovery in say, the retail rates of AIC.

Q. Even if the Commission cannot make this determination at this time, does not the Commission have a later opportunity to make that determination at such time as any of the substations is actually used to provide service to retail jurisdictional customers?

A. The answer to that question may be no. We believe that the mere issuance of certificates for the proposed substations in this proceeding may present a problem. The ATXI project has been deemed by MISO to be an MVP. MISO operates under and acts within the jurisdiction of the FERC. If the Commission in this proceeding grants a certificate for the substations, and they are built, they may then come to exist because of a FERC jurisdictional mandate or decision. I'm not a lawyer, and I'm certainly not rendering a legal opinion, but my 35 years in the utility industry have provided some examples for me that illustrate that certain decisions by the FERC may carry with them an inability for the ICC to determine how much retail ratepayers should pay for the substations. In other words, a federal pre-emption may take place that would preclude the Commission from involving itself in the cost recovery associated with the substations.

It may be prudent for the ICC policy staff to determine whether or not this proceeding is the only opportunity the ICC may have to address cost recovery of the substations. If the Commission accedes to ATXI in the certification process, they may be precluded from rendering a decision on the level of jurisdictional cost recovery in the future.

Q. Is there any evidence in this proceeding that suggests that the Commission may be precluded or pre-empted from evaluating the level of cost recovery from retail ratepayers in the future?

A. Yes. The Staff has provided testimony that suggests that the ultimate use of the substations would be by AIC, and AIC is not a party to this proceeding. That creates a question as to how use by AIC would ultimately be assured.

Q. If as you say the ultimate beneficiary of the substations is AIC, has AIC made a commitment to connect to or utilize them in the future?

A. Yes. ATXI has stated that MISO tariff's and transmission owner agreements obligate transmission owners such as AIC to make connections as directed by MISO in an "APPROVED TRANSMISSION EXPANSION PLAN" (emphasis added).

As a result, it is our opinion that the ICC should evaluate the 345kv line on its own merits, without certificates for any substation, and not be rushed on granting certificates in this proceeding. The evaluation of the substation locations should be spared for a separate proceeding involving AIC. This would allow the Commission to render judgment for a more direct route between Pana and Kansas, and then assess the location for each substation, as well as how retail ratepayers would pay for those substations.

Such a separation would allow the Commission to determine whether it believes ATXI or AIC should be seeking approval of the substations at issue. One of these choices may give the Commission the opportunity to determine the appropriate cost recovery, the other may not. Another proceeding would also allow the Commission to require that the entity responsible for load forecasting, Ameren Services, be a participant in that proceeding. Such as proceeding would also allow AIC to sponsor and support planning and forecasting done by others on their behalf.

Q. Does Mr. Hackman's direct testimony address the Mt. Zion substation?

A. Yes, it does. Mr. Hackman correctly identifies that the Commission, in its order, "agrees that a new substation in the Mt. Zion area, is necessary." The Commission did not define what is meant by, the "Mt. Zion area" in its order. We take exception to the idea that because someone was willing to sell ATXI enough ground for as substation, that the location of that parcel is the best location for a substation. ATXI itself has identified that its original preferred location for planning purposes was not the proposed location. The preferred location was dropped inexplicably when a landowner offered the land now described as the proposed location. We also see a basic flaw in ATXI's assumption that a substation location will drive the location and direction of the line. This is particularly troubling when the proposed substation location was not a direct result of the planning process. It is now our opinion that the flexibility ATXI has used in determining how fluid the process of substation site selection can be (based on the availability of ground rather than planning) means that We can also suggest that other optional substation sites are in the "Mt. Zion area." These could include the options identified by Staff, as they would also provide adequate support to the Decatur area from their southerly location just 3 miles from Mt. Zion. It should also be noted that much of the load in the Decatur area, such as that of ADM, is more than 3 miles from Mt. Zion.

**SUMMARY**

Q. How does the ATXI proposal, and its support of planning for the AIC system, affect the responsibility the Commission has to AIC's customers?

A. ATXI's proposal is a direct response to a planning function that involves not only ATXI, but Ameren Services and MISO. The project is now presented as a planning requirement adopted by MISO and required by MISO to be utilized by its member companies, such as AIC. The Commission has agreed that while the implementation of MISO planning

criteria, and projects that result from that planning, such as the Illinois Rivers project are necessary, the Commission has also identified its responsibility to Illinois ratepayers. As such, it has stated that it cannot take the MISO planning recommendations on blind faith, but rather they must conduct an investigation consistent with their responsibility, as the Commission has stated in its own order. As a result, we agree with the Commission, and respectfully suggest that granting ATXI certificates for the requested substations runs counter to this responsibility, as it precludes the Commission from determining when and how AIC retail ratepayers will ultimately pay for them.

Q. Does this conclude your testimony?

A. Yes, it does