

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

| | | |
|---|---|---------------------------|
| Rock Island Clean Line LLC |) | |
| |) | |
| Petition for an Order granting Rock Island |) | |
| Clean Line LLC a Certificate of Public |) | |
| Convenience and Necessity pursuant to |) | |
| Section 8-406 of the Public Utilities Act as a |) | Docket No. 12-0560 |
| Transmission Public Utility and to Construct, |) | |
| Operate and Maintain an Electric Transmission |) | |
| Line and Authorizing and Directing Rock |) | |
| Island Clean Line Pursuant to Section 8-503 of |) | |
| the Public Utilities Act to Construct an |) | |
| Electric Transmission Line. |) | |

LOCAL UNIONS 51, 9, 145 AND 196

INTERNATIONAL BROTHERHOOD

OF ELECTRICAL WORKERS, AFL-CIO

**BRIEF IN REPLY TO EXCEPTIONS TO THE
ADMINISTRATIVE LAW JUDGE'S PROPOSED ORDER**

September 18, 2014

I. INTRODUCTION

The International Brotherhood of Electrical Workers, Local Union Nos. 51, 9, 145 and 196 (“IBEW”), pursuant to 200 Illinois Administrative Code Section 200.830, submits this Brief in Reply to Exceptions to the Briefs on Exceptions (“BOE”) filed by the Illinois Landowners Alliance (“ILA”), the Illinois Agricultural Association (“IAA”) and Commonwealth Edison (“ComEd”). The IBEW is responding to these parties’ exceptions to the following conclusions in the Administrative Law Judge’s Proposed Order (“ALJPO”):

1. The Rock Island Clean Line transmission project (“Project”) will promote the development of an effectively competitive electricity market that operates efficiently, is equitable to all customers, and is the least cost means of satisfying these objectives. (Section 8-406(b)(1) of the Public Utilities Act (“Act”).)
2. Rock Island Clean Line LLC (“Rock Island”) is capable of efficiently managing and supervising the construction process for the Project and has taken sufficient action to ensure adequate and efficient construction and supervision thereof (Section 8-406(b)(2) of the Act).
3. Rock Island is capable of financing the proposed construction of the Project without significant adverse financial consequences (Section 8-406(b)(3) of the Act).

The IBEW urges the Commission to reject ILA’s, IAA’s and ComEd’s exceptions to these conclusions.¹ Each of these conclusions is fully supported by the record evidence in this case, which has been thoroughly and extensively summarized by the ALJ in the ALJPO. Specifically, these conclusions are fully supported by the evidence submitted by Rock Island as well as by the evidence and arguments submitted in this case by the IBEW.

¹ ComEd has not taken exception to the ALJPO’s conclusion that Rock Island is capable of efficiently managing and supervising the construction of the Project.

In addition, the IBEW urges the Commission to reject ComEd's suggestion that Rock Island should not be allowed to exercise its certificate of public convenience and necessity ("Certificate") until it has satisfied all of the conditions imposed on it by the ALJPO. (ComEd BOE at 19-20.) This proposal has no support in the record or in law and is completely unwarranted. ComEd's proposed additional requirement would only serve to delay Rock Island is moving forward to construct the Project, and place it into operation, which will provide significant economic benefits to Illinois electricity consumers in terms of reduced electricity prices and greater competition, and will provide a significant economic development and employment stimulus to the Illinois economy in general and the construction trades in particular.² Accepting ComEd's proposal, on the other hand, would delay the realization of these significant benefits by the public in Illinois.

II. THE RECORD SUPPORTS THE ALJPO'S CONCLUSION THAT THE ROCK ISLAND PROJECT WILL PROMOTE THE DEVELOPMENT OF AN EFFECTIVELY COMPETITIVE ELECTRICITY MARKET

The ALJPO correctly concludes that the Rock Island Project will promote the development of an effectively competitive electricity market that operates efficiently, is equitable to all customers, and is the least cost means of satisfying these objectives, as required (in the alternative) by Section 8-406(b)(1) of the Act for issuance of a Certificate for the Project. (ALJPO, pp. 116 and 215.) The record in this proceeding fully supports this conclusion and provides a foundation of substantial evidence on which the Commission can adopt this conclusion in its final Order in this case.³ The Commission should reject the ILA's, IAA's and ComEd's exceptions to this conclusion. In the IBEW's view, the exceptions of these parties focus on debating a few assumptions used in the economic studies presented by Rock Island in

² See the IBEW's Initial Brief in this case, at 10-11 and IBEW's BOE at 11-12, as well as IBEW's testimony in this case (IBEW Exhibit 1.0 at 4-5), for discussion of the economic and employment benefits that the Rock Island Project will bring to Illinois.

³ As shown in the IBEW's BOE, this conclusion also supports and warrants authorizing Rock Island, pursuant to Section 8-503 of the Act (220 ILCS 5/8-503), to construct the Project. IBEW BOE at 4-8.

this case, but fail to address or rebut the overall body of evidence in the record of this case that supports the ALJPO's conclusion.

The IBEW addressed the Section 8-406(b)(1) alternative criteria in its Initial Brief in this case, and showed there that the evidence demonstrates that the Project will promote the development of an effectively competitive electricity market. As the IBEW pointed out, the record shows that the Project will increase the supply of electricity into Illinois, will lower electricity prices in Illinois, and will assist utilities and other power suppliers in meeting the Illinois Renewable Portfolio Standards. (IBEW Initial Brief, p. 6.) IBEW's witness, Mr. James Bates, testified that by accommodating construction of wind generation facilities in the Resource Area of northwest Iowa and surrounding areas, the Project will increase the electricity supply available to Illinois customers. (IBEW Ex. 1.0, p. 6; IBEW Initial Brief, p. 7.) The IBEW also pointed out the evidence provided by Rock Island's witnesses, including Michael Skelly and Dr. Karl McDermott, which shows that the Project will promote the development of an effectively competitive electricity market. (IBEW Initial Brief, pp. 6-7.) As the IBEW pointed out, Dr. McDermott showed that the Project will expand the set of generators that are able to compete to serve load in Illinois and that this increased economic import capability will allow a greater amount of lower cost generation resources to compete in the Illinois market, which will result in greater competitive pressure on electricity prices. This will lower the cost to serve energy in Illinois by lowering wholesale electricity prices, that will in turn flow to all retail customers in an equitable fashion. (IBEW Initial Brief, p. 7.)

The Commission should, in particular, reject the argument of the objecting parties that this statutory criterion is not met because Rock Island has not yet identified and signed contracts with specific wind generation facilities in the Resource Area or with other transmission customers. This argument completely misses the point, which the IBEW believes has not been disputed in this case, that new wind generation facilities in the remote Resource Area will not

occur unless new, long-distance, inter-regional transmission infrastructure such as the Rock Island Project is constructed in order to provide access for new wind generation facilities in the Resource Area to deliver their output to and compete in the Illinois and PJM electricity markets. (IBEW Initial Brief, pp. 6-7.) The IBEW views the Rock Island Project as a textbook example of a project that is necessary to allow new competitors to access and serve a destination market; therefore, the Project will promote the development of an effectively competitive electricity market.

III. THE RECORD SUPPORTS THE ALJPO'S CONCLUSION THAT ROCK ISLAND IS CAPABLE OF EFFICIENTLY MANAGING AND SUPERVISING THE CONSTRUCTION OF THE PROJECT

The ALJPO correctly concludes that Rock Island is capable of efficiently managing and supervising the construction process for the Rock Island Project and has taken sufficient action to ensure adequate and efficient construction and supervision thereof, as required by Section 8-406(b)(2) of the Act for the issuance of a Certificate. (ALJPO, pp. 127, 215.) This conclusion is also fully supported by the evidence in this case, and the exceptions submitted by ILA and IAA to this conclusion do not warrant deviating from it. As the IBEW pointed out in its Initial Brief, the record shows that Rock Island is taking appropriate steps to ensure efficient management and supervision of the construction of the Project. In particular, Rock Island has developed a comprehensive construction management organization for the Project and intends to retain experienced, highly qualified contractors for the engineering, procurement, and construction of the Project and the supply of key technology components for the Project. These contractors and vendors include Kiewit, one of the country's largest construction companies; POWER Engineers; and Siemens Energy, a leading provider of HVDC technology. (IBEW Initial Brief, p. 8.)

Further, as the IBEW has emphasized, Rock Island's ability to efficiently manage and supervise the construction process is significantly bolstered by its decision and commitment to

construct the Project in Illinois using union labor under project labor agreements. (IBEW Initial Brief, p. 8.) As testified by IBEW's witness, Mr. Bates, the use of IBEW workers is instrumental to the construction of the Rock Island Project, because the IBEW promotes a highly skilled workforce by providing extensive training and education to its members. This expertise results in projects being completed efficiently, safely, and reliably. (IBEW Ex. 1.0, p. 4; IBEW Initial Brief, p. 8.)

IV. THE RECORD SUPPORTS THE ALJPO'S CONCLUSION THAT ROCK ISLAND IS CAPABLE OF FINANCING THE CONSTRUCTION OF THE ROCK ISLAND PROJECT

The ALJPO correctly concludes that Rock Island is capable of financing the construction of the Rock Island Project without significant adverse financial consequences for the utility and its customer, as required by Section 8-406(b)(3) of the Act for the issuance of a Certificate. (ALJPO, pp. 145, 215.) This conclusion is also fully supported by the record in this proceeding. The objecting parties focus their exceptions primarily on the fact that Rock Island does not currently have binding financing commitments from debt and equity investors for the construction costs of the Project. The IBEW submits that these arguments are based on an incorrect characterization of the statutory criterion, that Rock Island must today have the funds or access to the funds necessary to construct the Project. Further, if the Commission were to accept the opposing parties' depiction of the Section 8-406(b)(3) criterion, the IBEW is concerned that this could greatly limit, and possibly eliminate, the possibility of future transmission development in Illinois by any entities other than the incumbent utilities. (*See* IBEW Initial Brief, pp. 9-10.)

As the IBEW pointed out in its Initial Brief, the IBEW recognizes that Rock Island's financing plan is dependent on entering into contracts with transmission customers in order to support the issuance of debt and equity to raise the capital for the construction project, and that Rock Island has not entered into such customer contracts at this time. The opposing parties

highlight this point in their exceptions, which is similar to the focus of their exceptions to the ALJPO's conclusion on the Section 8-406(b)(1) criterion, specifically, that Rock Island has not yet entered into contracts with wind generators and other transmission customers. However, the IBEW believes the record is clear that receipt of a Certificate from the Commission is a necessary prerequisite to Rock Island being able both to sign transmission contracts with customers and to obtain binding financing commitments from investors. (Rock Island Ex. 10.14 Revised, p. 2, 21-22; Tr., pp. 991, 994-995.) The record shows that the financing approach that Rock Island will be using is an established, frequently-used approach for raising capital for energy industry projects and other infrastructure-type projects. (Rock Island Ex. 10.0, p. 32-33; Rock Island Ex. 10.14 Revised, p. 33; Rock Island Ex. 10.26, p. 2.) Further, the condition agreed to by Rock Island and Commission Staff provides protection against adverse consequences should Rock Island ultimately be unable to raise sufficient funds for the construction of the Project. (Rock Island Ex. 10.14 Revised, pp. 5-6; Rock Island Ex. 10.26, pp. 9-13.) *See* the IBEW's Initial Brief at 9.⁴

V. THE COMMISSION SHOULD REJECT COMED'S ARGUMENT THAT ROCK ISLAND SHOULD NOT BE ALLOWED TO EXERCISE ITS CERTIFICATE FOR THE PROJECT UNTIL IT HAS SATISFIED ALL THE CONDITIONS IMPOSED BY THE ORDER

ComEd argues that if Rock Island is granted a Certificate for the Project, the Commission should nevertheless direct that Rock Island should not be allowed to exercise its Certificate until it has satisfied all the conditions imposed on it by the Order. (ComEd BOE, pp. 19-20.) The Commission should reject this argument as unsupported by law or the record (in fact, this argument is made for the first time in ComEd's BOE), unwarranted, and a transparent attempt by ComEd to delay the Rock Island Project.

⁴ In its BOE, the IBEW takes exception to the ALJPO's proposed requirement that Rock Island would have to file a new Petition with the Commission to initiate a proceeding in which the Commission would verify that Rock Island has satisfied the requirements of the financing condition. (IBEW BOE, pp. 8-11.)

Although ComEd makes this argument for the first time in its BOE, ComEd argued earlier in this case that Rock Island should not be granted a Certificate (in fact, that this proceeding should be dismissed or stayed) until Rock Island had completed the PJM and MISO interconnection processes. (*See* ComEd Ex. 1.0 2nd Revised, pp. 11-12 and 20-21.) The IBEW opposed that proposal as unnecessary and likely to delay the construction and completion of the Project and the realization of its substantial economic benefits, without providing meaningful reliability protection. (IBEW Initial Brief, pp. 11-12.) Although ComEd seems to have abandoned that argument, ComEd's new argument is essentially the same ComEd wolf dressed up in a different set of sheep's clothing. As before, the purported concern is ephemeral and the objective is nothing other than to delay the Project and to delay the realization of its competitive benefits for the Illinois electricity markets and its economic and employment benefits for the State of Illinois.

There is no reason why Rock Island, having met the requirements of Section 8-406 and being granted a Certificate for the Project, should nonetheless be precluded (as ComEd proposes) from negotiating easement acquisition agreements with landowners, entering landowner property (after providing the statutorily-required notice) to conduct land surveys pursuant to Section 8-510 of the Act (220 ILCS 5/8-510), or engaging in other ongoing Project development activities as a Certificate holder. ComEd's proposal should be rejected by the Commission.

VI. CONCLUSION

The IBEW respectfully requests that, for the reasons set forth herein, in arriving at its final Order in this proceeding, the Commission reject the exceptions of the ILA, the IAA and ComEd to the conclusions in the Administrative Law Judge's Proposed Order.

Respectfully submitted, etc.

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CERTIFICATE OF SERVICE

I, Rochelle G. Skolnick, an attorney, certify that copies of the foregoing Local Unions 51, 9, 145 and 196 International Brotherhood of Electrical Workers, AFL-CIO Brief in Reply to Exceptions to the Administrative Law Judge's Proposed Order were served upon the parties on the Illinois Commerce Commission's service list as reflected on e-Docket, via electronic delivery on September 18, 2014.

/s/ Rochelle G. Skolnick
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