

**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 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.)	Docket No. 12-0560

**ROCK ISLAND CLEAN LINE LLC'S
BRIEF IN REPLY TO
EXCEPTIONS TO THE
ADMINISTRATIVE LAW JUDGE'S PROPOSED ORDER**

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I. Introduction and Summary

Rock Island Clean Line LLC (“Rock Island”) submits this Brief in Reply to Exceptions (“RBOE”) to the Briefs on Exceptions (“BOE”) submitted by other parties to the Administrative Law Judge’s (“ALJ”) Proposed Order (“PO”).

BOEs were submitted by the Illinois Landowners Alliance (“ILA”), the Illinois Agricultural Association (“IAA”), Commonwealth Edison (“ComEd”), Commission Staff, the International Brotherhood of Electrical Workers (“IBEW”), Wind on the Wires (“WOW”), and the Environmental Law and Policy Center and Natural Resources Defense Council (“ELPC-NRDC”). IBEW, WOW and ELPC-NRDC support the PO’s conclusion that Rock Island should be granted a certificate of public convenience and necessity (“CPCN”) pursuant to §8-406 of the Public Utilities Act (“Act”) to construct and operate the Rock Island transmission line project (the “Project”) and to conduct a transmission public utility business in connection therewith. IBEW, WOW and ELPC-NRDC take exception to the PO’s conclusion that authorizing Rock Island pursuant to §8-503 to construct the Project in this case would be “premature.” It is these parties’ position that the Commission’s Order in this docket should authorize Rock Island, pursuant to §8-503, to construct the Project. IBEW BOE at 4-8; WOW BOE at 5-7; ELPC-NRDC BOE at 2-6. IBEW and WOW also take exception to the PO’s proposed modification of Commission Staff’s financing condition to require Rock Island to file a new petition with the Commission to obtain verification that Rock Island has met the requirements of the financing condition. IBEW BOE at 8-11; WOW BOE at 2-5.

Commission Staff has not taken exceptions to any findings or conclusions in the PO. Staff BOE at 1.

ILA, IAA and ComEd have each taken exception to one or more of the ALJ’s conclusions on the following topics: that the ALJ’s ruling denying the Motions to Dismiss filed by IAA and ILA early in the case should be confirmed; that Rock Island should be granted a

certificate to conduct a transmission public utility business pursuant to §8-406(a); that the 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 achieving those objectives; that Rock Island is capable of efficiently managing and supervising construction of the Project; and that Rock Island is capable of financing construction of the Project without adverse financial consequences. ILA and ComEd also offer arguments in support of the PO's conclusion that authorizing Rock Island pursuant to §8-503 to construct the Project would be "premature." Accordingly, Rock Island's RBOE will respond to the exceptions and arguments of ILA, IAA and ComEd on the forgoing conclusions in the PO.

As shown in this RBOE, as well as in Rock Island's Initial Brief ("IB") and Reply Brief ("RB"), the ALJ's conclusions that ILA, IAA and ComEd have challenged are correct and are amply supported by the record. The Rock Island Project satisfies the "for public use" requirement, and Rock Island should be granted a CPCN pursuant to §8-406(a) to conduct a transmission public utility business with the Project. (*See* §III below.) Further, the record shows that the Project satisfies the three specific criteria set forth in §8-406(b) for receipt of a CPCN: (1) the 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 (*see* §IV.A below);¹ (2) Rock Island is capable of efficiently managing and supervising the construction of the Project and has taken sufficient action to ensure adequate and efficient construction and supervision (*see* §IV.C below); and (3) Rock Island is capable of financing construction of the Project without significant adverse financial consequences (*see* §IV.D below). As correctly found by the ALJ, therefore, Rock Island should be issued a CPCN to construct and operate the Project. Further, the Commission should reject ComEd's argument

¹ As shown in Rock Island's BOE and in its Initial Brief, the record also establishes that the Project is necessary to provide adequate, reliable and efficient service to customers and is the least cost means of meeting the service needs of customers. Rock Island BOE at 12-20, 24-25 and Appendix (Exceptions) at 11-12; Rock Island IB at 61-75.

– made for the first time in its BOE – that Rock Island should be prohibited from engaging in further Project development activities as a CPCN holder until all the conditions imposed in the Commission’s order have been fulfilled. *See* §IV.E below.

II. IAA Exception Concerning ALJ Ruling on Motions to Dismiss

In February 2013, IAA and ILA filed motions to dismiss Rock Island’s Petition. The motions to dismiss were based on the argument that only an entity that already satisfies the statutory definition of “public utility” can apply for a CPCN to construct a new project. *See* IAA BOE at 4. The ALJ denied the motions to dismiss in a written ruling dated March 18, 2013. *See* PO at 5-8. In denying the motions to dismiss, the ALJ stated:

First of all, despite Movants’ [ILA and IAA] repeated assertions that the applicant must have qualifying transmission infrastructure in place in order to satisfy Section 3-105 before it may file an application under Section 8-406, a reading of Section 3-105 reveals no references to such a term or anything similar to it.

Furthermore, as observed by several parties, Movants’ interpretation of the statute creates an unworkable “Catch-22.” Under their theory, an entity could not apply for a certificate to construct public utility facilities and transact public utility business unless it already owns public utility plant, equipment or property. Under Section 8-406(b), however, constructing the public utility facilities needed in order to apply for a certificate, without already possessing a certificate authorizing construction of those facilities, is prohibited. That section provides that “no public utility shall begin the construction of any new plant, equipment, property or facility . . . unless and until it shall have obtained from the Commission a certificate that public convenience and necessity require such construction.” (*See* PO at 6-7.)

The ALJ’s March 18, 2013 Ruling also correctly pointed out that “the Commission has not limited the application process in Section 8-406 to those entities who are already certificated utilities.” *See* PO at 7.

In their briefs at the conclusion of the evidentiary phase of this docket, IAA and ILA requested that the ALJ’s ruling be reconsidered. The PO, however, after reviewing the procedural history and the arguments, concludes that the ALJ’s March 18, 2013 Ruling on the motions to dismiss should stand. The PO also observes that the questions of whether Rock

Island should receive the authority it requests under §8-406 and §8-503 of the Act have now been extensively addressed, and determinations made in the PO, on their merits. PO at 8.

IAA takes exception to the PO's conclusion, but offers no new arguments, referring only to those in its original motion to dismiss and reply in support of its motion to dismiss. IAA BOE at 4. Rock Island thoroughly addressed the deficiencies in the motions to dismiss, both in its original response to the motions to dismiss, and in its Initial Brief (at 18-21) and Reply Brief (at 19-26). The ALJ's rejection of the motions to dismiss continues to be correct. The motions to dismiss were based on the fundamentally absurd and implausible construction of §3-105 and §8-406 of the Act that an applicant for a CPCN to construct new public utility facilities or to transact a public utility business must already be a public utility, and must already own plant, equipment or property used or to be used to provide public utility service; and thus that no new entrant could ever apply for CPCNs to construct new public utility facilities. Yet, constructing the public utility facilities that are necessary (according to ILA's and IAA's argument in the motions to dismiss) in order to apply for a CPCN, without already holding a CPCN, is prohibited by §8-406(b). As the Staff correctly stated in responding to IAA's and ILA's arguments:

[W]hile Rock Island has not adequately shown that it currently owns, controls, operates or manages any plant, equipment or property to be used in transmission of electricity, it would be illogical to suggest that an entity cannot apply for a certificate to construct public utility facilities and transact public utility business unless it already owns public utility plant, equipment or property. . . . To restrict entities seeking to engage in utility business in Illinois in such a manner would reach the undesired and absurd result of erecting barriers of entry from participation in the industry or imposing requirements on existing public utilities in Illinois from which non-certificated entities would effectively be exempt. Therefore, a more logical assessment of the provision is that the Commission may assess whether a petitioner's proposal would meet the CPCN criteria of the statute if and when approved. Such provides the Commission with the flexibility of assessing an application and any public need for particular projects on a case by case basis. (Staff IB at 10 (emphasis in original).)

The ALJ correctly denied the motions to dismiss. The Commission should reject IAA's exception to the PO's conclusion confirming the denial of the motions to dismiss.

III. The Record Shows that Rock Island Satisfies the “For Public Use” Requirement to be a Public Utility (Reply to Exceptions Concerning Section 8-406(a))

ILA, IAA and ComEd take exception to the ALJ’s conclusion that Rock Island should receive a CPCN pursuant to §8-406(a) to conduct a transmission public utility business using the Project. PO at 26-27. In particular they contend that the ALJ erroneously concluded that the Project meets the “for public use” requirement of §3-105. ILA, IAA and ComEd contend that the Project does not meet the “for public use” requirement because Rock Island has not identified any Illinois customers for the Project, the Project will only serve a limited number of customers, Rock Island will not serve all eligible customers, Rock Island has not committed to build the Project, Rock Island has not committed to expand the Project if its capacity is oversubscribed, and Rock Island would have to obtain this Commission’s approval in order to expand the transmission service capacity it offers to customers.² ILA BOE at 14-17; IAA BOE at 5-9; ComEd BOE at 2-3, 6-12.

ILA’s, IAA’s and ComEd’s exception should be rejected. The ALJ correctly found that the proposed Project meets the “for public use” requirement. The record and the law support the ALJ’s conclusion. Rock Island will be a public utility and will satisfy the “for public use” requirement because it will offer transmission service on a non-discriminatory basis to all eligible customers, which will include eligible customers in Illinois, and will use the Project to deliver some 15,000,000 MWh of electricity per year into Illinois, enough to meet the electricity needs of some 1,400,000 homes. As in other cases in which the Commission has granted CPCNs to transmission providers, Rock Island will use the Project to transmit electricity for the use of the public in Illinois. Rock Island Ex. 10.13 at 14-19; Rock Island RB at 35-42, 46-54.

A. Customers to Be Offered Transmission Service on the Project

ILA, IAA and ComEd put their primary emphasis on the arguments that Rock Island has

² ILA, IAA and ComEd support their arguments, in part, by citing Staff testimony and points from Staff’s briefs. However, Staff has not taken exception to the ALJ’s conclusion that the Project satisfies the “for public use” requirement.

not identified specific customers for the Project, might not serve any Illinois customers, and in any event will likely only serve a finite number of transmission customers. However, Rock Island will be offering its transmission service – the transmission of electricity from its converter station in O’Brien County, Iowa, to an interconnection with the PJM grid in Grundy County, Illinois – to all eligible customers as defined in the FERC pro forma Open Access Transmission Tariff (“OATT”). Rock Island will offer all eligible transmission customers the opportunity to purchase transmission service on the Project, on a non-discriminatory basis. Rock Island will not deny any eligible customer the opportunity to purchase transmission service. Moreover, Rock Island will not unduly discriminate against any transmission customer in favor of another eligible customer. Rock Island Ex. 10.13 at 6; Rock Island RB at 46-47; PO at 10, 14-15.

“Eligible customers” include any electric utility, power marketer, Federal power marketing agency, or entity generating electric energy for resale, and any retail customer taking unbundled transmission service pursuant to a State requirement that unbundled transmission service be offered (which is the case in Illinois) or to a voluntary offer of unbundled transmission service (which Rock Island will include in its tariff). Rock Island Ex. 10.13 at 5. The definition of “eligible customer” is a broad definition that in practice requires Rock Island to offer transmission service to any buyer of transmission service, subject only to a limitation in the Federal Power Act on the FERC’s ability to order retail wheeling (which is not a limitation applicable to Illinois, since the Act provides for full retail transmission access) or sham wholesale transactions. *Id.*; Rock Island RB at 36-37. Rock Island will hold itself out to provide service, on a non-discriminatory basis, to any eligible customer who requests its service. Rock Island Ex. 10.13 at 4-6, 11-12; Rock Island RB at 41. As Staff stated, the requirement to provide non-discriminatory open access, which Rock Island will comply with, arguably “overcome[s] the public use hurdle since all customers would have an equal right to use the utility on the same terms, as required for public use under Section 3-105 of the Act.” Staff IB at 13.

Rock Island has not at this time contracted with specific customers – in Illinois or elsewhere – because there is no reason for any potential customer to negotiate and enter into a transmission service contract with Rock Island for transmission service on a project that has not yet received its principal regulatory authorizations, such as the CPCN. Rock Island Ex. 1.0 at 32; Rock Island Ex. 10.14 Rev. at 22-23; Rock Island IB at 112-113; Rock Island RB at 42.³ However, Rock Island expects its transmission customers to include: (1) owners of generation in the Resource Area that will contract for transmission capacity to deliver the output of their plants into the ComEd grid in northern Illinois;⁴ (2) wholesale purchasers of electricity (electric utilities, competitive retail suppliers, municipal electric utilities, electric cooperatives, and power marketers), which will contract for transmission service and use the service to deliver into northern Illinois electricity that is purchased from generators in the Resource Area; and (3) retail electricity customers who contract for unbundled transmission service to facilitate their procurement of electricity from generators in the Resource Area. Rock Island Ex. 10.13 at 12-14; PO at 10, 12-13. In any event, in this case, whether Rock Island satisfies the “for public use” requirement should be based on the Project and the service as proposed, not on whether Rock Island has already signed some customers to transmission service contracts.

ComEd points out that it is unlikely that any small retail customers will contract directly with Rock Island for unbundled transmission service on the Project. ComEd BOE at 8. However, this is no different from any other transmission provider’s service; small retail electricity users simply do not have the load size to directly contract for bulk transmission service. Almost all transmission service is contracted for by large entities such as utilities, power marketers, retail electric suppliers and other large wholesale market participants. It *is* realistic,

³ Based on §8-406 of the Act, it would be questionable whether Rock Island could lawfully enter into binding service contracts with customers before it receives its CPCN.

⁴ The “Resource Area,” as used in this case, refers to O’Brien County in northwest Iowa (where the Project’s western converter station will be located) and nearby areas in Iowa, South Dakota, Nebraska and Minnesota which have outstanding wind resources. Rock Island Ex. 10.0 at 3.

however, that a larger retail customer, such as a large institutional customer (*e.g.*, a university, medical center, or governmental entity), which wishes to obtain a portion of its electric supply from renewable resources, will purchase transmission service on the Project so that it can negotiate directly with providers of electricity from renewable resources in the Resource Area. Rock Island Ex. 1.0 at 14-15; Rock Island Ex. 10.13 at 13-14; PO at 10, 13.

ComEd asserts that the Project cannot meet the “for public use” requirement because it will not have any customers in Illinois, because Rock Island has assumed that all of its customers will be wind generators in the Resource Area. ComEd BOE at 8-9. ComEd cites no authority for its argument that Rock Island must show it has customers in Illinois. To the contrary, the statutory requirement is that Rock Island will own, control, operate or manage, within Illinois, for public use, property, plant or equipment to be used for or in connection with the transmission of electricity. The Rock Island Project will satisfy this statutory requirement.

Putting aside that fundamental flaw in ComEd’s argument, its argument erroneously conflates two topics. Rock Island expects that all the generators connected to and delivering electricity to the western converter station in Iowa will be wind generators.⁵ However, this does not mean that the only customers eligible to take transmission service on the Project will be generators located in the Resource Area. To the contrary, as explained above, Rock Island’s eligible customers will include purchasers of the electricity that will be delivered into Illinois. But even if it turned out that (at any point in time), all the transmission customers of the Project were generators in the Resource Area, Rock Island will still satisfy the “for public use” requirement, because (1) it will be offering its service on a non-discriminatory basis to all eligible customers, which (as explained above) will include purchasing customers in Illinois, and (2) it will deliver millions of MWh of electricity into Illinois each year for the use of the public.

⁵ Even in the unlikely event that some non-wind generators are developed in the Resource Area and connect to the western converter station, it is the nature of the Project that the only electricity being injected into the transmission line will be from generators located in the Resource Area and connected to the western converter station.

ILA, IAA and ComEd argue that the Project will not satisfy the “for public use” requirement because Rock Island (as allowed by the FERC⁶) will contract with individual transmission customers (referred to as “anchor tenants”) for up to 75% of the transmission capacity on the Project, potentially leaving “only” 25% of the transmission capacity to be purchased by other eligible customers through an open season process, and thus will not be offering its transmission service to all customers. ILA BOE at 15-16; IAA BOE at 6; ComEd BOE at 2, 4, 8. The ILA, IAA and ComEd arguments are misplaced in several respects. First, all of the Project’s capacity will be made available to eligible customers on a non-discriminatory basis. In its negotiated rate order, FERC approved the process by which Rock Island will offer transmission capacity to potential anchor tenants as non-discriminatory, fair, and transparent. The process for identifying, and offering capacity to, potential anchor tenant customers will include (i) substantial efforts to publicize the offering of capacity and identify all potential anchor tenant customers, (ii) invitations to potential anchor tenant customers to participate in the process, (iii) accepting requests to participate in the process from other eligible customers that Rock Island did not identify, and (iv) the use of objective criteria to determine the customers with whom Rock Island will negotiate anchor tenant contracts. Rock Island Ex. 10.13 at 6-7.

Second, even the remaining 25% (at a minimum) of the Project’s capacity after anchor tenant contracts are negotiated represents approximately 900 MW of transmission capacity. This is a significant amount of new transmission capacity delivering electricity into the Northern Illinois market to make available to customers. It would accommodate 1,000 MW of new connected generation (*i.e.*, 25% of 4,000 MW) accessing the market.⁷ As a comparison point, in Docket 13-0657, ComEd has touted that one of the benefits of its proposed Grand Prairie

⁶ *Rock Island Clean Line LLC*, 139 FERC ¶ 61,142 (2012).

⁷ 1,000 MW is approximately equal to a large nuclear unit, is somewhat larger than the largest coal-fueled generating units, and is equivalent to two or three typical gas-fueled generating stations or 3-4 typical wind farms (at 200-400 MW apiece). Thus, even 1,000 MW is a material amount of new transmission capacity and connected generation to be introduced into the Northern Illinois market.

Gateway transmission line is that it will increase transmission capacity by nearly 1,000 MW. ALJ Proposed Order, Docket 13-0657, Sept. 4, 2014, at 9.

Third, eligible customers' opportunities to obtain transmission service on the Project will not be limited to either signing a contract as an anchor tenant, or obtaining service through the open season process for the remaining transmission capacity. To the contrary, there are numerous ways in which customers will be able to obtain transmission service on the Project:⁸

- During Rock Island's initial process to identify and contract with anchor tenant customers, any eligible customer may request to negotiate an agreement with Rock Island for long-term firm transmission service. The customers in this phase will not be "pre-selected." Rock Island will allow any customer to participate in the anchor tenant process so long as the customer meets established criteria, including creditworthiness standards. Rock Island Ex. 10.13 at 7-8, 10.
- Any eligible customer may participate in Rock Island's "open season" enrollment process for the remaining capacity on the Project, and in the open season, all eligible customers have an equal opportunity to procure long-term firm transmission service. *Id.* at 8, 10.
- If Rock Island does not sell all of the Project's capacity during the anchor tenant and open season processes, any eligible customer may request service from the remaining firm service under Rock Island's OATT. *Id.* at 8, 10.
- Upon expiration or termination of the initial transmission service contracts entered into during the anchor tenant and open season processes, any eligible customer may request the freed-up capacity under Rock Island's OATT. *Id.* at 9, 10.
- Any eligible customer may request non-firm service on the Project at any time, and Rock Island is obligated to grant these requests so long as the transmission capacity is not in use by firm service customers. *Id.* at 9, 10.
- Rock Island will create a secondary market for the Project's transmission capacity, in which holders of contracted capacity will be able to make their contracted capacity available to other eligible customers, thereby enabling other customers to take transmission service on the Project. *Id.* at 10; *see also* PO at 11.

B. Finite Number of Customers

ComEd and IAA argue that Rock Island cannot be a public utility because it will only be providing transmission service to a limited number of customers and therefore will be akin to Mississippi River Fuel Corporation ("MRF") in *Mississippi River Fuel Corp. v. ICC*, 1 Ill. 2d

⁸ Detailed descriptions of the processes and opportunities for eligible customers to obtain transmission service on the Project at each of the above steps were provided in Rock Island Ex. 10.13 at 7-10.

509 (1953). ComEd BOE at 4, 7-9; IAA BOE at 6. However, there is much to distinguish the activities of MRF in that case from the services Rock Island will be providing. MRF, an interstate pipeline, expressly contracted with its local gas distribution company customers not to sell gas to any of their retail customers other than the specific, identified retail customers it had already contracted with (1 Ill. 2d at 511-12), and it refused requests from additional industrial gas customers to sell them gas (*id.* at 512-13) – something that Rock Island will not do, and could not do under its OATT. The Court in *Mississippi River* emphasized that “it is entirely clear from the record that Mississippi *has never intended to assume the status of a public utility or professed to devote its property to ‘public use’*” (*id.* at 515 (emphasis added)), and that MRF “has done no act by which it has given the reasonable impression that it was holding itself out to serve gas to the public, or to any class of the public generally.” *Id.* at 518.

In contrast to the facts in *Mississippi River*, Rock Island is expressly holding itself out to serve the public and to dedicate its property, plant and equipment to public use. Rock Island Executive Vice President David Berry testified that:

Rock Island is constructing and will operate the Project for public use for the transmission of electricity. Rock Island is holding itself out to serve the public. . . . [A]ny eligible customers (as defined by the FERC pro forma OATT) will be able to request service on Rock Island’s facilities. Rock Island accepts regulation as a public utility by the ICC and is not attempting to structure its operations so as to avoid public utility status. Rock Island understands that the construction and operation of its Project should be regulated by the ICC because of the important service that the Project will be providing to the electricity-consuming public. The Rock Island Project will directly connect over 4,000 MW of generation to northern Illinois that would not otherwise be connected and is expected to deliver approximately 15 million MWh of electricity per year to northern Illinois. This amount of electricity is equal to the annual usage of approximately 1,400,000 homes. . . . [T]he electricity transmitted over the Rock Island Project will be sold and distributed to thousands of individual retail customers in Illinois and other states. The Rock Island Project will transmit electricity for the use of the public. The public that will be served by the power transmitted by the Project from the Resource Area to northern Illinois will be retail customers in the footprints of the PJM and MISO RTOs. (Rock Island Ex. 10.13 at 14-15.)

That the subject company disclaims any intention to be a public utility or to devote its

property to the public use, as MRF did in *Mississippi River*, is also a common theme in many of the cases in which an entity has been found not to be a public utility. Such was the case, for example, in *State Public Utilities Commission ex rel. Macon County Tel. Co. v. Bethany Mut. Tel. Ass'n*, 270 Ill. 183, 110 N.E. 334 (1915) (cited at page 7 of ComEd's BOE), as well as in *Illinois Highway Transportation Co. v. Hantel*, 323 Ill. App. 364, 55 N.E.2d 710 (3d Dist. 1944), and *Highland Dairy Farms Co. v. Helvetia Milk Condensing Co.*, 308 Ill. 294, 139 N.E. 418 (1923) (cited at p. 16 of the ILA BOE).⁹ Rock Island RB at 46-47; PO at 14. In fact, all the cases cited by ILA, IAA and ComEd involved entities that were seeking to avoid public utility status and (unlike Rock Island) made it clear that they were not seeking or offering to serve the public. This common theme in the decisions was noted by the Appellate Court in *Iowa RCO Ass'n v. ICC*, 86 Ill. App. 3d 1116, 1118 (4th Dist. 1980).¹⁰

Here, rather than disclaiming public utility status, Rock Island is clearly and explicitly requesting public utility status, subjecting itself to regulation as a public utility, committing its plant, equipment and property to public use, and offering to provide the service of transporting and delivering significant amounts of electricity into Illinois for the use of the public.

Further, the cases cited by the other parties make it clear that a public utility's service need not be offered or provided to the "entire public," but can be limited to a particular area and to those customers who choose to avail themselves of it. *Palmyra Telephone Co. v. Modesto Telephone Co.*, 336 Ill. 158, 164-165 (1929); *State Public Utilities Commission ex rel. Macon County Tel. Co. v. Bethany Mut. Tel. Ass'n*, 270 Ill. 183, 185-186, 110 N.E. 334, 335 (1915).

Rock Island also points out *Illinois Power Company d/b/a AmerenIP and Ameren Illinois Transmission Company*, Docket 06-0179 (Order issued May 16, 2007), as a case in which an

⁹ ComEd also cites *Palmyra Telephone Co. v. Modesto Telephone Co.*, 336 Ill. 158 (1929), as do ILA and IAA. ComEd BOE at 7; ILA BOE at 16; IAA BOE at 5. However, *Palmyra* did not involve an issue as to whether the company was a "public utility."

¹⁰ In *Iowa RCO*, the Court affirmed the Commission's decision that an interstate pipeline that would transport crude oil from Illinois to a limited number of refinery customers in Minnesota (one of which was an affiliate of the pipeline company) was a "public utility" as defined in the PUA.

applicant was granted a CPCN for a project that would serve only a small, identified number of customers (in fact, only one). In that case, the Commission granted CPCNs to Illinois Power and Ameren Illinois Transmission Company (“Ameren Transco”) to construct three new 345 kV transmission lines for the purpose of enabling electricity to be delivered from a single wholesale generation source, the Prairie State Generating Company plant (an independent power producer) located in Washington County, Illinois, into the bulk electric system. The Prairie State plant was jointly owned by Peabody Energy and by eight cooperatives or municipal power entities in Illinois and other states. The stated purpose of the proposed transmission lines, as set forth in the applicants’ petition for a CPCN, was “to accommodate the Prairie State Facility,” *i.e.*, to transmit the output of a single generating plant. The applicants’ petition stated that upon completion of the proposed transmissions lines, “Ameren Transco will own, control, operate and manage, within this State, for public use, facilities for the transmission of electricity” and that it would be “transmitting electricity *for use by the public* at rates, terms, and conditions subject to regulation by the FERC” (emphasis added). The applicants’ petition further stated that the proposed transmission lines “will therefore allow the Prairie State Facility to connect to the transmission grid in a safe and reliable manner and will provide for reliable delivery of the plant’s output into the bulk electric system.” The Commission found American Transco to be a public utility and granted it a CPCN. Rock Island Ex. 10.13 at 17-18; PO at 9-10. Thus, the Commission granted a CPCN for a project whose sole purpose was to transmit the output of a single electric generator into the bulk electric system, and granted a CPCN as a public utility to one of the owners of the transmission line, Ameren Transco, a newly-formed entity whose only asset would be its ownership of the new transmission lines constructed to serve a single wholesale customer.¹¹

¹¹ In an earlier case, *American Transmission Company L.L.C. and ATC Management Inc.*, Docket 01-0142 (Order issued Jan. 23, 2003), the Commission granted a CPCN to the applicant as a transmission public utility, based on its allegations and evidence that it would be “transmitting electrical energy for use by the public” pursuant to a FERC-regulated OATT and would use its transmission facilities in Illinois to “transmit power for public use.” Rock Island Ex. 10.13 at 16-17; PO at 9-10. Further, the orders granting CPCNs to the applicants in Dockets 01-0142 and 06-0179 as public utilities show that ComEd’s argument

In any event, the statutory requirement is not about (as ILA, IAA and ComEd would have it) whether the Project will have some minimum number of customers, located in Illinois or in any other state. The statutory requirement is whether the Project is being developed and will be used “for public use,” to transmit and deliver electricity for the use of the public, which the record shows will clearly be the case.

C. Expanding the Capacity of the Project if it is Over-Subscribed

ILA, IAA and ComEd also argue that the Project does not meet the “for public use” requirement because Rock Island has not (yet) been required by FERC to expand the capacity of the Project if it becomes oversubscribed. ILA BOE at 15-16; IAA BOE at 6; ComEd BOE at 4, 10. ILA, IAA and ComEd are here picking up an issue that was raised by Staff, for the first time in this case, in its Initial Brief. Rock Island responded in its Reply Brief to the issue raised by Staff for the first time in its Initial Brief (Rock Island RB at 49-54), and Staff has not taken exception to the PO’s conclusion that Rock Island satisfies the “public use” requirement. Rock Island addressed this issue in its BOE, for the purpose of suggesting additional text for the PO’s Conclusion on §8-406(a) to capture Rock Island’s response to the issue Staff had raised. Rock Island BOE at 30-32 and Appendix to BOE at 7 (proposed additional text for §V.C of the PO).

Specifically, in its May 2012 order granting Rock Island negotiated rate authority, FERC did not require that Rock Island would have to expand its transmission capacity if the Project were over-subscribed; however, subsequently, in 2013, FERC issued a Policy Statement obligating transmission providers granted negotiated rate authority to expand the capacity of their facilities if they become over-subscribed.¹² As Rock Island explained in its Reply Brief and in its BOE:

that Rock Island cannot be a public utility based on providing transmission service pursuant to a FERC-regulated OATT (ComEd RBOE at 9-10) is without merit.

¹² *Allocation of Capacity on New Merchant Transmission Projects and New Cost-Based, Participant-Funded Transmission Projects, Priority Rights to New Participant-Funded Transmission*, 142 FERC ¶ 61,038 (2013).

Rock Island does not object to the obligation to expand its facilities or service offering to meet an increased demand for its transmission service after the Project, as now proposed, is completed. In fact, Rock Island has that obligation based on the provisions of the FERC's pro forma OATT. An obligation to expand a transmission provider's service offering in response to increased demand is embodied in §15.4 of the FERC's pro forma OATT:

Obligation to Provide Transmission Service that Requires Expansion or Modification of the Transmission System. If the Transmission Provider determines that it cannot accommodate a Completed Application for Firm Point-to-Point Transmission Service Because of insufficient capability on its Transmission System, the Transmission Provider will use due diligence to expand or modify its Transmission System to provide the requested Firm Transmission Service, provided the Transmission Customer agrees to compensate the Transmission Provider for such costs pursuant to the terms of Section 27. The Transmission Provider will conform to Good Utility Practice and its planning obligations in Attachment K, in determining the need for new facilities and in the design and construction of such facilities. The obligation applies only to those facilities that the Transmissions Provider has the right to expand or modify.¹³

While a transmission provider can propose deviations in its tariff from the pro forma OATT, these must be approved by the FERC. Based on the FERC's pronouncements in the Final Policy Statement cited by Staff, Rock Island believes the FERC would not approve a tariff provision that deviated from §15.4, and therefore the obligation to expand applies to Rock Island. (Rock Island RB at 51; Rock Island BOE at 31.)

Staff stated in its Initial Brief that "it is unclear whether [the] FERC policy statement would trump the specific findings of the [earlier] FERC Order addressing the Rock Island project at issue. If so, it would arguably alleviate 'public use' concerns." Staff IB at 14. As Rock Island demonstrated in its Reply Brief and immediately above, however, it is clear that the FERC Policy Statement will apply to Rock Island.

Moreover, although Rock Island will have the obligation to expand its capacity under federal law as explained above, the case law in Illinois indicates that an obligation to expand the capacity of the applicant's equipment and facilities to accommodate increased demand is not

¹³ *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, FERC Stats. & Regs. ¶ 31,241, at Appendix C, Section 15.4, *order on reh'g*, Order No. 890-A, FERC Stats & Regs. ¶ 31,261 (2007), *order on reh'g*, Order No. 890-B, 123 FERC ¶ 61,299 (2008), *order on reh'g*, Order No. 890-C, 126 FERC ¶ 61,228 (2009), *clarified*, Order No. 890-D, 129 FERC ¶ 61,126 (2009).

necessarily a requirement for public utility status, and that the utility's obligation to offer service is limited by the capacity of its facilities and equipment. For example, in *Illinois Highway Transportation Co. v. Hantel*, 323 Ill. App. 364, 55 N.E. 2d 210 (3d Dist. 1944), the court stated:

A common carrier of passengers has been defined as one who undertakes to carry all persons indifferently who may apply for patronage *so long as there is room* . . . [T]hey serve all the public alike who apply to them for carriage, *so long as they have room* . . . carrying all who apply, and refusing none *unless they have no room* or for some other legal reason may refuse. (*Id.* at 376 (emphasis added).)

Similarly, in *State Public Utilities Commission ex rel. Macon County Tel. Co. v. Bethany Mut. Tel. Ass'n*, 270 Ill. 183, 110 N.E. 334 (1915) (cited in ComEd's BOE at 7), the Court stated, "The words 'public use' mean of or belonging to the people at large, open to all the people *to the extent that its capacity may admit of the public use.*" 270 Ill. at 185 (emphasis added). Rock Island RB at 52-53; PO at 16.

In addressing this issue in its Reply Brief, Rock Island noted the obvious fact that it has requested authority to construct a transmission facility with specific, identified capacity, size and location (route), and that if the Project is authorized as requested, Rock Island would not be able to construct a larger, additional or different transmission facility unless it first requested and obtained this Commission's authorization for the larger, additional or different facility. Rock Island RB at 51-52. The PO correctly points out that "If Rock Island is required to file a FERC tariff which complies with [the FERC Policy Statement], Rock Island will need to obtain approval from the Commission before undertaking any such expansion." PO at 27. ComEd mischaracterizes the ALJ's intent by arguing that "[this] condition leaves the decision to expand the Project to *RI's discretion*," and that "Worse, the condition requires additional Commission proceedings before RI is legally allowed to begin the necessary expansion." ComEd BOE at 11 (emphasis in original). However, the PO's statement is no different than stating that if ComEd projects significant load growth in a section of its service area requiring new transmission capacity, it will need to obtain a CPCN from the Commission to construct a new transmission

line. ComEd also asserts that “If a public demand for use of the Project were to develop in the future, nothing about this condition enables the Commission to require RI to expand the Project to serve the public.” ComEd BOE at 11. ComEd ignores, however, that once Rock Island is certificated as a public utility, §8-503 gives the Commission authority to direct Rock Island to construct additional or expanded facilities in accordance with the criteria in §8-503.

D. Other Arguments

ComEd argues that Rock Island is not committed to building the Project. ComEd’s argument is based on Rock Island’s statements that it will not construct the Project if, at the time it is necessary to engage in financing for construction, there is insufficient demand for the transmission service the Project will provide to support raising the capital required for construction. ComEd BOE at 2, 11-12, 13-14. The financing condition proposed by Staff and imposed by the PO ensures that this will be the case. The Commission should consider this a positive aspect of the Project, not a negative aspect. However, Rock Island is committed to constructing the Project unless it is prevented from doing so by the conditions the Commission imposes. Rock Island’s commitment to complete the Project is manifested in many ways, including that (i) it has invested millions of dollars thus far in development of the Project (*see* Rock Island RB (Confidential version) at 15 and 116), which its investors cannot recover unless the Project is completed, placed into service and generates revenues; (ii) it has engaged in extensive interaction and outreach with landowners, government officials, potential suppliers, and other stakeholders in Illinois and Iowa; (iii) it has conducted and completed a comprehensive route development process; (iv) it is engaged in an extensive interconnection study process with PJM; and (v) it has prosecuted this proceeding for the almost two years since it was filed. Rock Island acknowledges that there are a number of conditions it must meet or fulfill in order to complete the Project, including the Staff’s financing condition imposed in this case, but Rock Island is committed to fulfilling these conditions.

ComEd argues that the Illinois public could bear the burden of having Rock Island's transmission line located on their properties, but receive none of its benefits. ComEd BOE at 9. Rock Island is unaware that the Commission has ever required a showing that the landowners on whose properties a transmission line is located are also the specific customers and beneficiaries of the line, and ComEd cites no authority for this proposition. However, as landowners, the property owners on whose property the line is placed will be paid for the easement at a price they will have negotiated and which, at least with respect to Rock Island's offer, will be based on the fair market value of the property. Were eminent domain to become necessary for a particular property, the landowner will be paid for his or her easement at fair market value as determined by a court. As electricity consumers and Illinois citizens, the property owners will share in the economic and environmental benefits of the Project, including reduced electricity prices, increased access for new generation to compete in the Illinois electricity markets, reduced costs of renewable portfolio standard ("RPS") compliance, and reduced production of pollutants such as nitrogen oxide, sulfur dioxide, mercury, particulates, coal ash and scrubber sludge.¹⁴

ComEd notes that Staff stated that Illinois entities can satisfy their RPS obligations by purchasing renewable energy credits ("RECs") generated in other states, without having the electricity delivered to Illinois. ComEd BOE at 8. Staff witness Zuraski made this observation in analyzing whether the Project could be justified solely based on Illinois' RPS requirements, not in analyzing whether Rock Island meets the "public use" requirement. Staff Ex. 3.0 at 10-11. Moreover, Staff has not taken exception to the ALJ's conclusions that the Project satisfies the requirements of both §8-406(a) and (b). In any event, ComEd's facile argument ignores numerous important facts, including: (1) a wind plant must generate electricity to produce RECs, and wind plants in the Resource Area will not be built or generate electricity or RECs unless they have a market to deliver their output to, which the Project will provide; (2) due to the superior

¹⁴ See Rock Island IB at 30-32 and 117-119, summarizing these and other benefits of the Project.

wind resources of the Resource Area, the wind plants the Project will enable can produce RECs (and energy) at lower costs than wind plants in other regions;¹⁵ (3) RECs generated by the wind plants in the Resource Area that the Project will enable will increase the supply of RECs, and lower prices, throughout the PJM region, including Illinois; and (4) electricity produced by wind plants in the Resource Area and delivered into northern Illinois by the Project will be cost-competitive with both renewable and non-renewable sources of electricity. These factors are discussed in detail in Rock Island's RB at 102-105.

In summary, the ALJ's conclusion that Rock Island and the Project will satisfy the "for public use" requirement is correct and well-grounded in the record and the law. The exceptions of ILA, IAA and ComEd to this conclusion must be rejected. Rock Island will construct and operate the Project for public use for the transmission of electricity and will hold itself out to serve the public. Rock Island will own, operate and manage transmission facilities in Illinois to transmit electricity for use by the public in Illinois. The Project will deliver some 15,000,000 Mwh of electricity per year into the ComEd grid that serves northern Illinois; this is enough electricity to meet the needs of some 1,400,000 homes. As described above, Rock Island will offer and provide non-discriminatory, open access transmission service on the Project to eligible customers. The eligible customers will include wholesale and retail purchasers of electricity in Illinois. Further, there will be multiple ways by which customers can obtain transmission service on the Project.

IV. The Record Shows that the Rock Island Project Satisfies the Criteria for Issuance of a CPCN Pursuant to Section 8-406(b)

ILA, IAA and ComEd take exception to the ALJ's conclusions that the record shows the three specific criteria for a CPCN under §8-406(b) of the Act have been met, and that Rock Island should be granted a CPCN to construct and operate the Project. ILA, IAA and ComEd

¹⁵ An implication of Mr. Zuraski's analysis is that lower-cost RECs produced by wind generators in the Resource Area may help Illinois meet its RPS requirements without hitting the rate impact caps of §1-75(c)(2) of the Illinois Power Agency Act (10 ILCS 3855/1-75(c)(2)). See Staff Ex. 3.0 at 7-10.

take exception to the ALJ's conclusion that the 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 achieving these objectives. ILA BOE at 11-13; IAA BOE at 10-22; ComEd BOE at 13-17. ILA and IAA take exception to the ALJ's conclusion that Rock Island is capable of efficiently managing and supervising construction of the Project. ILA BOE at 13-14; IAA BOE at 23-25. Finally, ILA, IAA and ComEd take exception to the ALJ's conclusion that Rock Island is capable of financing construction of the Project without significant adverse financial consequences. ILA BOE at 6-10; IAA BOE at 25-26; ComEd BOE at 18-19. As shown below, all these exceptions should be rejected. The record amply supports the ALJ's conclusions that each of the three specific criteria in §8-406(b)(1) are satisfied.

A. 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 Achieving These Objectives

1. The Record Amply Supports the ALJ's Conclusion that the Project Will Promote the Development of an Effectively Competitive Electricity Market

There is substantial evidence in the record to support the conclusion 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 achieving these objectives. This evidence is summarized at pages 27-40 and 45-72 of the PO.¹⁶ This evidence is also described in detail at pages 30-60 and 68-94 of Rock Island's Initial Brief and at pages 54-89 and 93-105 of Rock Island's Reply Brief. Although the evidence supporting this statutory finding is extensive and substantial, Rock Island emphasizes the following points.

1. The Project will allow some 4,000 MW of new, lower cost generation to enter the

¹⁶ Rock Island notes the statement at page 3 of the PO that the summaries of parties' positions in the PO are intended to identify the positions of the parties, not the findings of the Commission, except as otherwise noted. However, the "positions of the parties" sections of the PO do set forth in detail the evidence presented by each party. The evidence summarized at the above-referenced pages of the PO is substantial evidence in the record that supports a finding by the Commission that the Project will promote the development of an effectively competitive electricity market.

Illinois market, which will create competitive downward pressure on prices in the wholesale electricity market. The additional transmission capacity provided by the Project will promote an effectively competitive electricity market by increasing the size of the supply side of the market competing to serve load in Illinois and by opening the Illinois market to lower cost generation resources. Total economic capacity competing to serve load in Illinois will increase.¹⁷ Rock Island Ex. 1.0 at 6-7, 13; Rock Island Ex. 4.0 Rev. at 2-4, 34-35; Rock Island Ex. 10.0 at 19; Rock Island IB at 5, 45-46, 48; PO at 28, 31-35.

2. The Project will increase both the capacity to produce RECs and the amount of RECs produced in the REC markets in Illinois and adjoining states. The high value renewable resources that the Project will enable to access the Illinois market should put competitive pressure on prices for RECs as well as for renewable energy.¹⁸ Rock Island Ex. 4.0 Rev. at 3-4, 6, 36-39; Rock Island 10.0 at 19-20; Rock Island IB at 47-49; PO at 34-35.

3. There were three sets of economic analyses on the benefits and costs of the Project presented in this case. Each of these analyses quantified that the Project will provide economic benefits for Illinois electricity customers.

- (i) Rock Island witness Gary Moland provided production cost analyses to show the impact of the Project on Locational Marginal Prices (“LMPs”), production costs, and costs to serve load in Illinois and PJM. These analyses were performed using four economic scenarios to ensure robust results. The analyses showed substantial reductions in LMPs, production costs and costs to serve load with the Project in service as opposed to if the Project were not built.¹⁹ Rock Island witness Dr. Karl

¹⁷ “Total economic capacity,” as defined in FERC’s Delivered Price Test, is the generation supply that can be delivered into a destination market at a delivered cost less than 105% of the price in the destination market, and can therefore compete to supply load in the destination market. Rock Island Ex. 4.0 Rev. at 17-18; Rock Island IB at 48.

¹⁸ The higher average wind speeds in the Resource Area compared to Illinois mean that wind generators in the Resource Area will have higher capacity factors and, therefore, lower costs per MWh produced. Rock Island Ex. 4.0 Rev. at 31; Rock Island Ex 10.0 at 4-10; Rock Island Ex. 10.14 Rev. at 42-43.

¹⁹ Mr. Moland also conducted and presented additional analyses in response to criticisms by intervenors that (1) the generation in the Resource Area that will be connected to the Project may not be 100% wind generation, and (2) PJM may require certain operating restrictions to be placed on the Project in the event of certain system contingencies. These analyses, which are discussed in detail later in this brief, showed that even in these scenarios, the Project still produces significant economic benefits in terms of reduced LMPs, production costs, and cost to serve load in PJM and Illinois. Rock Island Exs. 3.5, 3.6, 3.7, 3.8.

McDermott used the results of these analyses to calculate that the Project will reduce the net present value of the cost to serve load in Illinois over the first five years of operation by \$667 million to \$1,221 million (2013 dollars), depending on which of the four economic scenarios is considered.²⁰ Rock Island Exs. 3.0-3.3; Rock Island Ex. 4.0 Rev. at 20-24; *see* Rock Island IB at 42-47; PO at 31-34.

Based on the results of the Moland-McDermott analyses, as well as his analysis of the impacts of the Project on total economic capacity and on REC markets, Dr. McDermott concluded that the Project will promote the development of an effectively competitive electricity market that operates efficiently and is equitable to all customers. Rock Island Ex. 4.0 Rev. at 4, 31-32, 34-39; Rock Island IB at 48-49.

(ii) Staff witness Richard Zuraski presented revenue requirements analyses for two scenarios, one comparing the costs of constructing the Project versus doing nothing (*i.e.*, load and RPS requirements continue to be met by purchases from existing resources in the existing market); and the second comparing the costs of constructing and operating the Project and the connected wind generation in the Resource Area versus constructing and operating new wind farms in Illinois sufficient to produce the same amount of electricity that the Project will enable to be delivered to Illinois.²¹ The first set of analyses concluded that the Project likely creates a net benefit compared to the status quo. The second set of analyses showed that in the majority of the many scenarios he analyzed, the “Project + Iowa Wind” scenario is more cost effective (has lower revenue requirements) than the “Illinois Wind” scenario. Staff Ex. 3.0 at 16-43; *see* Rock Island IB at 56-57.

(iii) Rock Island witness David Berry performed additional analyses using Mr. Zuraski’s financial model, but with several changes or updates to assumptions, which Mr. Zuraski did not dispute.²² These analyses showed that the Project produces net present value revenue requirements savings ranging from \$6.9 billion to \$8.6 billion. Further, the “Project + Iowa Wind” scenario had lower net present value requirements than the “Illinois Wind” scenario in 93% to 99% of the many sensitivity cases that were modeled using varying values for input assumptions. Rock Island Ex. 10.14 Rev. at 50-54; Rock Island Ex. 10.24; Rock Island Ex. 10.26 at 39-41; Rock Island Exs. 10.29-10.30; Rock Island IB at 57-60; Rock Island RB at 95; PO at 38-40.

²⁰ As the PO notes, the Moland-McDermott analysis was the same form of analysis used and presented by Dr. McDermott in *American Transmission Company, L.L.C.*, Docket 11-0661 (Order issued April 10, 2012), to demonstrate that American Transmission’s proposed transmission line (for which the Commission granted a CPCN) would promote the development of an effectively competitive electricity market. PO at 61; Rock Island RB at 71; Rock Island BOE at 21.

²¹ Mr. Zuraski’s analyses also were conducted using multiple scenarios with varying values of inputs and parameters to provide for more robust overall results.

²² For example, Mr. Berry used the most recent Project cost estimate in the record, used the most recent available estimates for capital costs to construct wind farms in Iowa and Illinois, and included transmission costs to connect the Illinois wind farms to the grid, which Mr. Zuraski had omitted. Rock Island Ex. 10.14 Rev. at 57-60; Rock Island IB at 57-58; Rock Island RB at 94-95.

The analyses performed using Mr. Zuraski's financial model with the numerous varying sets of assumptions showed that (1) the Project will provide economic benefits to consumers in terms of reduced electricity costs; (2) the Project is a lower cost alternative compared to both the status quo and to the alternative in which new wind generation is constructed in Illinois to produce a comparable amount of renewable energy to that produced by the new wind generation facilities in the Resource Area; and (3) the 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 those objectives. *See* Rock Island IB at 60; PO at 38.

None of the intervenors (ILA, IAA or ComEd) presented alternative studies to the Moland-McDermott, Zuraski or Berry analyses, to attempt to show that the Project would not reduce the costs of serving electric load in Illinois or would not produce significant economic benefits for Illinois electricity consumers.

IAA argues, incorrectly, that the Rock Island Project is not necessary.²³ IAA BOE at 10. The record shows that the Project is necessary. The following evidence has not been rebutted:

- The Resource Area has higher average wind speeds than in Illinois or other nearby states. Wind generators installed in the Resource Area will be able to operate at higher capacity factors, and thereby produce electricity at a lower cost per MWh, than wind generators installed in Illinois or nearby states. There is at least 45,000 MW of high quality wind generation development potential in the Resource Area, *i.e.*, areas with wind speeds that would produce capacity factors of at least 40%. Rock Island Ex. 10.0 at 4-9; Rock Island Ex. 10.2; Rock Island Ex. 10.14 Rev. at 34, 41-43; Rock Island Ex. 10.26 at 29; Rock Island IB at 34-35; PO at 28.
- There is a lack of long-distance transmission capacity between the Resource Area and market areas such as northern Illinois. No transmission lines above 345 kV, and no DC lines of any voltage, currently connect the Resource Area to northern Illinois.

²³ IAA asserts, without any citations to the record, that this "opinion is shared" by MISO, PJM and Rock Island's own witnesses. PJM and MISO have not expressed any opinion or conclusion that the Project is not "necessary," and they will not do so because these Regional Transmission Organizations ("RTOs") have no process for reviewing the need for or economic benefits of merchant transmission lines like the Project. Rock Island Ex. 2.11 Rev. at 38-40; Rock Island Ex. 10.14 Rev. at 57-58; ComEd Ex. 1.0 2d rev. at 15; Tr. 649, 655, 953; Rock Island RB at 56, 62-63; PO at 56, 58. With respect to "Rock Island's own witnesses," IAA may be referring to testimony by one Rock Island witness that he was not testifying that the Project is "required to make the Illinois system more reliable." Tr. 749-50. However, in terms of enabling the high quality wind resources in the Resource Area to be developed to produce electricity for the Illinois and PJM markets, the record shows the Project is definitely needed.

Rock Island Ex. 10.0 at 9-10; Rock Island Ex. 10.1; Rock Island Ex. 10.3; Rock Island IB at 36-37.

- While it is theoretically possible to move power from the Resource Area to northern Illinois using existing 345 kV lines, this would (i) entail substantially higher electric losses compared to a direct HVDC transmission link such as the Project, (ii) expose the shippers to congestion costs on the existing system that result from transmission constraints, and (iii) require the shipper to pay wheeling charges to both PJM and MISO. Further, currently there are very limited opportunities to connect wind farms in the Resource Area to the existing grid. These costs and complexities make it unrealistic and uneconomic for wind developers to move power from new wind facilities in the Resource Area to northern Illinois using the existing grid. Rock Island Ex. 10.0 at 10; Rock Island IB at 37; PO at 29.
- Although numerous wind generation developers are interested in the Resource Area and have engaged in initial development activities in the area,²⁴ the construction of new wind generation projects in the Resource Area will not proceed until developers are reasonably confident that there will be adequate transmission capacity to connect their projects to load and population centers such as the northern Illinois market. Rock Island Ex. 1.0 at 24-25; Rock Island Ex. 10.0 at 6-7, 11; Rock Island Ex. 10.26 at 31-32; WOW Ex. 1.0 at 2-12; Rock Island IB at 37-38; PO at 28-29.
- There is a large demand for electricity from renewable resources, in particular from wind generation, and that demand will continue to grow over the next 15 years. The demand is driven by state laws and policies requiring or encouraging the use of renewable resources; federal laws and policies limiting the use of, or increasing the costs for, fossil-fueled generation; public demand for clean energy from renewable sources; and the potential for wind energy as a low-cost, competitive source of electricity. Rock Island Ex. 1.0 at 5; Rock Island Ex. 10.0 at 14-24; Rock Island IB at 30, 38-41; PO at 29-31.
- Specifically, the amount of electricity from renewable resources needed to meet RPS requirements in Illinois and in other states in the PJM footprint in the 2020-2025 period, when state RPS requirements will reach their peaks, greatly exceeds the amount of renewable generation currently available.²⁵ There is a significant need for additional renewable generation resources to be added to meet RPS requirements in Illinois and other PJM states. Rock Island Ex. 10.0 at 15-21; Rock Island Ex. 10.5; Rock Island IB at 38-40; PO at 30.

IAA argues that the Project is not necessary to promote the development of an effectively competitive electricity market because, IAA states (without citation), “Staff concludes that the electricity market is sufficiently competitive.” IAA BOE at 3. However, Staff has not taken

²⁴ This evidence is discussed in more detail later in this section.

²⁵ The Illinois RPS requirement for electric utilities and alternative retail electric suppliers began at 2% as of June 1, 2008, is currently at 9% as of June 1, 2014, and reaches its maximum of 25% in 2025. Rock Island IB at 38-39; 20 ILCS 3855/1-75(c)(1); 220 ILCS 5/16-115D.

exception to the ALJ's conclusion that the Project will promote the development of an effectively competitive electricity market. Further, promotion of development of the competitive electricity market is a dynamic, ongoing process. The dictionary definitions of "promote" and "promotion" include "to move forward," "to contribute to the growth of," and "the act of furthering the growth or development." *Webster's New Collegiate Dictionary* (1973) at 921.

Most importantly, the evidence summarized above demonstrates that it would be difficult to find a project more critical to promoting the development of the competitive electricity market than the Rock Island Project. The Resource Area is a prime wind resource area which is ripe for development of new, high capacity factor, low-cost wind generation resources, but it lacks an efficient, high capacity transmission outlet to bring the output of these plants to load and population centers. There is a demand for more wind generation, driven by increasing RPS requirements (which exceed the available supply of renewable generation) and other factors. Development of the wind resources of the Resource Area could introduce thousands of megawatts of new generation capacity and low-cost energy from renewable resources into the Illinois and PJM markets where it would compete with existing generation and reduce both energy and REC prices. That development, however, will not happen without significantly improved transmission access from the Resource Area to load and population centers. The Rock Island Project is the key to the development of significant new wind generation resources that will introduce greater competition into the Illinois and PJM generation and REC markets, reduce prices, and thereby promote the development of an effectively competitive electricity market.

2. Specific Economic Study Inputs and Projections Criticized by ILA, IAA and ComEd Are Reasonable and Well-Supported in the Record

As noted above, neither ILA, nor IAA, nor ComEd presented any alternative economic analyses to those presented by Mr. Moland and Dr. McDermott, Mr. Zuraski, or Mr. Berry. Instead, these parties have limited their arguments to asserting that specific input assumptions and parameters in the Rock Island and Staff economic analyses are not adequately supported in

the record. Their contentions are incorrect. As shown below, the inputs that they criticize are in fact reasonable and well-supported in the record.

Before discussing the evidence supporting individual study inputs, however, Rock Island notes that in a CPCN case, the need for or economic benefits of a proposed new electric transmission line or other utility project are always based on projections of future conditions. If an incumbent electric utility seeks a CPCN to build a new transmission line, the need for the line is typically based on projected load growth in the area to be served by the line several years into the future, the estimated cost of the line, and other projected information. Nor can any applicant “assure” (ComEd BOE at 1) the Commission that the applicant’s projections and assumptions as to future events will materialize exactly as expected. The regulator or other decision-maker must decide if the projections are reasonable and well-supported. In this case, the analyses of the economic and other benefits of the Project are based on inputs such as projections about the nature of the generators that will connect to the Project, and the basis for the projections has been explained in the record. The Commission can review the projections and the basis for the projections to evaluate their reasonableness. Rock Island Ex. 10.14 Rev. at 34, 39-40, 45-46; Rock Island Ex. 10.23; Rock Island IB at 52; Rock Island RB at 67.

a. Generators to be Connected to the Project and Their Characteristics

ILA’s, IAA’s and ComEd’s principal criticism of the economic studies is that Rock Island has not yet signed any current or planned wind generators in the Resource Area to transmission service contracts. ILA, IAA and ComEd also criticize the assumption that all of the generators connected to the Project will be wind generation facilities, in light of the fact that FERC will not allow Rock Island to give a preference to any type of generator in contracting for transmission service on the Project. ILA BOE at 13; IAA BOE at 10-13; ComEd BOE at 3, 14. However, Rock Island’s assumptions concerning the wind generation facilities that will be connected to the Project in the Resource Area are reasonable and supported by the record.

Rock Island does not have any wind generator customers who have signed contracts for transmission service on the Project because, as the record shows, customers will not spend the time and resources to negotiate and sign contracts for transmission service until the Project has obtained the necessary regulatory approvals, which will provide customers with assurances that Rock Island has obtained the necessary legal authority to build and operate the Project. Rock Island Ex. 10.14 Rev. at 22-23, Rock Island IB at 112-113; Rock Island RB at 58, 75; PO at 58. However, there are at least 18 wind generation developers who are active in development activities in the Resource Area. Rock Island Ex. 10.14 Rev. at 41. The 18 developers are listed by name on Rock Island Ex. 10.19 Rev. Based on public land record information, these developers have acquired options on almost 100,000 acres of land in the Resource Area that can be used for the installation of wind turbines. Rock Island has been in contact with these developers to discuss their plans and Rock Island's plans to construct the Project.²⁶ Rock Island Ex. 10.14 Rev. at 41; Rock Island Ex. 10.26 at 31-32; Rock Island IB at 35-36; Rock Island RB at 57-58, 63. As with transmission contracts, these developers will not move forward to expend significant capital to construct new wind projects in the area until Rock Island has received a CPCN for the Project, which will show the developers that Rock Island has the legal authority to construct the Project. Rock Island RB at 80. Further, the development and construction time for new wind farms is much shorter than for a long-distance transmission line; therefore, wind developers actually will be able to wait until Rock Island has begun construction of the Project before they need to start making major capital investments at their sites. Rock Island Ex. 10.0 at 12; Rock Island Ex. 10.14 Rev. at 7, 41; Rock Island RB at 79-80.

The record also demonstrates why wind generation developers will want to construct substantial new wind generation facilities in the Resource Area to utilize the Project to deliver

²⁶ There may be other developers active in the area that Rock Island has not yet identified. Additionally, developers may have acquired additional land rights that are not apparent from public land records and other publicly available information. Rock Island Ex. 10.14 Rev. at 41.

their output to northern Illinois. Wind generation facilities locating in the Resource Area will have a geographic advantage over wind farms located in Illinois, due to the higher wind speeds in the Resource Area, which will result in higher capacity factors and lower costs to generate electricity in the Resource Area. In addition, compared to areas farther east, the cost to construct wind farms in the Resource Area is lower and larger wind farms are possible. This is due to lower population density and the greater prevalence of windy sites in the Resource Area, which results in economies of scale and lower unit costs in the Resource Area. Rock Island Ex. 10.14 Rev. at 42-44; Rock Island IB at 51.

As noted above, ILA, IAA and ComEd also argue that because the FERC will not allow Rock Island to give preference to any type of generation in providing transmission service, there is no assurance that 100% of the generation connected to and using the Project will be wind generation.²⁷ However, the record demonstrates that it is extremely unlikely that any generators other than wind generators would want to connect to the Project in northwest Iowa and use the Project to transmit their output to northern Illinois. This is because (as described immediately above) only wind generators have a cost advantage in locating in the wind-rich Resource Area to generate electricity and using the Project to transmit their output to northern Illinois. In contrast, there is no economic reason for a natural gas plant developer to build new gas-fueled generation in northwest Iowa, subscribe for transmission service on the Project, and deliver the output of the gas-fueled plant to northern Illinois. Natural gas prices have been higher in Iowa than in Illinois, making it more expensive to burn natural gas to generate electricity in Iowa than in northern Illinois. Additionally, construction of a large amount of new gas-fueled generation in northwest Iowa would require a major investment in natural gas pipeline infrastructure in the area. If a

²⁷ ComEd also asserts, with no explanation, that obtaining 100% wind generation connected to the Project will require “a rate increase.” ComEd BOE at 3 and n. 5. Since Rock Island will recover its costs through its charges to its transmission customers, and not from the general body of retail ratepayers, ComEd’s assertion has no basis. If ComEd is cryptically referring to the wind generators’ costs, Rock Island demonstrated how the introduction of the new wind generators to the Illinois market will lower electricity prices while enabling the wind generators to recover their costs. Rock Island RB at 81-83; PO at 65.

developer wants to build a new gas-fueled generator to serve the northern Illinois market, it will make much more sense to locate the new plant in northern Illinois, much closer to the target load. Rock Island Ex. 10.14 at 43; Rock Island Ex. 10.20; Rock Island IB at 51-52; PO at 35-36.

Although Rock Island has identified 18 wind development companies active in the Resource Area, Rock Island's research found no evidence of any thermal generation projects under active development, with the exception of one existing coal plant that may be converted to gas. There is no new coal or nuclear plant construction planned for the Resource Area, and future construction of new generation of these types is extremely unlikely. In fact, during 2013, MidAmerican Energy and Interstate Power & Light each announced the retirement of several coal plants in Iowa. No owners of existing thermal generation in the area have indicated plans to connect to the Rock Island Project for purposes of exporting their output to northern Illinois. Rock Island Ex. 10.14 Rev. at 42-44; Rock Island IB at 50-52.

ILA, IAA and ComEd provided no evidence that any other type of power plant, other than wind generation, is under development in the Resource Area or would be likely to connect to or subscribe for transmission service on the Rock Island Project. Rock Island Ex. 10.14 Rev. at 42; Rock Island IB at 51. Nonetheless, to address their contentions that generation types other than wind generators could be connected to and use the Rock Island Project, Rock Island performed an alternative economic analysis assuming that 50% (2000 MW) of the generation connected to the Project is natural gas combined cycle generation. This analysis showed that the Project will provide significant economic benefits for Illinois electricity consumers, in terms of reduced LMPs and reduced costs to serve load, even if only 50% of the generation connected to the Project is wind generation and 50% of the connected generation is gas-fueled generation. Rock Island Ex. 3.5 at 1-2; Rock Island Ex. 3.6 at 1-3; Rock Island IB at 52-53; PO at 36. Again, neither ILA, IAA nor ComEd presented any contrary analysis.

IAA argues that the likelihood of substantial wind generation capacity being developed in

the Resource Area is diminished because the federal Production Tax Credit (“PTC”) for wind energy expired as of December 31, 2013. IAA BOE at 13, 15. Congress has renewed the PTC on numerous occasions in the past, with some of the renewals being retroactive. Rock Island RB at 75-76. In any event, neither Rock Island’s economic analyses nor its projection of the amount of wind generation that will connect to the Project in the Resource Area assume or are based on continuation of the PTC. Rather, Rock Island’s projection that substantial wind generation will be developed in the Resource Area if adequate transmission infrastructure to northern Illinois is constructed is based on the distinct cost advantage that new wind generation in the Resource Area will have due to the higher average wind speeds in the Resource Area.²⁸ Further, neither the RPS requirements of Illinois and other states, nor the desire for a cleaner generation mix, will vaporize if the PTC is not extended. The demand for clean energy will continue to grow. Additionally, the absence of the PTC will not affect the cost advantage of wind generation in the Resource Area compared to other locations in meeting that demand – new wind generation in the Resource Area has capacity factor and cost advantages over wind generation in Illinois, with or without the PTC. Rock Island RB at 75-76; PO at 62-63.

IAA also argues that the hourly energy profile for connected wind plants that was used in developing Rock Island’s economic analyses was not supported in the record. IAA BOE at 13. This assertion is also erroneous. The record shows that the operating characteristics of the wind farms used in Mr. Moland’s studies (and therefore also in Mr. Zuraski’s studies) were taken from the Eastern Wind Integration and Transmission Study (“EWITS”) that was conducted by a leading meteorological firm, AWS Truewind, under the sponsorship of the Department of Energy’s National Renewable Energy Laboratory (“NREL”), to create production data for

²⁸ With respect to the revenue requirements comparisons using the Staff financial model, the comparison between (i) the Project + Iowa Wind scenario and (ii) new wind generation Illinois involved a comparison of two new sets of wind farms producing the same amount of electricity. Therefore, the presence or absence of the PTC, which is earned on a per-MWh of generation basis, does not affect this comparative analysis. Rock Island RB at 75, note 57.

potential wind farms located throughout the Eastern Interconnection.²⁹ These production data were created using detailed computer models of weather patterns and have been used by numerous utilities and RTOs, including PJM, the Southwest Power Pool and the New England Independent System Operator, in their wind generation integration studies. Rock Island Ex. 10.0 at 5-6, 11-12; Rock Island RB at 66.

b. Potential Operating Restrictions and Network Upgrade Costs

ComEd argues that although the Rock Island Project will have a transmission capacity of 3,500 MW, and will be able to connect 4,000 MW of generation to northern Illinois, Rock Island has not demonstrated that it will be able to deliver that much generation reliably. ComEd BOE at 14-16. ComEd points to the fact that, at this time, Rock Island has only requested 1,192 MW of firm transmission injection rights from PJM. *Id.* However, the economic benefits of the Project are based on the delivery of low-cost renewable energy from wind generators in the Resource Area. Rock Island's economic analyses assume that the Project will deliver about 15,000,000 MWh to northern Illinois on an annual basis, which represents about a 49% capacity factor for the line. Therefore, ComEd's assertion that the Project must be delivering 3,500 MW into PJM at all times in order to produce the expected economic benefits is erroneous. Rock Island RB at 86-87; PO at 66-67.

ComEd also points to a possible need to develop operating guides to redispatch 2,800 MW of generation (from the Project's 3,500 MW capacity) within 30 minutes should a "triggering event" occur on the ComEd transmission system. ComEd BOE at 15. IAA, citing as authority an excerpt from ComEd's Reply Brief, makes a similar assertion, and also asserts that the Rock Island and Staff economic studies failed to account for "hundreds of millions" of

²⁹ The principal and most important operating characteristic of the wind farms to be constructed in the Resource Area is their wind energy profile (*i.e.*, the amount of electricity production), which is based on the wind speeds in the area. In addition to the information from the EWITS data, wind speed information is available from publicly available wind maps produced by the NREL and AWS Truewind based on computerized weather models developed by the National Weather Service. Rock Island Ex. 10.0 at 5-6.

dollars of network upgrade costs shown by PJM studies to be needed to interconnect the Project.

IAA BOE at 11, 15. These contentions are flawed in numerous respects.

- First, the “triggering event” is an outage on one of two ComEd 765 kV lines which, based on historic data, has occurred during only about 4% of the hours during the year.³⁰ Rock Island Ex. 3.7 at 2; Rock Island Ex. 10.26 at 17; Rock Island IB at 87.
- Second, PJM has advised ComEd that the necessary redispatch can be accomplished and that PJM has successfully implemented comparable redispatches in the past. Rock Island Ex. 2.15 at 32; Rock Island Ex. 2.17 at 3; Rock Island IB at 88-89.
- Third, Rock Island witness Dr. Galli explained in detail how such a redispatch would be implemented within 30 minutes, using modern control systems and, in particular, the additional controllability of DC transmission facilities such as the Project. Such protocols are already in effect on other HVDC projects worldwide. Rock Island Ex. 2.15 at 23-32; Rock Island Ex. 2.20; Rock Island IB at 88; Rock Island RB at 84; PO at 52-54, 65-66.
- Fourth, it now appears that PJM has concluded that in the event of an outage of a ComEd 765 kV line, the Project can continue to operate at at least 1,192 MW (Tr. 938-41; Rock Island IB at 88; Rock Island RB at 86), which means that, without any further mitigation, the necessary redispatch would be about 2,300 MW at most.
- Fifth, Dr. Galli explained how the planned installation in the Project of fast-acting static synchronous compensators (known as “STATCOMs”), which, as of the close of the record, PJM had not had the opportunity to incorporate into its interconnection analyses, would eliminate the need to significantly reduce the Project’s operating capacity in the event of an outage of a ComEd 765 kV line.³¹ The beneficial impacts of installing STATCOMs has been confirmed by analyses conducted for Rock Island by Siemens, which is one of the world’s leading providers of HVDC technology. Rock Island Ex. 2.0 at 16; Rock Island Ex. 2.15 at 25-26, 34-37; PO at 54.
- Sixth, in response to ComEd’s testimony about potential operating limitations when a ComEd 765 kV line is out of service, Rock Island witness Mr. Moland performed an additional economic analysis assuming that during times when a ComEd 765 kV line was out of service, the Project would be limited to delivering 700 MW of electricity into the PJM grid. This analysis showed that if the Project’s energy delivery were limited to 700 MW when one of the ComEd 765 kV lines is out of service, the

³⁰ The 4% figure represents the hours in which one of the two 765 kV lines has been out of service during a planned or unplanned outage. The need to redispatch generation within 30 minutes is relevant only in the event of an unscheduled outage; for a scheduled outage of one of the lines, there would be ample advance notice to redispatch generation.

³¹ STATCOMs are power electronic-based devices that provide reactive power support, and thus voltage support, on a nearly instantaneous basis, allowing for a quick (within milliseconds) response to system voltage disturbances (such as the outage of a line) by either producing or absorbing reactive power to stabilize voltage. Rock Island Ex. 2.15 at 23-24; Rock Island IB at 90. Rock Island included the costs for the STATCOMs in its final Project cost estimate presented in the record of this case, which was used in Mr. Berry’s economic analyses using the Staff financial model. Rock Island Ex. 2.15 at 36; Rock Island Ex. 10.26 at 37.

Project's annual energy delivery would be reduced by only 1.7%, and the savings in costs to serve load produced by the Project would be reduced by only 1% to 3% from Mr. Moland's base analysis (depending on which of his economic scenarios is considered). Rock Island Ex. 3.7 at 1-4; Rock Island Ex. 3.8 at 1; Rock Island Ex. 10.26 at 17-18; Rock Island IB at 91-92; PO at 54-55.

- Seventh, also in response to ComEd's testimony about potential operating limitations when a ComEd 765 kV line is out of service, Rock Island performed additional analyses using the Staff financial model but with the assumption that the Project's delivery level is limited to 700 MW when one of the ComEd 765 kV lines is out of service. These analyses continued to show very substantial net present value revenue requirements savings produced by the Project, compared to both the status quo and to the alternative of constructing additional new wind generation in Illinois. Rock Island Ex. 10.26 at 40-41; Rock Island Ex. 10.30; Rock Island IB at 92-93.
- Eighth, PJM's revised System Impact Study for the interconnection of the Rock Island Project, which was issued in August 2013 during the course of this case, concluded that only \$24 million of transmission network upgrades (representing slightly more than 1% of the total cost of the Project) will be required for the interconnection of the Project to the PJM grid – not “hundreds of millions” of dollars of system upgrades.³² Rock Island Ex. 2.11 Rev. at 11-12; Rock Island Ex. 10.14 Rev. at 36; Rock Island RB at 57, 89.

c. Other Criticisms of Study Inputs

In addition to criticizing the assumption that wind generation will develop in the Resource Area in response to the transmission access provided by the Project, and raising the need for “operating guides,” ComEd also states, with apparent disfavor, that Mr. Zuraski's analysis involved “intricate assumptions” regarding debt coverage ratios, inflation rates, and commodity prices. ComEd BOE at 15. However, ComEd does not identify any of these assumptions that it contends were incorrect or unfounded. Nor did ComEd's witnesses, in testimony, criticize any of these assumptions.³³ Similarly, IAA contends that Mr. Zuraski's

³² The economic analyses conducted by Mr. Zuraski and by Mr. Berry using the Staff financial model included sensitivities with the Project cost increased by 20%, which amounted to \$400 million in Mr. Zuraski's analyses using the original Project cost estimate (*see* ICC Staff Ex. 3.1 at 3) and \$367 million in the case of Mr. Berry's analyses using the current Project cost estimate (Rock Island Ex. 10.26 at 39). These additional costs could represent increased costs of the Project itself or additional network upgrade costs, although there is no evidence to suggest the need for additional network upgrade costs beyond the \$24 million identified by PJM, let alone “hundreds of millions” of dollars. Thus (contrary to IAA's assertion, IAA BOE at 11, 15), these analyses did take into account the possibility of substantially greater system upgrade costs than have been identified by PJM's interconnection studies.

³³ Mr. Zuraski provided the inputs and assumptions used in his analyses, in great detail, in Staff Ex. 3.1, so they were fully disclosed for any party to criticize if any party had valid criticisms to offer.

analysis “relied on some unreliable data” (IAA BOE at 15-16), but IAA does not identify the “unreliable data” or state what data values it thinks should have been used. Nor did IAA present any testimony identifying “unreliable data” in Mr. Zuraski’s analyses or proposing different, “reliable” data that IAA thinks should have been used.

3. The Four Concerns of ILA Witness Dr. Gray, Cited by IAA, Were Fully Addressed in the Record and Do Not Warrant Changing the PO’s Conclusion

IAA urges the Commission to rely on four concerns with the Project identified by ILA’s witness Dr. Gray. IAA BOE at 13-14. However, as shown below, these four concerns were fully addressed in the record and shown to be without merit.

The first concern of Dr. Gray cited by IAA is that Rock Island “has scarcely addressed the costs of negative land-use impacts and externalities” that the Project would “impose on the Illinois public for the benefit of eastern PJM states in meeting their RPS targets.” IAA BOE at 14. However, Dr. Gray never actually identified any “externalities.” In fact, the record shows the Project will significantly reduce the externalities associated with the production of electricity, including emissions, waste by-products and water use. Rock Island Ex. 3.0 at 9-10; Rock Island Ex. 3.4; Rock Island Ex. 10.0 at 29-30; Rock Island IB at 119; Rock Island RB at 64-65; PO at 59. Further, because the market for renewable energy and RECs is a regional market, electricity consumers in Illinois have an interest in the other states in PJM having adequate supplies of renewable energy and RECs to meet their requirements. Experience shows that shortfalls in one state of renewable energy and RECs to meet RPS requirements and other demands for renewable energy will drive up REC prices throughout the region. Rock Island Ex. 10.0 at 21.

The “negative land use” impacts to which Dr. Gray referred were the concerns expressed by individual ILA witnesses about the impacts of the Project on their properties. *See* ILA IB at 26. The record shows that Rock Island has appropriate plans in place (including its obligations under the Agricultural Impact Mitigation Agreement, which were recounted in detail in Rock

Island's BOE) to mitigate, remediate and, where necessary, pay compensation for the issues identified by the ILA landowner witnesses (including crop losses, relocation and repair/replacement of damaged tiles, and decompaction of compacted soil). *See* Rock Island IB §IV.C.2; Rock Island RB §IV.C.2; Rock Island BOE at 34-35; PO at 178-193. Neither IAA nor ILA has taken exceptions to the PO's conclusions concerning the actions Rock Island plans to implement to mitigate, remediate and compensate for impacts to landowner properties. Rock Island also plans to offer compensation to landowners at 90% of the fair market value of the entire easement space (even though the landowner will be able to continue to farm within most of the easement), plus a separate payment for each structure placed on the landowner's property. For a landowner who has at least one structure on his or her property, the easement payment plus the structure payment(s) will equal or exceed 100% of fair market value. Rock Island Ex. 7.0 Rev. at 39; Rock Island Ex. 7.35 at 17; Rock Island Ex. 10.14 Rev. at 62-64; Rock Island IB at 139-140; Rock Island RB at 65; PO at 167-170.

Additionally, the land use impacts of the Rock Island transmission line in Illinois, which will connect 4,000 MW of new wind generation facilities in northwest Iowa and nearby areas, will be much less than the land use impacts of constructing 4,000 MW of new wind farms in Illinois. Rock Island Ex. 10.14 Rev. at 64; Rock Island Ex. 10.26 at 33; PO at 59. Dr. Gray acknowledged that building 4,000 MW of new wind generation facilities in Illinois would have substantial land use impacts on Illinois. Tr. 659. Finally, while the Project will assist other PJM states in meeting their RPS requirements, Mr. Moland's and Dr. McDermott's studies specifically measured the Project's substantial benefits for Illinois. Mr. Zuraski's analyses on the costs and benefits of the Project were also specific to Illinois. *See* Rock Island Ex. 3.3 at 1-3; Rock Island Ex. 3.5 at 2-3; Rock Island Ex. 4.0 Rev. at 20-24; ICC Staff Ex. 3.0 at 16-33; Rock Island IB at 43-46; Rock Island RB at 65; PO at 59.

Dr. Gray's second concern cited by IAA is that Rock Island "has assumed traits and

characteristics about potentially connected generators that cannot be substantiated.” IAA BOE at 14. As shown in §IV.A.2 above, however, the assumptions and projections used by Rock Island in its economic studies with respect to the nature and characteristics (*e.g.*, the operating characteristics) of the wind farms are reasonable and well-supported in the record. *See* Rock Island RB at 66; PO at 59-60.

Dr. Gray’s third concern cited by IAA is that Rock Island “leaves open the possibility” of allocating future transmission costs, of unknown amounts, to Illinois consumers. IAA BOE at 14. To be clear, Rock Island has expressly stated that it has no plans to seek to recover the costs of the Project from retail customers by cost allocation to load through RTO cost recovery processes. Rock Island Ex. 10.14 Rev. at 29; Rock Island Ex. 10.26 at 19; Rock Island IB at 75; Rock Island RB at 68; PO at 60. Further, this concern was originally stated in Dr. Gray’s direct testimony (ILA Ex. 7.0) and in response, Rock Island submitted, in rebuttal testimony, the proposed condition on cost allocation. Rock Island Ex. 10.14 Rev. at 29. As modified in surrebuttal, this condition specifies that Rock Island cannot seek to recover the Project’s cost from Illinois retail ratepayers through PJM or MISO regional cost allocation processes unless Rock Island first obtains the Commission’s permission to do so in a new proceeding initiated by Rock Island.³⁴ The PO adopts this condition. PO at 115-116.

Regarding the cost allocation condition, ComEd argues that although the PO adopts it, thereby precluding Rock Island from ever seeking cost recovery from retail ratepayers through regional cost allocation processes without first obtaining this Commission’s approval, third parties could seek to force such cost recovery. ComEd BOE at 3, note 5. However, Rock Island demonstrated that such a scenario is completely implausible. Rock Island Ex. 10.26 at 18-20; Rock Island IB at 78-79; PO at 50-51. ComEd’s witness admitted that he had no knowledge of a project being cost-allocated without the transmission owner taking affirmative action to do so.

³⁴ Rock Island submitted a modified condition in surrebuttal testimony to accommodate comments made by ComEd on the originally proposed condition. Rock Island Ex. 10.26 at 21-22.

Rock Island Ex. 10.26 at 19; Tr. 957.

Dr. Gray's fourth concern cited by IAA is that Rock Island "has not demonstrated a willingness to adequately protect the Illinois public from the risks of Project failure." IAA BOE at 14. The specific focus of this concern was that Rock Island is not providing a decommissioning fund or other financial security to help cover decommissioning and land reclamation costs in the event the Project fails and is no longer used. *See* ILA IB at 28-29. However, the concern that the Project could fail and the transmission facilities be abandoned in place with no resources available to dismantle it are unfounded, for several reasons:

- First, the Staff financing condition precludes Rock Island from commencing to construct transmission facilities on easement property unless and until Rock Island has raised the capital needed to finance the entire cost of constructing the Project, thereby preventing Rock Island from beginning construction of transmission facilities on landowner properties but running out of money to complete construction.³⁵ Rock Island Ex. 10.14 Rev. at 4-6, 65; Rock Island IB at 115-117; Rock Island RB at 70; PO at 60-61.
- Second, Rock Island's parent analyzed (for the transmission project of another subsidiary using structures and conductor of the same material and weight as will be used on the Rock Island Project) the scrap and salvage value of transmission structures, conductors and equipment compared to the cost of removing transmission structures and restoring the land at the structure sites, and found that the salvage value of the structures, conductor and other components equaled or exceeded the cost of removal, so that proceeds from selling materials and equipment, even if just for scrap, can be expected to cover the cost of removal and restoration. Rock Island Ex. 2.11 Rev. at 48; Rock Island Ex. 10.14 Rev. at 65; Rock Island RB at 70; PO at 61.
- Third, it is unlikely that the Project would simply cease operations and be abandoned. Even assuming that Rock Island encountered financial difficulties, a typical outcome in such situations is that the facilities are sold at a reduced price to a new owner, who continues their operation, or creditors take control of the facilities and operate them. The original investors may lose their capital and be out of the picture, but the physical assets continue to have value and will continue to be operated under a restructured cost and pricing structure that makes them profitable. Rock Island RB at 70-71.

4. The PO's Conclusion Does Not "Over-Rely" on the Staff Financing Condition

ILA and ComEd argue that the PO "over-relies" on the Staff financing condition by

³⁵ Part of the insurance provided by the Staff financing condition in this regard is that the lenders will independently review the construction plans and budget and determine that Rock Island has raised, in total, sufficient funds to complete construction of the Project, before they will commit to advancing any of the funds. Rock Island Ex. 10.14 Rev. at 6-7; Rock Island Ex. 10.26 at 10.

citing it as one of the grounds for concluding that the Project will promote the development of an effectively competitive electricity market. ILA BOE at 6-7, 13-14; ComEd BOE at 16-17. As detailed above, there is ample evidence in the record supporting the conclusion that the Project will promote the development of an effectively competitive electricity market. Rock Island does not view this conclusion as dependent on the financing condition or that the ALJ has “over-relied” on the financing condition. Rather, the PO cites the financing condition for what it is intended to be, specifically, a reasonable protection of landowner interests that Rock Island will not begin to construct transmission facilities on their properties unless and until Rock Island has demonstrably secured sufficient financing commitments to cover the entire cost of construction. Nevertheless, the PO’s observation at page 114 is accurate: lenders and investors will not provide the capital to construct the Project unless they have satisfied themselves that the Project has secured or will secure transmission customers that will provide sufficient revenues to operate the Project, pay back their capital and pay the stated interest rate on debt or a reasonable return on equity. The Commission should view this as a strength, not a weakness, of the merchant transmission and project finance model. ComEd’s musings notwithstanding (ComEd BOE at 16-17), sophisticated lenders and investors, such as those who have focused on transmission projects (*see* Rock Island Ex. 10.0 at 33-34), are not in the habit of lending or investing their capital to projects unless they have concluded that the project has a strong likelihood of financial and operational success.

5. Other Arguments of ILA, IAA and ComEd

ComEd argues that “prematurely granting a CPCN to a project that may ultimately come to nothing can actually harm efficient competition, including by discouraging other projects.” ComEd BOE at 17. ComEd’s point is, at best, completely academic in this case. In the two years since Rock Island’s Petition was filed with the Commission, there have been no other projects identified by the other parties that have been or are being proposed to meet the need the

Rock Island Project will meet – providing a direct, efficient, high voltage transmission connection between northwest Iowa and the PJM grid in northern Illinois to enable the development of the high quality wind resources of the Resource Area. Nor is Rock Island aware of any such “alternative” transmission projects. Further, Staff stated in its Initial Brief that “there is no evidence suggesting that the Project would prevent an even greater degree of competition being attained through an alternative project or some combination of alternative projects.” Staff IB at 60.

In support of their exceptions to the ALJ’s conclusion that the Project will promote the development of an effectively competitive electricity market, ILA, IAA and ComEd cite various statements from Staff testimony and Staff’s briefs. ILA BOE at 11; IAA BOE at 11; ComEd BOE at 16. However, Staff has not taken exception to the ALJ’s conclusion that the 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 those objectives. Further, Staff’s ultimate conclusion regarding §8-406(b)(1) was that, although subject to “considerable uncertainty,” the evidence supports a finding that the Project would promote an effectively competitive electricity market. Staff IB at 60.

B. The Rock Island Project is Necessary to Provide Adequate, Reliable and Efficient Service to Customers and is the Least Cost Means of Meeting the Service Needs of Customers

IAA and ILA state that they agree with the PO’s conclusion that Rock Island has not demonstrated that the Project is necessary to provide adequate, reliable and efficient service to customers. ILA BOE at 6; IAA BOE at 9. Rock Island has taken exception to the PO’s conclusion on this point. Rock Island BOE at 12-20 and Appendix to BOE at 21-23. As shown therein, the record demonstrates that construction and operation of the Project is necessary to provide adequate, reliable and efficient service to customers. *See also* Rock Island IB at 61-68; Rock Island RB at 55, 90-93.

IAA also asserts that Rock Island did not establish that the Project is the least-cost means of satisfying the service needs of customers. IAA BOE at 9; *see also* ComEd BOE at 2 (asserting, without explanation, that the Project “cannot be shown to be least cost”). These assertions are incorrect. Rock Island presented extensive evidence to show that the Project is the least cost means of satisfying the service needs of its customers, and also is the least cost means of satisfying the objective of promoting the development of an effectively competitive electricity market that operates efficiently and is equitable to all customers. *See* Rock Island IB at 68-75; Rock Island RB at 96-99. This evidence is summarized at pages 45-49 of the PO.

C. Rock Island is Capable of Efficiently Managing and Supervising Construction of the Project

1. The Record Amply Supports the ALJ’s Conclusion that Rock Island is Capable of Efficiently Managing and Supervising the Construction of the Project

The ALJ reasonably and properly concluded, based on the evidence in the record, that Rock Island is capable of efficiently managing and supervising the construction process and has taken sufficient action to ensure adequate and efficient construction and supervision thereof. PO at 126-127. In reaching this conclusion, the ALJ thoroughly summarized Rock Island’s evidence that supports the conclusion. PO at 116-122. The ALJ specifically found that: (i) “Rock Island has designed a comprehensive construction management organization, and members of the management team have experience in overseeing the construction of large electric projects”; (ii) “Many lead positions [in Rock Island’s construction management organization] have been filled” and that while many positions are unfilled, Rock Island’s explanation that it would “premature to fully staff them at this point in the process” is “reasonable”; (iii) the third-party contractors Rock Island has engaged “have relevant experience and expertise, including transmission line and converter station design and construction;” and (iv) Rock Island offered evidence to show that “DC applications are not uncommon and are increasing” and that “National Grid, which is a principal owner of Clean Line and is one of the largest owners and operators of electric

transmission facilities in the world, including DC transmission, will be available to support [Rock Island] in the Project.” PO at 127. As shown below, each of these points is well-supported in the record. The arguments presented by ILA and IAA in taking exception to the ALJ’s conclusion are incorrect and unfounded, and should be rejected by the Commission.³⁶

As summarized in the PO, Rock Island will retain experienced contractors for the design and construction of both the transmission line (Kiewit Power Constructors (“KPC”)) and the HVDC converter stations (“Siemens”). PO at 116-117. Kiewit Power Constructors is one of North America’s largest construction, mining, and engineering organizations, has constructed a significant number of linear infrastructure facilities (including electric transmission lines and pipelines), and is very experienced in planning, tracking and monitoring these types of projects. Staff witness Mr. Rashid testified that KPC appears capable of handling the EPC (engineering, procurement and construction) role for the Project. Siemens is a world leader in HVDC technology and has installed more than 17,000 MW of HVDC capacity worldwide, including at least 10 projects in the U.S. Rock Island Ex. 1.4 at 15; Rock Island 2.0 at 16; Rock Island IB at 95-97; PO at 117.

Further, the record shows that Rock Island intends to require its EPC contracts with KPC and Siemens to include provisions that provide Rock Island with effective project controls so as to ensure that the Project is completed on time and on budget. Examples of those provisions include: (i) fixed, lump-sum contract prices and guaranteed completion date; (ii) liquidated damages if the contractors fail to achieve substantial completion, or if the line/equipment does not complete satisfactory testing and commissioning, by a specified date; (iii) contractors’ key personnel be committed to the Project; (iv) the contractors providing reasonable credit support to cover their obligations under the EPC contracts; and (v) submission of regular reports to Rock

³⁶ Although Staff had previously testified to certain concerns it had with Rock Island’s construction management capabilities, Staff has not taken exception to the ALJ’s conclusion that Rock Island is capable of efficiently managing and supervising construction of the Project.

Island detailing the progress of work, any safety violations, schedule and cost impacts and other information needed to effectively monitor their performance. Rock Island Ex. 1.4 at 14-16; Rock Island IB at 98; PO at 118.

Additionally, Rock Island has designed an effective construction management organization for the Project. Rock Island IB at 98; PO at 119. The construction management organization structure is shown on Rock Island Exhibit 1.5. Rock Island has defined the responsibilities of each position in the construction management organization and the qualifications for each position. Rock Island Ex. 1.4 at 3-9; Rock Island IB at 99; PO at 119. Another component of Rock Island's construction management organization is the Owner's Engineer, who will act as Rock Island's representative and whose expertise and experience will supplement and support Rock Island's management and construction of the Project. Rock Island Ex. 1.4 at 10; Rock Island Ex. 1.7 at 11; Rock Island IB at 100; PO at 119. Finally, Rock Island provided evidence demonstrating the ample and relevant prior professional experience of Rock Island's employees who will manage and oversee the construction of the Project, including experience in managing the construction of electric transmission lines and wind generation projects. Rock Island Ex. 1.3; Rock Island Ex. 1.4 at 6-9, 17-19; Rock Island Ex. 1.6; Rock Island Ex. 1.7 at 8-10; Rock Island Exs. 1.8-1.9; Rock Island IB at 102-103; PO at 120.

2. ILA and IAA Incorrectly Assert that Rock Island has Failed to Demonstrate that it Can Manage the Construction of the Project because Neither Rock Island nor Clean Line has Previously Managed the Construction of a Transmission Line

ILA and IAA seize upon the fact that Rock Island and Clean Line, *as entities*, have never managed the construction of a transmission line, as purported "evidence" of Rock Island's inability to manage the construction of the Project. ILA BOE at 14; IAA BOE at 23. Rather than simply basing its analysis of this statutory criterion on this fact, as ILA and IA would have it, the Commission should consider the prior relevant experience of members of Rock Island's and Clean Line's management teams, the qualifications of the contractors Rock Island will use

for the Project, the contract terms for the EPC agreements, and the organization of Rock Island's construction management team. Rock Island Ex. 1.3; Rock Island Ex. 1.4 at 17-19; Rock Island Ex. 1.6; Rock Island Ex. 1.7 at 2, 9-10; Rock Island Ex. 1.9; Rock Island Ex. 10.12 at 5; Rock Island Ex. 12.0 at 2-3; Rock Island IB at 94-104; Rock Island RB at 106-107.

ILA and IAA ignore that members of Clean Line's management team and National Grid, a principal investor in Clean Line, have considerable experience with organizing construction management teams and overseeing the construction of large electric industry projects, including transmission lines. Jayshree Desai (Executive Vice President ("EVP") of Rock Island and Clean Line) and Michael Skelly (President of Clean Line and of Rock Island), have managed the construction of wind generation and transmission line projects, and in doing so, they were responsible for hiring personnel to build the owner's construction, procurement, operations and asset management departments. Dr. Wayne Galli, EVP of Transmission and Technical Services for Clean Line, was Director of Transmission Development at NextEra Energy Resources, where he was responsible for routing, siting and engineering for approximately 330 miles of new transmission lines and for vetting and awarding contracts to contractors. He also participated in planning and project management for a 229-mile transmission line. All of this experience is directly relevant to the development and management of a construction management organization for Rock Island that will successfully manage the construction of the Project. Rock Island Ex. 1.3; Rock Island Ex. 1.4 at 17-19; Rock Island Ex. 1.6; Rock Island Ex. 1.7 at 9-10; Rock Island Ex. 1.8 at 1; Rock Island Ex. 1.9; Tr. 237; Rock Island IB at 102-103; Rock Island RB at 107-108; PO at 120.

Also, in managing the construction of the Project, Rock Island will be able to draw on the relevant and extensive prior transmission line and construction management experience of National Grid. National Grid has committed to making its engineering, procurement, licensing, construction and project management skills and resources available to Clean Line, and National

Grid will be providing specific advice to Clean Line and Rock Island regarding a variety of issues, including technical issues.³⁷ Rock Island Ex. 1.4 at 19; Rock Island Ex. 1.7 at 3; Rock Island Ex. 12.0 at 13; Tr. 246-247, 376, 842; Rock Island RB at 108; PO at 118, 121. As a 40% owner of Clean Line, National Grid has a vested interest in Rock Island effectively managing construction of the Project. Rock Island Ex. 12.0 at 2-3, 6, 13; Tr. 188; Rock Island RB at 107-108; PO at 121. Further, National Grid would not have invested \$40 million of at-risk capital in Clean Line – which National Grid can only recover and earn a return on if Clean Line’s projects are successfully constructed and brought into operation – if it did not have confidence that Clean Line and its subsidiaries will be able to efficiently manage the construction of their transmission projects and bring them to completion. Rock Island Ex. 10.26 at 9; Rock Island Ex. 12.0 at 12-14; Rock Island RB at 108; PO at 121.

Finally, as summarized above and as set forth in greater detail in §IV.A.2.a-c (pages 94-102) of Rock Island’s Initial Brief, Rock Island has engaged experienced contractors for the development phase of the Project and will engage experienced contractors for the construction of the Project; Rock Island will require that its EPC contracts provide effective project controls and oversight mechanisms; and Rock Island has designed an effective construction management organization for the Project. PO at 116-122.

3. IAA Incorrectly Asserts that the Employees Who Have Been Hired for Rock Island’s Construction Management Organization Have No Relevant Experience.

IAA asserts, incorrectly, that the individuals who have already filled positions in Rock Island’s construction management organization “have no relevant experience.” IAA BOE at 23. To the contrary, Rock Island provided extensive evidence on the relevant prior experience of these individuals. Rock Island’s President and CEO, Mr. Skelly, described how these

³⁷ National Grid plc, which through its subsidiaries National Grid USA and GridAmerica Holdings Inc. is a principal owner of Clean Line, is one of the largest owners and operators of electric transmission facilities in the world. Rock Island Ex. 1.4 at 19; Rock Island Ex. 10.12 at 1-3; Rock Island IB at 103.

individuals' prior professional experience was pertinent to transmission line construction management and supervision capabilities. Rock Island Ex. 1.3; Rock Island Ex. 1.4 at 6-9, 17-19; Rock Island Ex. 1.6; Rock Island Ex. 1.7 at 8-10; Rock Island Ex. 1.8-1.9; Rock Island IB at 102-103; Rock Island RB at 109; PO at 121. As he also explained, in addition to prior transmission projects, other prior experience may be relevant to the responsibilities of the positions in the construction management organization, because experience with the critical aspects of the project owner's management of the construction process (including project controls, procurement, management and oversight of construction activities) are skills that can be acquired or gained on generation projects and other large infrastructure projects, and not solely through work on large transmission projects. Rock Island Ex. 1.7 at 8; Rock Island RB at 109.

Further, IAA's argument ignores that in addition to supervising construction of the Project through its own construction management employees, Rock Island will also retain an experienced firm to act as the Owner's Engineer to supplement and support Rock Island's management of construction of the Project. An Owner's Engineer is a third-party entity, experienced in engineering and construction of large-scale infrastructure projects, that the owner retains to assist it in project management activities, act as the owner's representative, and oversee the activities of the other contractors, thereby supplementing the experience and expertise of the owner's internal team. Rock Island anticipates engaging POWER Engineers, Inc., which is already working on the Project, as its Owner's Engineer for the Project. Rock Island Ex. 1.4 at 10; Rock Island Ex. 1.7 at 11; Rock Island IB at 100; Rock Island RB at 109-110; PO at 119.

4. ILA and IAA Incorrectly Assert that Rock Island has Failed to Demonstrate that It Can Manage Construction of the Project because DC Transmission Lines are "Rare" and "Non-Conventional"

ILA and IAA assert that HVDC lines are "rare" and "nonconventional." ILA BOE at 14; IAA BOE at 23. The record shows that these assertions are unfounded. HVDC technology is neither experimental nor recently introduced technology, and in fact, there are over 30 HVDC

installations in North America, some dating back as far as 1968. Worldwide, HVDC applications are commonplace and are continuing to increase in applications similar to Rock Island's planned use of HVDC for the Project. Rock Island Ex. 2.0 at 22-24; Rock Island RB at 112; PO at 118. In fact, National Grid has extensive experience building, owning and operating HVDC transmission lines in the U.S., United Kingdom and Europe. Rock Island Ex. 12.0 at 2-3; Tr. 246; Rock Island RB at 112. Again, in managing the construction of the Project, Rock Island will be able to draw on the relevant and extensive prior transmission line and construction management experience of National Grid, which will make its engineering, procurement, licensing, construction and project management skills and resources available to Rock Island and will provide specific advice as necessary, including on technical issues. Rock Island Ex. 1.4 at 19; Rock Island Ex. 1.7 at 3; Rock Island Ex. 12.0 at 13; Tr. 246-247, 376, 842; Rock Island RB at 108; PO at 118.

Further, the structural design of an HVDC transmission line is similar to that of an AC line, and the construction processes and practices applicable to each type of transmission line are similar. The differences between an HVDC transmission line and a high voltage AC line are primarily in operation, not in construction. Rock Island Ex. 9.0 Rev. at 4; Rock Island RB at 112-113; PO at 117. Rock Island has contracted with Siemens, a world leader in HVDC technology, for provision and installation of the HVDC converter stations. Siemens is already working on the Project to perform detailed design studies and system analysis, to ensure an optimal and reliable design and efficient implementation for the converter stations. Rock Island Ex. 2.0 at 16; Rock Island Ex. 1.4 at 15-16; Rock Island RB at 113; PO at 117.

Accordingly, and contrary to ILA's and IAA's assertions, there is no reason to conclude that construction of the Project will be more difficult to manage because it will use HVDC technology.

5. IAA Incorrectly Asserts that Rock Island has Failed to Demonstrate that It Can Manage the Construction of the Project Because Some Positions in the Construction Management Organization are not yet Filled and Some of these Employees may have Duties for the other Clean Line Projects

IAA asserts that because many of the positions in Rock Island's construction management team remain unfilled, Rock Island will be unable to manage the construction of the Project.³⁸ IAA BOE at 23. This assertion is a red herring. First, IAA's argument ignores that it would be uneconomical and inefficient for Rock Island to fill all of the positions in its construction management organization at this time because at this stage of the Project, there is no meaningful work for a number of the positions. As Mr. Skelly testified, Rock Island has intentionally and thoughtfully filled many, but not all, of the positions because it would be imprudent to hire individuals for positions that do not have any current or imminent duties. Rock Island Ex. 1.7 at 5-7; Rock Island IB at 100-101; PO at 119. Mr. Wynter, an officer of National Grid USA, concurred that it makes sense to wait to fill positions until there is meaningful and substantive work for the persons in these positions to perform, which will occur as additional development milestones are reached and the Project moves closer to definitive engineering and cost estimating and commencing actual construction.³⁹ Rock Island Ex. 1.7 at 14; Rock Island Ex. 12.0 at 1, 14; Rock Island IB at 101; PO at 119. Other positions in Rock Island's construction management organization have already been filled, because at this time, there are duties and responsibilities to be performed by those employees. Rock Island Ex. 1.7 at 6; Rock Island IB at 101; PO at 119. The positions that have been filled include the EVP of Transmission and Technical Services, the two Managers of Electrical Engineering, the Environmental/Permitting Director, the Director of Land Services, the Director of Development

³⁸ At the time of the hearings, 15 of the 35 positions in Rock Island's construction management organization had been filled. Rock Island Ex. 1.5; Rock Island Ex. 1.7 at 6; Rock Island IB at 101.

³⁹ Rock Island's milestone schedule for the Project indicates that construction activities are not expected to begin until the fourth quarter of 2015, which would be 21 to 24 months after the evidentiary hearings in this case. ComEd Cross Ex. 3, Attachment 01.

and five Project Managers. Rock Island Ex. 1.5.

Second, IAA's argument ignores the evidence that Rock Island has a reasonable plan for filling the remaining positions of its construction management organization and is confident that it will be able to fill these positions in a timely manner. Rock Island Ex. 1.4 at 9-10; Rock Island Ex. 1.7 at 7; Rock Island RB at 110; PO at 119. Both the Clean Line management team and National Grid have extensive professional networks in the electric power industry, and will work with industry professionals and other resources to find the most qualified personnel to fill these positions. Rock Island Ex. 1.7 at 7; Rock Island Ex. 12.0 at 14; Rock Island RB at 110; PO at 119. Mr. Wynter explained that based on National Grid's experience and knowledge of the current market for the types of personnel needed for the unfilled positions, Rock Island will be able to fill the remaining positions in the construction management organization. Further, National Grid, as a significant and experienced developer, construction manager, owner and operator of transmission projects with extensive contacts in the industry, will assist Rock Island in identifying qualified candidates to fill these positions. Rock Island Ex. 12.0 at 14; Rock Island RB at 110-111; PO at 119-120. To guide its search to fill the remaining positions, Rock Island has already established the responsibilities of these positions and the qualifications of candidates that will be required to fill them. Rock Island Ex. 1.4 at 3-6; Rock Island Ex. 1.5; RB at 111; PO at 119. Based on the record, there is no reason to conclude that Rock Island will be unable to hire qualified and experienced employees to fill the remaining, open positions of the construction management organization in a timely manner when there is a need for the persons in those positions to begin performing construction management tasks.

Finally, IAA's assertion that Rock Island's construction management team may not be sufficient to manage the construction of the Project because "most of these employees are also charged with identical duties for the 5 other subsidiaries of Clean Line" is inaccurate. IAA BOE at 23. The construction management organization presented on Rock Island Exhibit 1.5 is to

manage construction of the Rock Island Project, not to manage construction of all of the projects of all five Clean Line subsidiaries. Rock Island RB at 111. Certain members of the Clean Line management team may work on more than one project at any given time; however, those employees may do work on more than one project but only spend a small amount of time on certain of those projects. Tr. 242; Rock Island RB at 111; PO at 120. Further, as the Project progresses closer to commencing construction, certain employees who have been spending time on multiple projects will have their time dedicated exclusively to the Project. Tr. 239-240; Rock Island RB at 112; PO at 120. Moreover, the Clean Line and Rock Island organizations will grow in size as additional project milestones are achieved. Tr. 780; Rock Island RB at 112; PO at 120.

D. Rock Island is Capable of Financing Construction of the Project without Significant Adverse Financial Consequences

1. The Record Supports the ALJ's Conclusion that Rock Island is Capable of Financing Construction of the Project

The record in this proceeding fully supports the ALJ's conclusion that Rock Island is capable of financing construction of the Project without significant adverse financial consequences to Rock Island or its customers, as required by §8-406(b)(3) of the Act. Rock Island demonstrated that it has a feasible, achievable plan for financing the construction of the Project using the project finance approach, and is capable of executing that plan. As shown in detail in Rock Island's Initial Brief at 6-8, 12, 16-17, 38-42, 49-53 and 104-117, in Rock Island's Reply Brief at 121-122, and in the record evidence cited therein, and as summarized at pages 128-137 of the PO:

- Project financing is a well-established and accepted means of raising capital that has been successfully used in numerous transactions over many years to raise hundreds of billions of dollars of capital for transmission projects, other energy industry infrastructure projects, and projects in other infrastructure sectors.⁴⁰

⁴⁰ Rock Island provided examples of electric transmission projects and other infrastructure projects that have been successfully financed through debt and/or equity financings accomplished through the project financing model. Rock Island Ex. 10.0 at 32-37; Rock Island Ex. 10.14 Rev. at 11-12; Rock Island Ex. 10.16; Rock Island Ex. 10.26 at 4; Tr. 1014-15; Rock Island IB at 108-109; PO at 129-130.

- Project financing is normally accomplished, as Rock Island proposes, through a single purpose legal entity that owns the facility to be financed and has no other assets, liabilities or business.
- Project financing is accomplished by raising debt and equity secured or supported by the revenue streams from customers' capacity or service contracts for the use of the facility being financed.
- There is ample evidence of the cost advantage of installing and operating wind generation in the Resource Area, if an efficient, direct, high voltage transmission link to market areas in northern Illinois and PJM were developed. There is also ample evidence of the need for the Project to connect the wind-rich Resource Area with the electricity markets in northern Illinois and PJM. This evidence demonstrates that Rock Island will be able to enter into sufficient transmission capacity and service contracts to support the project financing.
- There is ample evidence in the record that Rock Island's transmission customers will meet the necessary creditworthiness standards to support the project financing.
- The fact that Rock Island will sell its service to specific users, and will not recover its costs from captive customers through a tariff, decreases regulatory risk related to the Project and is a common business model for electric system infrastructure and pipelines.
- The capital markets have a substantial history of supporting transmission projects (including merchant projects such as Rock Island) through debt and equity financings. Large amounts of liquidity exist in the capital markets for transmission projects that have reached an advanced stage of development.
- Investments in transmission facilities are attractive to investors because they provide reasonable returns and steady cash flows with an attractive risk profile.
- Significant, well-known institutional investors are active in investing in transmission projects.
- The management team of Rock Island and Clean Line is experienced in raising capital through project financings for projects in the energy industry and has the experience, expertise and financial market contacts to successfully execute Rock Island's financing plan.
- The Staff financing condition protects both landowners and retail ratepayers against any adverse financial consequences of Rock Island being unable to raise the capital needed to construct the Project.
- Rock Island's transmission customers will not be required to pay for transmission capacity and service until the Project is completed and begins to provide them service, so these customers would not experience adverse financial consequences if Rock Island were unable to raise the capital needed to construct the Project.
- Generators whose facilities will be connected to the Rock Island Project will not have to begin construction of their wind farms until Rock Island has satisfied the Staff financing condition and started construction of the Project, so they will be assured

that they will have an adequate outlet for their power before they begin to spend significant sums on their projects.

2. Response to Specific ILA, IAA and ComEd Exceptions

ILA, IAA and ComEd continue to attempt to construe §8-406(b)(3) as requiring Rock Island to show that it has the financial resources at the time of certification to finance the entire \$1.833 billion estimated construction cost of the Project. ILA BOE at 9-10; IAA BOE at 25; ComEd BOE at 2, 18. However, §8-406(b)(3) does not require this – it requires Rock Island to show that it “is capable” of financing construction of the Project, which Rock Island has shown. The statute does not require an applicant to demonstrate that, at the time of certification, it has either the capital in hand to finance construction of its Project, or binding financing commitments to cover the cost of construction.⁴¹ Rock Island RB at 117; PO at 133-135.

ComEd asserts that the Commission has not in the past issued a CPCN to an applicant based on future unspecified financing plans. ComEd BOE at 19. As its only support for this argument, ComEd cites *Northern Moraine Wastewater Reclamation Dist. v. ICC*, 392 Ill. App. 3d 542 (2d Dist. 2009) (“*Northern Moraine*”), as providing an example of evidence that was accepted to show a utility was capable of financing construction. ComEd BOE at 19. However, this decision does not support ComEd’s position, because all the Appellate Court did in *Northern Moraine* was conclude that there was sufficient evidence in the record to affirm the Commission’s conclusion that the applicant was “financially capable of serving the subject [service] area.” 392 Ill. App. 3d at 568. The fact that the court found the specific information in the record in that case on the applicant’s financial resources was sufficient, on appellate review, to sustain the Commission’s finding, does not establish an evidentiary standard that must be met

⁴¹ Moreover, §8-406(f) provides: “Unless exercised within a period of 2 years from the grant thereof authority conferred by a certificate of convenience and necessity issued by the Commission shall be null and void.” By this provision, the Legislature has recognized that an applicant for a CPCN cannot be expected, and is not required, to be presently able to carry out all the requirements of its CPCN at the time of certification, including currently having the financial resources to cover the cost of construction. Rock Island RB at 118; PO at 135.

in every case. Moreover, in *Northern Moraine*, the Commission relied on the testimony of Staff witness Janis Freetly that since the developers would fund all additions to the applicant's water and sewer systems, the construction of new facilities would not have adverse financial consequences for the utility or its customers. *Id.* at 551. This is similar to Rock Island's financing plan – the basis for raising the capital to finance construction of the Project is the transmission contracts that the transmission customers of the Project will enter into. Rock Island RB at 118-119; PO at 135.

ComEd, ILA and IAA point to the fact that Rock Island's parent company, Clean Line, is in the process of developing other major transmission projects, and they assert that Rock Island must compete with its sister companies for the allocation of capital from Clean Line because Clean Line's funds are not segregated or budgeted among its subsidiaries' projects. ComEd BOE at 3; ILA BOE at 7-8; IAA BOE at 25. However, this is the case only with respect to capital for development activities, not with respect to capital for construction of the projects. The Rock Island Project and each other project of a Clean Line subsidiary will be financed separately, through the separate, single-purpose entity that owns each project, based on the transmission service revenue streams of each project. This is a key, and typical, characteristic of project financing. *See* Rock Island Ex. 10.26 at 4; Tr. 1015; Rock Island IB at 108; Rock Island RB at 115; PO at 136.

IAA asserts that Rock Island has no assurances from Clean Line or National Grid that sufficient funds will ever be made available for the Project, and ILA notes that Clean Line will need to continue attracting and spending development capital in the coming years. IAA BOE at 25; ILA BOE at 7. However, to date, Clean Line has not experienced difficulty in raising capital to fund the development activities for the projects of its subsidiaries, including Rock Island. In fact, Clean Line has raised a very substantial amount of at-risk capital (tens of millions of dollars) for development activities, which demonstrates the confidence of investors that Clean

Line's projects can be developed, financed, constructed and brought into operation. In turn, Clean Line has invested a significant amount of this private capital in Rock Island for development activities for the Project.⁴² Rock Island Ex. 10.14 Rev. at 10; Rock Island Ex. 10.26 at 9; ComEd Cross Ex. 2; Rock Island RB at 115-16; PO at 136. As the Rock Island Project and Clean Line's other projects achieve additional development milestones, such as the Commission approvals requested in this docket, it will be easier, not harder, to raise additional development capital. Rock Island RB at 116; Rock Island Ex. 10.14 Rev. at 10.

ILA contends that Rock Island has not adequately met its burden of demonstrating the feasibility of its plan to use a project financing approach, arguing that Rock Island's financing plan depends on signed capacity contracts with anchor tenants who will be depending on new wind energy development by developers also utilizing project financing. ILA BOE at 8-10. Contrary to ILA's assertions, the record contains ample evidence demonstrating that Rock Island's project financing approach is feasible and, in particular, that there will be sufficient transmission customers entering into service contracts with Rock Island to support the project financing. While the project finance model is not the way in which incumbent utilities typically finance new projects, project financing is widely used to raise capital for projects in the energy industry. Hundreds of billions of dollars of infrastructure projects have been successfully financed using the project finance approach, including wind generation plants and transmission lines. The U.S. wind power industry, in particular, has raised tens of billions of dollars of project-level debt and equity to fund its projects. Rock Island Ex. 10.0 at 32-33, 37; Rock Island Ex. 10.16; Rock Island Ex. 10.26 at 6; Tr. 987-88; Rock Island IB at 105-107; PO at 129-130.

Moreover, the evidence demonstrates that it is reasonable to expect there will be customers wanting to contract for transmission service on the Project, because:

⁴² The total amount of capital raised by Clean Line and the amount invested in Rock Island for development activities, as of late 2013 when the evidentiary phase of this case concluded, are shown on page 116 of Rock Island's RB (Confidential version).

- There is an increasing demand for renewable energy due to both state RPS mandates in Illinois and PJM (which over the next ten years will greatly exceed the amounts of renewable generation capability currently installed) and voluntary purchases of renewable energy;
- The wind resources in the Resource Area are more abundant and more cost effective than the wind resources located in Illinois and other PJM states, making the Resource Area an economically attractive area to develop new wind generation facilities;
- There are numerous wind developers active in the Resource Area, who, in order to construct their facilities, will require additional transmission infrastructure to carry the output of their facilities to load and population centers such as northern Illinois;
- High capacity factor wind energy, such as the kind that will be delivered by the Project from northwest Iowa to northern Illinois, is the cheapest form of renewable energy generation;
- High capacity factor wind energy is cost-competitive with thermal generation; and
- As environmental regulation of power plant emissions increase, wind energy is likely to become even more attractive. PO at 130-131; Rock Island IB at 110; Rock Island Ex. 10.14 Rev. at 33-34; RI Ex. 10.26 at 31-32.

In sum, the economics for developers of developing new wind generation facilities in the wind-rich Resource Area are attractive, and the economics for wholesale and retail purchasers in Illinois and PJM of purchasing electricity and RECs from such generators is also attractive – if only an efficient, direct, high voltage transmission connection between the Resource Area and northern Illinois, such as the Project, is constructed. All of these factors support the ALJ’s conclusion that Rock Island’s project financing plan is feasible. Rock Island Ex. 10.26 at 34-35.

To the extent that ILA, IAA and ComEd are arguing that Rock Island has not shown it is capable of financing construction of the Project because it does not yet have specific financing commitments from lenders and equity investors for construction financing (*see* IAA BOE at 25; ComEd BOE at 2, 18), the record is clear that lenders and investors will not provide definitive financing commitments for a project until the project has received the key regulatory or similar approvals that establish the owner has the legal authority to construct and operate the project. In fact, ComEd’s financial witness, Ms. Lapson, acknowledged that it is “contrary to practice in the financial marketplace” for a project to receive binding financing commitments prior to receipt of

all required permits and authorizations. Rock Island Ex. 10.26 at 2-3; Tr. 991-993; Rock Island IB at 113-114; Rock Island RB at 115; PO at 133-134. Credit rating agencies' criteria also demonstrate that lenders and investors will not provide binding financial commitments for construction of a project before the major regulatory approvals have been obtained. Rock Island Ex. 10.14 Rev. at 21; Rock Island Ex. 10.26 at 3-4; ComEd Exs. 2.03 at 26 (Moody's rating criteria) and 2.04 at 6 (Fitch's rating criteria); Rock Island IB at 113; PO at 134.

Similarly, potential transmission customers will not spend the time and resources to negotiate and commit to transmission contracts unless and until they know the transmission provider will have authority to construct the project, which cannot be known until the major regulatory approvals needed are obtained. Rock Island Ex. 10.14 Rev. at 22-23; Rock Island IB at 112-113; Rock Island RB at 42, 58. In short, to require a transmission developer such as Rock Island to have both signed transmission contracts and binding financing commitments for construction in order to conclude that it is capable of financing the construction of the project, would be a prescription for eliminating all independent transmission development and leaving all transmission development in this state to the incumbent providers such as ComEd.

ILA and ComEd erroneously assert that the PO relies on the Staff financing condition as the basis for its conclusion that Rock Island has satisfied the requirements of §8-406(b)(3). ILA BOE at 10-11; ComEd BOE at 4-5, 18-19. The financing condition is not what demonstrates that Rock Island is capable of financing the construction of the Project. Rather, it is the evidence on Rock Island's financing plan, management's experience in and capability to execute the financing plan, the previous use and success of project finance to raise hundreds of billions of dollars of capital for similar types of projects, the economic attractiveness of constructing new wind generation in the Resource Area if adequate transmission is constructed, and the documented interest of significant lenders and investors in transmission projects, all as summarized above, that demonstrates that Rock Island is capable of financing construction of the

Project. What the Staff financing condition does is protect landowners from the risk of abandonment of a partially-completed project on their properties if Rock Island were to begin construction without having secured all the necessary construction financing but then were unable to obtain the remaining construction funding needed.

Based on the evidence in the record, the Commission should reject ILA's, IAA's and ComEd's exceptions and should adopt the ALJ's conclusion that Rock Island is capable of financing the construction of the Project without significant adverse financing consequences.

E. ComEd's Argument that Rock Island Should Not Be Allowed to Engage in Project Development Activities as a Certificate Holder Should be Rejected

ComEd argues that because the PO proposes to impose conditions on the CPCN to be issued to Rock Island for the Project, the Commission's Order should specify that Rock Island may not undertake any activities to exercise the CPCN until all of the conditions used to find that it is entitled to a CPCN have been met. ComEd BOE at 2, 19-20. ComEd makes this argument for the first time in its BOE. Further, ComEd cites no authority or precedent for this argument. It should be rejected.

The two specific conditions that ComEd refers to are the financing condition and the condition requiring Rock Island to complete the PJM interconnection process and sign all interconnection agreements before it "attempt[s] to effect the interconnection."⁴³ ComEd BOE at 19-20. Rock Island disagrees with ComEd's characterization that the PO is using these conditions as a "substitute for satisfaction of the statutory standards." *Id.* at 19. As discussed above, the record amply demonstrates that Rock Island and the Project meet the criteria of §8-406(b)(1), (2) and (3) of the Act. The financing condition is intended to prevent the possibility of harm to landowners if Rock Island were to begin constructing transmission facilities on their

⁴³ Although Rock Island does not object to, and in fact proposed, a condition specifying that it must complete the interconnection process and sign the interconnection agreements before it begins to operate the Project to deliver electricity into the PJM grid, Rock Island believes this condition is not clearly stated in the PO, and has proposed a revision to the text of the condition. Rock Island BOE at 22-23.

easements before it actually secures financing commitments for the entire construction cost of the Project. The “interconnection condition” is simply intended to ensure that all required steps of the interconnection processes of the applicable RTOs are completed before the Project begins to inject electricity into the PJM grid, and that this “will be sufficient to avoid adverse impacts on reliability.” PO at 112. This condition recognizes that PJM, not this Commission, is the entity with the authority and expertise to determine the requirements for the Project to be interconnected to the PJM grid. *Id.*

Even if the conditions imposed by the PO were being used to ensure that the statutory requirements are being met – a not unusual use of conditions by the Commission⁴⁴ – there is no precedent or authority for the proposition that the authority granted by the Commission’s order cannot be exercised until all the conditions are fulfilled.

Further, it is unclear what ComEd intends by suggesting that Rock Island be prohibited from “undertak[ing] any activities to exercise the CPCN” (ComEd BOE at 20; emphasis in original) until the conditions are satisfied. For example, is Rock Island to be prohibited from negotiating with landowners for the acquisition of easements and signing easement agreements – which would seem to be legitimate private real estate transactions? Is Rock Island to be prohibited from directing its EPC contractor and its converter station designer and vendor from engaging in more detailed design activities and construction planning and scheduling? ComEd’s proposed limitation could also have unintended consequences – for example, if Rock Island cannot act like a certificate-holder until all the conditions are met, does this mean that Rock

⁴⁴ In an analogous setting, the Commission frequently imposes conditions to its approval of a “reorganization” pursuant to §7-204 of the Act (220 ILCS 5/7-204), and often the conditions cannot be performed until after, or must continue to be performed after, the closing of the transaction. *See, e.g., WPS Resources Corporation, Peoples Energy Corporation, The Peoples Gas Light and Coke Company, and North Shore Gas Company*, Docket 06-0540, Order dated Feb. 7, 2007; *Illinois Power Company and Ameren Corporation*, Docket 04-0294, Order dated September 22, 2004. For example, a condition often imposed to ensure that the §7-204 requirement that “the proposed reorganization is not likely to result in any adverse rate impacts on retail customers” is not violated, is that the utility is prohibited from filing to increase its retail rates for a specified period of time after the reorganization closes. Contrary to ComEd’s argument (ComEd BOE at 4), this is one of many examples of an “after the fact” condition being imposed to ensure that the Commission can make a statutorily required finding for the requested approval.

Island can negotiate with landowners and acquire easements without complying with the requirements of 83 Illinois Administrative Code Part 300?

ComEd cites only one specific right that Rock Island will be able to “exercise” upon receipt of a CPCN, which ComEd asserts Rock Island should be precluded from exercising. That right is the right to enter private property for survey purposes, pursuant to §8-510 of the Act (220 ILCS 5/8-510). ComEd BOE at 5. Section 8-510 states:

For the purpose of making land surveys and land use studies, any public utility that has been granted a certificate of public convenience and necessity by, or received an order under Section 8-503 or 8-406.1 of this Act from, the Commission may, 30 days after providing written notice to the owner thereof by registered mail, enter upon the property of any owner who has refused permission for entrance upon that property, but subject to responsibility for all damages which may be inflicted thereby.

The right to enter property for the purposes of making land surveys and land use studies is a statutory right granted to entities that have been granted a CPCN. There is no basis on which the Commission can override this statute and declare that an entity that has been granted a CPCN may not enter private property for the purposes of making land surveys and land use studies.

The Commission should see ComEd’s eleventh-hour argument for what it is: a snake-in-the-grass attempt to prevent Rock Island from ever bringing the Project to completion. Without the authority to enter private land to conduct land surveys and land use studies, Rock Island would be unable to develop sufficiently defined engineering design, construction plans and cost estimates to develop definitive transmission rates for entering into transmission service agreements with customers. Rock Island Ex. 10.14 Rev. at 22-23. Without a sufficient base of contracted transmission customers, Rock Island will not be able to secure financing commitments for the construction cost of the Project. But without financing commitments for the construction cost of the Project, Rock Island cannot satisfy the financing condition and, therefore, under ComEd’s proposal, will never be able to exercise its statutory right under §8-510. ComEd’s proposed addition to the conditions should be rejected.

V. The Commission’s Order in this Docket Should Authorize Rock Island to Construct the Project Pursuant to Section 8-503

ComEd states that it supports the PO’s conclusion that Rock Island’s request for an order pursuant to §8-503 of the Act is premature and should be denied. ComEd also proposes additional text to be added to the PO’s conclusion on this issue. ComEd BOE at 5-6. ComEd’s proposed additional text for the PO attempts to bolster the conclusion that granting authority in this docket pursuant to §8-503 to construct the Project would be “premature.” Rock Island has taken exception to the PO’s conclusion that authorizing Rock Island pursuant to §8-503 to construct the Project would be “premature,” and has explained why the PO’s conclusion is erroneous. Rock Island BOE at 3-12 and Appendix to BOE at 45-49. For the same reasons, ComEd’s proposed additions to the PO’s conclusion concerning §8-503 should be rejected.

At pages 2-3 of its BOE, ILA cites three orders from 1990, 1991 and 1995 in which a utility first requested and obtained a CPCN for a transmission line and subsequently filed a separate petition for, and received, a §8-503 order. These cases are unremarkable, as in each of them, the utility simply exercised the choice to request a CPCN in one proceeding and a §8-503 order in a later proceeding. In contrast, in the four transmission line cases and three common carrier pipeline cases cited at page 4 of Rock Island’s BOE (which have order dates between 2007 and 2011), the applicant requested both a certificate and §8-503 authority in the same proceeding, and the Commission, in the same order, granted both the certificate and authority pursuant to §8-503 to construct the project. The more recent cases cited by Rock Island establish that it is completely appropriate for the applicant to request, and the Commission to grant, a certificate for a project and §8-503 authority to construct the project, in the same proceeding.

ILA also refers to the fact that in Rock Island’s Reply Brief, Rock Island cited *Illinois Power Company d/b/a AmerenIP and Ameren Illinois Transmission Company*, Docket 06-0179 (Order issued May 16, 2007) to show that the Commission can grant authority pursuant to §8-503 to construct a project subject to conditions. ILA then argues that the conditions imposed in

Docket 06-0179 were “much less significant” than the conditions imposed in the PO in this case, and therefore “the two proceedings are not at all analogous. ILA BOE at 3-4. However, all ILA’s discussion does is confirm Rock Island’s original point, which is that the Commission can authorize an applicant pursuant to §8-503 to construct a project, subject to conditions.

Finally, ILA argues that Rock Island should not be authorized pursuant to §8-503 to construct the Project because “Rock Island has not shown, as the statute requires, that its proposed new structures are necessary to promote the security or convenience of its employees or the public, or in any other way to secure adequate services or facilities.” ILA BOE at 4. While Rock Island disagrees with ILA’s specific assertion (*see* Rock Island BOE at 8-9), ILA has completely overlooked that the Commission can also authorize an applicant pursuant to §8-503 to construct a new project if the Commission finds that the proposed project will “promote the development of an effectively competitive electricity market.” In fact, ILA omits those words from its quotation of §8-503 at page 4 of its BOE, without even using ellipses. As the ALJ has concluded that the construction and operation of the Rock Island Project will promote the development of an effectively competitive electricity market that operates efficiently and is equitable to all customers (PO at 116 and 215), the PO necessarily also must find that Rock Island should be authorized pursuant to §8-503 to construct the Project. Rock Island BOE at 6-8.

VI. Project Route, Easements, Landowner Concerns about Aspects of Construction, and Related Matters

At pages 26-33 of its BOE, IAA provides exceptions and proposed text revisions to the “Commission’s Conclusion” sections of the PO with respect to Easement Width (PO §IX.B.3), Easement Acquisition and Landowner Compensation (PO §IX.C.2), Project Design and Construction – Structures (PO §X.A.2), and Landowner Concerns About Impacts of Construction (PO §X.B.4). All of these exceptions are based on the proposition that if the Commission does not grant a CPCN for the Rock Island Project (as argued by IAA), there is no need for the Commission to reach conclusions concerning easement widths, easement acquisition

and landowner compensation, structures, or landowner concerns about impacts of construction. However, IAA has not taken any specific, substantive exceptions to any of the Commission’s conclusions on these topics. As demonstrated earlier herein, the Commission should reject IAA’s (and ILA’s and ComEd’s) exceptions to the ALJ’s conclusions regarding §8-406(b); therefore, the Commission should also reject IAA’s exceptions and proposed text revisions to §§IX.B.3, IX.C.2, X.A.2, and X.B.4 of the PO.

VII. Conclusion

For the reasons set forth herein, the Commission should reject ILA’s, IAA’s and ComEd’s exceptions to the Proposed Order. The Commission should adopt Rock Island’s exceptions to the Proposed Order, as set forth in Rock Island’s BOE, and with the revisions proposed by Rock Island in its BOE, should adopt the Proposed Order as the Commission’s final Order in this case.

Respectfully submitted,
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