

ILLINOIS COMMERCE COMMISSION

DOCKET No. 15-0065

DIRECT TESTIMONY

OF

JIM BRANYAN

Submitted On Behalf

Of

IRENE MORRISON TRUST

and

JIM and CHELLI BRANYAN

February 16, 2015

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1 **I. INTRODUCTION**

2 **A. Witness Identification**

3 **Q:** Please state your name?

4 **A:** **Jim Branyan**

5 **Q:** Please state your current address of residence?

6 **A:** **2685 E. 1000 North Road, Assumption, Illinois 62510**

7 **Q:** Have you intervened in this docket?

8 **A:** **Yes. I petitioned to intervene on February 9, 2015, as Trustee of the**
9 **Irene Morrison Trust, and individually and on behalf of my wife, Chelli Branyan.**

10 **Q:** What properties does ATXI Transmission Company of Illinois (“ATXI”)
11 seek to take from Gabriel Farms, Inc.?

12 **A:** **ATXI is petitioning the Commission to take a portion of land**
13 **belonging to the Irene Morrison Trust, commonly referred to by ATXI as**
14 **A_ILRP_PZ_CH_163 and A_ILRP_PZ_CH_168. A true, correct and accurate picture**
15 **depicting these properties and ATXI’s proposed route is attached hereto as Branvan**
16 **Exhibit 1.01. In addition, ATXI is petitioning the Commission to take a portion of land**
17 **belonging to Jim & Chelli Branyan, commonly referred to by ATXI as**
18 **A_ILRP_PZ_CH_157. A true, correct and accurate picture depicting this property and**
19 **ATXI’s proposed route is attached hereto as Branvan Exhibit 1.04.**

20 **Q:** Are you offering testimony regarding the three pieces of land ATXI
21 commonly refers to as A_ILRP_PZ_CH_163, A_ILRP_PZ_CH_168 and A_ILRP_PZ_CH_157?

22 **A:** **Yes.**

23 **B. Itemized Exhibits to Direct Testimony**

24 **Q:** Are you sponsoring any exhibits to your testimony?

25 **A:** **Yes. The following exhibits are attached to my testimony:**

26 **Branvan Exhibit 1.01 - Picture #1 of Irene Morrison Trust Farm with**
27 **proposed route;**

28 **Branvan Exhibit 1.02 - Copy of Appraisal for the Irene Morrison**
29 **Trust Farm; and**

30 **Branvan Exhibit 1.03 - ATXI Initial Offer on the Irene Morrison**
31 **Trust Farm.**

32 **Branvan Exhibit 1.04 - Picture #1 of Branyan Farm with proposed**
33 **route;**

34 **Branvan Exhibit 1.05 - Copy of Appraisal for the Branyan Farm; and**

35 **Branvan Exhibit 1.06 - ATXI Initial Offer on the Branyan Farm.**

36 **C. Witness Background**

37 **Q:** What do you do for a living?

38 **A:** **I am a farmer.**

39 **Q:** How long have you been a farmer?

40 **A:** **I have been a farmer for 26 years.**

41 **Q:** What is your highest level of education?

42 **A:** **I have a degree in Agriculture Production from Lake Land College in**
43 **Mattoon, Illinois.**

44 **Q:** Do you have experience in land values in Christian County?

45 **A: Yes. As a farmer and landowner in Christian County, I follow land**
46 **sales and auctions on a weekly basis. I follow this information because I am constantly**
47 **looking for buying opportunities to expand my farming operation. I am familiar with the**
48 **county tax rates on land, income possibilities and drainage and slope issues that impact**
49 **value.**

50 **Q: Are you familiar with what types of things that drive land prices in**
51 **Christian County?**

52 **A: Yes. A number of things drive land prices, including, but not limited**
53 **to, commodity prices, soil type productivity index, interest rates and whether the land has**
54 **drain tiles and irrigation equipment.**

55 **Q: Have you received any training in land valuation?**

56 **A: No. I have not received any formal training in land valuation.**

57 **Q: Have you been involved in transmission line negotiations in the past?**

58 **A: No.**

59 **II. THE FARM – IRENE MORRISON TRUST**

60 **Q: Please describe the Irene Morrison Trust Farm.**

61 **A: A_ILRP_PZ_CH_163 consists of [#] acres and A_ILRP_PZ_CH_168**
62 **consists of 307 acres.**

63 **Q: Are you the person primarily responsible for the day-to-day operations of**
64 **the Irene Morrison Trust Farm?**

65 **A: Yes. I am the farm trustee and am involved in all decision making.**

66 **Q: How is the Irene Morrison Trust Farm used?**

67 **A: The Irene Morrison Trust Farm is currently used for agriculture.**

68 **Q:** Is the Irene Morrison Trust Farm improved with any structures?

69 **A:** **The Irene Morrison Trust Farm currently has an occupied house,**
70 **garage, barn, and 5 grain bins.**

71 **Q:** Please describe the structures.

72 **A:** **My 74 year old mother currently resides in the house, and the barn**
73 **and grain bins are currently used in the operation of the farm.**

74 **Q:** What type of crop do you grow on the Irene Morrison Trust Farm?

75 **A:** **We grow corn and soybeans in rotation.**

76 **Q:** Do you believe the Commission should grant ATXI the power to proceed
77 to circuit court to take a section of the Irene Morrison Trust Farm?

78 **A:** **No.**

79 **Q:** Why not?

80 **A:** **ATXI has not made a good faith offer for the Irene Morrison Trust**
81 **Farm that reflects its unique nature and purpose.**

82 **Q:** How has ATXI's offer failed to reflect the unique nature and purpose of
83 the Irene Morrison Trust Farm?

84 **A:** **ATXI produced an incomplete appraisal with inaccuracies.**

85 **Q:** Describe the appraisal ATXI produced.

86 **A:** **The appraisal fails to address the difficulty the pole placement will**
87 **cause with regards to accessing a portion of the field for weed control and the farmer's**
88 **ability to dredge and clean the water way adjacent to the pole.**

89 **Q:** Does the Irene Morrison Trust Farm have drainage tiles?

90 **A:** **Yes.**

91 Q: Are the drainage tiles referenced in the appraisal?

92 A: No.

93 Q: Do drainage tiles impact land valuation?

94 A: Yes. In Christian County it does.

95 Q: Why?

96 A: Drainage tiles allow the water to more efficiently drain from the soil
97 so that planting, spraying, and harvesting can all be done at the best times for the
98 best yields.

99 Q: Did the appraisal factor any damage to the remainder?

100 A: No. The appraisal did not include any damage to the remainder and
101 ATXI's initial offer did not include any damage to the remainder. A copy of ATXI's initial
102 offer is attached hereto as Branvan Exhibit 1.03.

103 Q: Do you believe ATXI made a good faith offer on the Irene Morrison Trust
104 Farm?

105 A: No. I do not believe that ATXI has made a good faith offer for the
106 Irene Morrison Trust Farm because of the numerous flaws in the appraisal.

107 Q: Do you believe further negotiations will be useful?

108 A: Yes. I believe further negotiations will be useful if ATXI uses an
109 appraisal that accurately depicts the unique features of the Irene Morrison Trust Farm.

110 **III. THE FARM – BRANYAN FARM**

111 Q: Please describe the Branvan Farm.

112 A: A_ILRP_PZ_CH_157 consists of approximately 32.5 acres.

113 **Q:** Are you the person primarily responsible for the day-to-day operations of
114 the Branyan Farm?

115 **A:** **Yes. I am the landowner who makes all of the day-to-day farm and**
116 **business decisions.**

117 **Q:** How is the Branyan Farm used?

118 **A:** **The Branyan Farm is currently used for agriculture, however the**
119 **southern portion where the transmission line route is proposed at the intersection of Route**
120 **51 and Route 6 is clearly commercial.**

121 **Q:** What type of crop do you grow on the Branyan Farm?

122 **A:** **We grow corn and soybeans in rotation.**

123 **Q:** Do you believe the Commission should grant ATXI the power to proceed
124 to Circuit Court to take a section of the Branyan Farm?

125 **A:** **No.**

126 **Q:** Why not?

127 **A:** **ATXI has not made a good faith offer for the Branyan Farm that**
128 **reflects its unique nature and purpose.**

129 **Q:** How has ATXI's offer failed to reflect the unique nature and purpose of
130 the Branyan Farm?

131 **A:** **ATXI produced an incomplete appraisal with inaccuracies.**

132 **Q:** Describe the appraisal ATXI produced.

133 **A:** **ATXI produced what appears to be an out-of-state appraiser**
134 **unfamiliar with the real estate market in Christian County. A true, correct and accurate**
135 **copy of the appraisal ATXI provided is attached hereto as Branyan Exhibit 1.05. The**

136 appraisal is incomplete because it does not reference that the Branyan Farm abuts
137 commercial property and its highest and best use is commercial in nature. Thus, the
138 proposed transmission line will significant impede commercial development eastward from
139 Assumption. Commercial development on the land in question was contemplated when
140 municipal water was installed on the east side of the roadway. My attorneys have met with
141 representatives from Contract Land Staff and informed them of the abutting commercial
142 properties and recent comparable sales of property at commercial rates, but ATXI has
143 refused to modify the appraisal or offer to reflect the unique income opportunities of the
144 Branyan Farm.

145 Q: Do you have any other complaints about ATXI's offer?

146 A: The transmission line crosses the Branyan land diagonally. A true,
147 correct and accurate picture of the original route is attached hereto as Branyan Exhibit
148 1.04. The route places a tremendous hardship on the farming operation of the Branyan
149 Farm, interfering with farming efficiency, aerial spraying and weed control.

150 Q: Does the Branyan Farm have drainage tiles?

151 A: Yes.

152 Q: Are the drainage tiles referenced in the appraisal?

153 A: No.

154 Q: Do drainage tiles impact land valuation?

155 A: Yes. In Christian County it does.

156 Q: Why?

157 **A:** As stated with the Irene Morrison Trust, Drainage tiles allow the
158 water to more efficiently drain from the soil so that planting, spraying, and harvesting can
159 all be done at the best times for the best yields.

160 **Q:** Did the appraisal factor any damage to the remainder?

161 **A:** No. The appraisal did not include any damage to the remainder and
162 ATXI's initial offer did not include any damage to the remainder. A copy of ATXI's initial
163 offer is attached hereto as **Branyan Exhibit 1.06**.

164 **Q:** Do you believe ATXI made a good faith offer on the Branyan Farm?

165 **A:** No. I do not believe that ATXI has made a good faith offer for the
166 Branyan Farm because of the numerous flaws in the appraisal.

167 **Q:** Do you believe further negotiations will be useful?

168 **A:** Yes. I believe further negotiations will be useful if ATXI uses an
169 appraisal that accurately depicts the unique features of the Branyan Farm and if ATXI
170 makes an offer based on the same.

171 **IV. TESTIMONY REGARDING INITIAL OFFER AND NOTICE**

172 **Q:** When were you first contacted by ATXI or Contract Land Staff?

173 **A:** To the best of my recollection, the first time I had any meaningful
174 contact with ATXI or Contract Land Staff was September 3, 2015.

175 **Q:** Was that time of year problematic for you to be able to discuss any offers?

176 **A:** Yes.

177 **Q:** Why is that?

178 **A:** We were preparing equipment for harvest due to a wetter than
179 normal fall.

180 **Q:** Approximately how many hours a day do you work on your farms during
181 the harvest season?

182 **A:** **14-15 hours a day.**

183 **Q:** How many days a week do you usually work on your farm(s)?

184 **A:** **We work seven days a week in our farming operation.**

185 **Q:** When did you receive notice of these Illinois Commerce Commission
186 proceedings?

187 **A:** **I do not recall the exact date I received the letter. I did not pay close**
188 **attention to the proceedings after April 2014, because I previously owned property that I**
189 **had been informed by the new owner would be the site of the transmission line. Based on**
190 **this information, I concluded the transmission line would not cross the Branyan Farm and**
191 **would not have affected my property as much.**

192 **Q:** How did you receive the notice?

193 **A:** **Via U.S. Mail**

194 **Q:** Do you know how long Section 8-509 of the Public Utilities Act gives the
195 Commission to rule on a petition filed by a utility?

196 **A:** **Yes, 45 days.**

197 **Q:** Do you believe 45 days is sufficient time for you to defend the petition
198 filed by ATXI?

199 **A:** **No. The 45-day deadline does not give us sufficient time to coordinate**
200 **with our attorney on a strategy and meet the expedited deadlines and, at the same time,**
201 **meet our workload obligations on our farms.**

202 **Q:** Are you able to take time off work to attend to defending ATXI's Petition?

203 **A: The farming obligations must be done as the weather permits. I**
204 **cannot take time off work without incurring large financial losses. As a result, I am not**
205 **able to give 100% of my attention to defending ATXI's petition.**

206 **Q: When did you determine legal counsel was necessary?**

207 **A. In January of 2015, I determined I would need legal counsel to protect**
208 **my interests.**

209 **Q: When were you first able to meet with legal counsel and review the**
210 **necessary documentation?**

211 **A. I was able to meet with legal counsel on or about January 19, 2015.**

212 **Q: When did you authorize legal counsel to secure an additional appraisal?**

213 **A. On or about February 5, 2015.**

214 **Q: Who did you authorize legal counsel to retain?**

215 **A: Upon counsel's recommendation, I authorized my attorneys to retain**
216 **Briggs Appraisal Associates located in Jacksonville, Illinois.**

217 **IV. CONCLUSION**

218 **Q: Do you believe the Commission should grant ATXI's Petition?**

219 **A: Not as it relates to the Irene Morrison Trust and Jim and Chelli**
220 **Branyan. I believe further negotiations as outlined above would result in a compromise.**

221 **Q: Does this conclude your testimony?**

222 **A: Yes.**