

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Ameren Transmission Company of Illinois)
Petition for a Certificate of Public Convenience)
and Necessity, Pursuant to Section 8-406.1 of)
the Illinois Public Utilities Act, and an Order) Docket No. 15-0278
Pursuant to Section 8-503 of the Public Utilities)
Act, to Construct, Operate and Maintain a New)
High Voltage Electric Service Line in Adams)
County.)

**INITIAL BRIEF OF THE STAFF
OF THE ILLINOIS COMMERCE COMMISSION**

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I. INTRODUCTION

Staff of the Illinois Commerce Commission (“Staff”), by and through its counsel, pursuant to the direction of the Administrative Law Judges (“ALJ”) and Section 200.800 of the Illinois Administrative Code (83 Ill. Adm. Code 200.800), respectfully submits its initial brief in the above-captioned matter.

II. PROCEDURAL HISTORY

A. ATXI’s Petition

On April 10, 2015, ATXI filed a Verified Petition (“Petition”) pursuant to Section 8-406.1 of the Public Utilities Act (the “Act”) seeking a Certificate of Public Convenience and Necessity (“CPCN”) to construct a 345 kV transmission line approximately two miles in length in Adams County (“Transmission Line”). The Transmission Line represents a segment of the 370 mile transmission line, commonly known as the Illinois Rivers Project (“Project”), approved by the Commission in Docket 12-0598. Specifically, the

Transmission Line will connect to and become part of the Quincy to Meredosia segment of the Project.

The route that the Commission ultimately approved in Docket No. 12-0598 for the Quincy to Meredosia segment of ATXI's Illinois Rivers Project (the "Approved Route") is a combination of the preferred and alternate routes that ATXI presented in that docket; a hybrid ATXI dubbed the "Rebuttal Recommended Route." *Ameren Transmission Company of Illinois*, ICC Final Order Docket 12-0598, 15, 24, 55, 78 (August 20, 2013) ("Final Order 12-0598"). In this proceeding, ATXI seeks a CPCN to modify the Approved Route due to the discovery in January 2014 of a VHF omnidirectional range beacon and a tactical air navigation system beacon ("VORTAC") located in very close proximity to the Approved Route.

B. Background

Because this docket considers a proposed variance to the Approved Route, rather than a stand-alone project, it is appropriate to refer to the Commission's Order approving that route for guidance in evaluating the Transmission Line. In fact, ATXI relies on the findings in that docket to demonstrate necessity in this docket.

As in the current case, in Docket 12-0598 ATXI sought a CPCN pursuant to Section 8-406.1 of the Act. Following a contested hearing on the evidence related to the 375-mile Project,¹ the Commission issued the requested CPCN and designated a route for each segment of the line. The Commission, however, indicated its reservations by dedicating almost four pages of the final order to a discussion of "the propriety of the petition." (Final Order 12-0598 at 7) The Commission questioned ATXI's wisdom in pursuing a CPCN for

¹ The Commission also conducted two rehearings on the matter, and its decision to award the requested certificate to ATXI was affirmed by the 4th District Court of Appeals.

the largest transmission project in Illinois in decades pursuant to an expedited process noting, “the sheer size of this project calls into question how well any entity can anticipate, identify, and address the many facets that are inherent to such a project.” (Final Order 12-0598 at 7). Yet, in her testimony in Docket No. 12-0598, ATXI witness Donnell Murphy stated, “[b]ecause the Rebuttal Recommended Route is a blend exclusively between ATXI’s Proposed Routes, ATXI is certain that all aspects of this route have been fully investigated and evaluated.” (Staff Ex. 1.0, 4 (internal citation omitted).)

Clearly Ms. Murphy’s assertion that all aspects of the route were fully investigated and evaluated is incorrect. The Commission was right to voice the concerns that it did, as this proceeding is necessary only because “the very real possibility that the expedited schedule for considering such a massive project may result in less than optimal outcomes” has become a reality. Final Order 12-0598 at 10. ATXI filed its Petition to initiate this docket because ATXI failed to fully investigate and evaluate all aspects of ATXI’s Rebuttal Recommended Route in Docket No. 12-0598. ATXI makes similar mistakes in this docket.

ATXI filed its Petition on April 10, 2015 after learning from the Federal Aviation Administration (“FAA”) on January 24, 2014 that ATXI could not construct the Quincy to Meredosia segment of its 345 kV line along the Approved Route due to the interference and conflict the line would cause to a pre-existing FAA VORTAC facility. (Staff Ex. 1.0, 1-2.) Accordingly, ATXI filed this request to modify a portion of the route between Quincy and Meredosia that the Commission previously approved in Docket No. 12-0598. In other words, ATXI’s Petition seeks to rectify a problem of its own making. ATXI’s request should be considered with this background in mind.

ATXI filed its Verified Petition on April 10, 2015. ATXI failed to publish notice of its petition in the official state newspaper within 10 days of its filing. (8-406.1(d)). ATXI subsequently filed proof of publication so that the Petition was deemed completely filed on June 15, 2015. Pursuant to the 150 day deadline for a Commission action under Section 8-406.1(g), the Commission must render a decision by November 12, 2015.

The following parties were granted leave to intervene: Arnsmann, Hoskins, and Peters Families (“AHPF”); Loos Farm Supply, Inc. and Fredrick C. Loos (“Loos”); Timothy J. & Susan Schoenekase (“Schoenekase”). AHPF and Fredrick Loos filed direct testimony; Susan Schoenekase filed direct testimony proposing a modification of ATXI’s primary route (the “Schoenekase Adjustment”); and Staff filed direct testimony proposing an alternative route. Ms. Schoenekase, Staff and ATXI filed rebuttal testimony.

On August 12, 2015 an evidentiary hearing was held in this matter. Staff conducted a cross examination of ATXI witness Kevin Gerhardt. The direct and rebuttal testimonies of witnesses for ATXI, AHPF, Mr. Loos, Ms. Schoenekase and Staff, as well as answers to certain data requests, were admitted into evidence. Also on August 12, 2015, ATXI filed a stipulation entered into between ATXI, AHPF, Loos and Schoenekase, stipulating that the signatories were in agreement that the Schoenekase Adjustment is the agreed preferred route.

C. Necessity of the Project

Staff agrees that the previously Approved Route must be rerouted to avoid the VORTAC. However, the reroutes proposed and stipulated to by ATXI do not fulfill ATXI’s obligation under the ACT to pursue the least cost alternative for the reroute.

As noted above, ATXI relies upon the evidentiary record in Docket No. 12-0598 to demonstrate that completing a 345 kV connection between Quincy and Meredosia is necessary. (Petition at 6.) Specifically, ATXI explains that the transmission line it proposes in this docket will allow for the completion of the Quincy to Meredosia segment of its 345 kV transmission line. (Staff Ex. 1.0, 6-7.) Staff witness Greg Rockrohr fully supports completion of a 345 kV line connecting Quincy to Meredosia, provided that the line is constructed on a route that results in the least-cost. (Staff Ex. 1.0, 7.) While all participants in this docket appear to agree that completing a 345 kV transmission line between Quincy and Meredosia is necessary, the one contested issue that remains is which route modification would cost the least to construct.

To eliminate its conflict with the VORTAC, ATXI would like to construct the Transmission Line south of the Approved Route, thereby increasing the distance between the Transmission Line and the VORTAC. (Staff Ex. 1.0, 3.) In its filing, ATXI proposed two alternative routes. Both proposals would route the transmission line south around the VORTAC and then back north to rejoin the Approved Route. (Staff Ex. 1.0, 8-9; Petition Attachment A; ATXI Ex. 12.1.) Each route modification that ATXI proposed increases the cost of constructing the entire Quincy to Meredosia segment by approximately \$3 million over and above the cost of constructing the transmission line along the Approved Route. (Staff Ex. 1.0, 3-4; ATXI Ex. 1.0, 18.)

III. Statutory Authority

ATXI filed this proposed route modification under Section 8-406.1 of the Act. Pursuant to Section 8-406.1, the Commission must determine whether ATXI's project is:

(a) needed, and (b) if it is needed, the least cost means to satisfy the existing need. (220 ILCS 8-406.1(f), Staff Ex. 1.0, 5-6.).

Specifically, Section 8-406.1(f) states:

The Commission shall, after notice and hearing, grant a certificate of public convenience and necessity filed in accordance with the requirements of this Section if, based upon the application filed with the Commission and the evidentiary record, it finds the Project will promote the public convenience and necessity and that all of the following criteria are satisfied:

(1) That the Project is necessary to provide adequate, reliable, and efficient service to the public utility's customers and is the least-cost means of satisfying the service needs of the public utility's customers or 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.

(2) That the public utility is capable of efficiently managing and supervising the construction process and has taken sufficient action to ensure adequate and efficient construction and supervision of the construction.

(3) That the public utility is capable of financing the proposed construction without significant adverse financial consequences for the utility or its customers.

220 ILCS 5/8-406.1(f).

Thus, if ATXI has several available alternatives, any of which would satisfy the purpose/need of the proposed project, the Commission must adopt the alternative that represents the least-cost means of satisfying that purpose/need. *Id.*

IV. The Project Area

For purposes of this proceeding, the Company created an arbitrary "project area," The Company identified a limited geographic area surrounding the VORTAC, and considered possible reroutes around the VORTAC only within this self-defined area.

While Staff agrees a reroute is necessary, it disagrees with the “project area” as defined by the Company. When ATXI presented the Illinois Rivers Project to the Commission, ATXI identified nine transmission line segments that together comprised the entire 370 mile project, including the Quincy to Meredosia segment where the VORTAC is located. ATXI insisted that the segments had to be considered as a whole, rather than individually. In fact, ATXI refused requests from the ALJ to consider bifurcating the docket into smaller and presumably more manageable dockets. (Final Order 12-0598 at 8; ATXI Response to ALJ’s Ruling Dated Dec. 12, 2012 (filed Dec. 19, 2012); ATXI’s Brief in Response to ALJs’ Ruling of May 3, 2013 (filed May 7, 2013).) Instead, the Company insisted that sections of the Illinois Rivers Project could not be evaluated independently because scheduling and oversight of the segments were inextricably intertwined. *Id.*

In this case, ATXI has suddenly reversed course and asks the Commission to do the opposite and consider only a small portion of the Project. Rather than considering the reroute as part of the overall Approved Route for the 45 mile Quincy to Meredosia segment, ATXI narrows its focus to a mere two mile stretch around the perimeter of the VORTAC. The Company defines this small stretch as the “Project Area.” Reducing the Project Area to a mere fraction of the Approved Route has the corresponding effect of drastically limiting the possible ways the Approved Route can be rerouted. Generally, all else equal, the route that uses the fewest number of costly, angled structures will be the least expensive way to construct a transmission line. (Staff Ex. 1.0, 9-10.) Despite this, ATXI does not suggest a straight route as an alternative to the Approved Route. Moreover, ATXI *opposes* the straight route proposed by Staff. Rather, ATXI suggests Primary and Alternative Routes within the Project Area with multiple turns around the

VORTAC. A quick glance at the aerial map included as ATXI Ex. 12.1 makes it immediately clear that limiting the Project Area increases the cost of the entire Quincy to Meredosia Segment, and eliminates straighter, less expensive alternatives such as the route proposed by Staff.

To justify such a narrow Project Area, ATXI argues that it has “sunk costs” which make considering a larger Project Area impossible. However, as discussed herein, this is a problem of ATXI’s own making, because the Company waited 15 months and spent almost \$5 million on the Quincy to Meredosia segment for transmission line design and easement acquisition *after* learning of the conflict with the VORTAC before filing its Petition. As the Commission pointed out in Docket 12-0598, “[t]he expenditure of resources by ATXI to implement its decisions does not somehow justify the decisions and in and of itself preclude other courses of action on its part.” Final Order 12-0598 at 8.

Similarly, in this case ATXI should not be permitted to use its own delay in seeking revised routing to justify expenditures that significantly increase the cost of the Proposed Route. Those expenditures incurred along the Approved Route but outside the Company’s arbitrarily defined “Project Area” – incurred when the Company knew there was a conflict with the Approved Route – are the very thing the Company cites as justification for significantly limiting what it is willing to consider as the “Project Area.” ATXI essentially uses these costs to justify limiting their “Project Area,” while also using the limited “Project Area” to justify incurring the expenditures outside that area. Further, the Company argues those expenditures should be considered in evaluation of Staff’s proposal as “sunk costs,” thereby giving the illusion that Staff’s proposal is not the least cost alternative to avoid the VORTAC. Thus Staff’s review and recommendation are not

limited to the Project Area as defined by the Company but rather views the entire segment as a whole, which Staff believes is the correct way to evaluate rerouting options.

V. Project Alternative Proposals

ATXI initially appeared to indicate that ATXI might be able to resolve its conflict with VORTAC by replacing, Dopplerizing, or relocating the equipment located at the VORTAC. (Staff Ex. 1.0, 14-16.) However, in rebuttal, ATXI adequately demonstrated that replacing, Dopplerizing, or relocating equipment at the VORTAC is not a feasible option to mitigate ATXI's conflict with the VORTAC, so that the only feasible method to both construct its transmission line between Quincy and Meredosia and avoid its conflict with the VORTAC is to construct the Quincy to Meredosia segment of its 345 kV transmission line using a route that differs from the Approved Route. (ATXI Ex. 7.0, 6-7; ATXI 13.0, 2-4; ATXI Ex. 13.1.)

VI. Contested Issue

Which route ATXI should use to eliminate the conflict with the VORTAC is the only contested issue in this docket. Four different routing options are presented: two by ATXI; one by landowner and Intervenor Schoenekase, and one by Staff. ATXI Ex. 12.1 illustrates these four route proposals. Rather than providing cost information for the entire Quincy to Meredosia segment based upon use of each of the alternatives proposed, ATXI provides comparable estimates based upon constructing only a portion of the 345 kV transmission line between Quincy and Meredosia. Specifically, ATXI's cost estimates for all four routing proposals are for constructing a 345 kV transmission line from the point

where Staff's proposal diverges from the Approved Route to the point where Staff's proposal rejoins it. (ATXI Ex. 8.0 (Rev.), 7-8.) This represents only 25% of the total Quincy to Meredosia segment. (Tr. 71:8-18, Aug. 12, 2012.)

A. Route Alternatives Considered in this Docket

1. ATXI's Routing Proposals

To eliminate its conflict with the VORTAC, ATXI proposes two alternatives to the Approved Route, a Primary Route and an Alternate Route. (Petition Exhibit A.) ATXI's Alternate Route is shorter than its Primary Route, but use of ATXI's Alternate Route would require use of specially-designed poles and shorter span lengths. (ATXI Ex. 3.0, 5.) ATXI estimates that its cost for constructing the 12.9 miles of equivalent 345 kV transmission line using its Primary Route would be \$31.9 million, and its cost for constructing the 12.1 miles of 345 kV transmission line using its Alternate Route would be \$32.1 million. (ATXI Ex. 8.0 (Rev.), 8.) Ms. Susan Schoenekase and Mr. Fred Loos oppose ATXI's Primary Route. (Schoenekase Ex. 1.00, 7; Loos Ex. 1.00, 3.) Intervenor AHPF witnesses Mr. Thomas Arnsman and Mr. John Peters do not oppose ATXI's Primary Route or Alternate Route. (AHPF Ex. 1.0, 2; AHPF Ex. 3.0, 1.) Mr. James Hoskins favors ATXI's Alternate Route, which he identifies as "the north line alternate." (AHPF Ex. 2.0, 2.) Staff witness Rockrohr opposes ATXI's route modifications, as he finds that neither of ATXI's route modifications would result in the least-cost route for the Quincy to Meredosia segment of ATXI's Illinois Rivers Project. (Staff Ex. 1.0, 8-14.)

2. Schoenekase's Routing Proposal

Ms. Schoenekase presented a route alternative for ATXI's transmission line, illustrated by Schoenekase Ex. 1.03. Ms. Schoenekase's proposal, from west to east,

uses ATXI's Primary Route until it reaches a point west of Highway 96, then angle northeast before turning east to follow a path that lies generally between ATXI's Primary and Alternate Routes, until re-joining ATXI's Primary Route. (Schoenekase Ex. 1.03; ATXI Ex. 12.1.) Ms. Schoenekase argues that, compared to ATXI's Primary Route, the route that she proposes would not only have less impact on Schoenekase properties, but would impact fewer residences overall, impact less farmland, and would be shorter. (Schoenekase Ex. 1.00, 5-6.) ATXI estimates its cost for constructing the 12.7 miles of 345 kV transmission line that would result from using Ms. Schoenekase's proposal would be \$31.9 million. ATXI considers Ms. Schoenekase's proposal to be acceptable. (ATXI Ex. 8.0 (Rev.), 10) Intervenors Loos and AHPF support Ms. Schoenekase's route proposal. (Loos Ex. 1.00, 3, AHPF Ex. 1.0, 2; AHPF 3.0, 1.) On August 12, 2015, ATXI and all Intervenors filed a stipulation that supports use of Ms. Schoenekase's route proposal. (Stipulation Ex. 1, Stipulation Attach. A.) Staff witness Rockrohr finds Ms. Schoenekase's proposal to be superior to either of the routing proposals that ATXI submitted, but not the least-cost route modification proposal. (Staff Ex. 2.0, 5-6.)

3. Staff's Routing Proposal

Rather than creating a dip or loop in the 345 kV transmission line to route around the VORTAC, as each of the other routing proposals discussed above does, Staff witness Rockrohr proposed an alternative route for ATXI's 345 kV transmission line that would extend the transmission line 1.3 miles further southeast along Interstate 172 before turning east for 10.6 miles, where the route would rejoin the route that the Commission approved in Docket No. 12-0598. Generally, Staff's route modification parallels the

Commission-Approved Route from Docket No. 12-0598 by following property lines. (Staff Ex. 1.0, 10-11; ATXI Ex. 12.1.)

All else being equal, there are two primary considerations which affect the relative cost of transmission lines that cross similar terrain: (a) route length, and (b) the number of angles/turns in the route. (Staff Ex. 1.0, 9.) A shorter, straighter line will require fewer structures (poles); less wire; less design/construction labor; less easement area, and is therefore less costly than a longer line with more turns or angles. *Id.* The route that Mr. Rockrohr proposes would result in a shorter and straighter transmission line that requires fewer structures and less easement acreage than any of the other route proposals. (Staff Ex. 2.0, 5.) ATXI estimates its cost for constructing the 11.9 mile of 345 kV transmission line resulting from using Mr. Rockrohr's proposal would be \$27.3 million. (ATXI Ex. 8.0 (Rev.), 8.) ATXI's estimated \$31.9 million cost for constructing the comparable transmission line using either ATXI's Primary Route or the Schoenekase route proposal is 16.8% higher than the cost of using Mr. Rockrohr's route proposal.

ATXI and Intervenor AHPF oppose the route modification that Mr. Rockrohr presents (ATXI Ex. 12.0, 16; AHPF Ex. 1.0, 1; AHPF Ex. 2.0, 1; AHPF EX. 3.0, 1.) for the reasons discussed below. Ms. Schoenekase supports Mr. Rockrohr's proposal as an acceptable alternative route should the Commission not approve her own proposal. (Schoenekase Ex. 2.0, 3-4.)

B. ATXI's Objections to Staff's Proposal

ATXI provides three reasons for its objection to using Staff's proposed route modification: (1) ATXI has already expended resources based upon its assumption that one of its route proposals would be used; (2) "engineering obstacles" are allegedly

associated with Staff's route proposal; and (3) use of Staff's route proposal could delay the date ATXI completes the Quincy to Meredosia segment of its Illinois Rivers Project.

1. Sunk Cost

ATXI objects to using the route alternative that Mr. Rockrohr suggests, not because of any shortcoming in that route, but because ATXI has already made significant design and land acquisition expenditures seemingly based on assumptions that it could define the Project Area in as limited a fashion as it desired and that the Commission would approve, if not ATXI's specific proposed route, a route very similar to the route alternatives ATXI presented. (ATXI Ex. 8.0 (Rev.), 5-7; ATXI Ex. 11.0, 3-5.) When developing route modifications, ATXI decided to limit its consideration of alternatives to include route alternatives in its "Project Area", a geographic area in close proximity to the VORTAC. (Staff Ex. 1.0, 8-9.)

ATXI learned of its conflict with the VORTAC on January 24, 2014. Despite this, ATXI continued expending resources to design its transmission line and acquire easements along the Quincy to Meredosia segment of the Project for a route that ATXI knew, or should have known, it may never use. (Staff Cross Ex. 2.0, ATXI's response to Staff DR 1.02.) ATXI witness Kevin J. Gerhardt testifies that ATXI's "sunk" or "stranded" costs resulting from its arbitrary selection of a "Project Area" should be an added cost associated with Staff's proposed route modification. Specifically, Mr. Gerhardt suggests that \$6.8 million in sunk costs should be added to the cost of using the route modification that Staff proposes. (ATXI Ex. 8.0 (Rev.), 5-8.)

Mr. Gerhardt testified in his rebuttal testimony and confirmed under cross examination that "ATXI stopped design, engineering, land acquisition, and construction

work in the area around the VORTAC on the originally Approved Route in the Project Area in April of 2014." (ATXI Ex. 8.0 (Rev.), 7:129-130; Tr. 66:15-20, Aug. 12, 2015.) However, the Company waited until April 2015 to file the Petition in this case. Between April 2014 – three months after ATXI became aware of the conflict with the VORTAC – and April 2015, the Company incurred \$4.4 million of the \$6.8 million it claims as sunk costs. (ATXI Ex. 8.0 (Rev.), 6.)

Until ATXI learned of the conflict with the Approved Route, it is may be reasonable that the Company is moving forward with building the Transmission Line and incurring related expenses. However, ATXI continued expending resources for easement acquisitions and line design for 15 months after learning there was a conflict between the Approved Route and the VORTAC, without learning what route it would actually use. (Staff Ex. 2.0, 4) Those expenditures cannot be considered prudent. It is only by adding these costs, which ATXI incurred after learning of the Approved Route's conflict with the VORTAC, that ATXI can argue that Staff's alternative route is not the least cost alternative.

ATXI states that it spent approximately \$4.4 million of the \$6.8 million of "sunk costs" that Mr. Gerhardt identifies between April of 2014 and May of 2015. (ATXI Ex. 8.0 (Rev.), 5-8.) ATXI learned of its routing conflict with the VORTAC in January, not April 2014. ATXI actually spent \$4.9 million between the time it learned of the problem in January 2014 to the time it filed the Petition in April 2014. (Staff Cross Ex. 2.0, ATXI Response to ENG 2.01.) Again, this \$4.9 million expenditure was for a route that ATXI knew, or should have known, that it may never use.

Only by adding the entire alleged \$6.8 million in “sunk cost” for land acquisition, line design, and materials to the cost of Staff’s proposal can ATXI increase the estimated cost of Staff’s proposal to the point where it would exceed the cost of the other route modifications presented. (ATXI Ex. 8.0 (Rev.), 6-8.) ATXI, in essence, gambled with \$4.9 million between January 2014 and May 2015, betting that the Commission would approve a route similar to one of the routes that it proposed in this docket – and is now in the unfortunate position of having to prove that the route to which it prematurely committed itself is the least cost alternative, despite clear evidence that neither of the routes presented in its Petition represent the least-cost route. To the extent that it is appropriate to consider “sunk costs” at all, only \$1.9 million of the \$6.8 million “sunk costs” – those that were incurred prior to ATXI learning of its conflict with VORTAC - can appropriately be added to the cost of Staff’s proposed route modification. Costs that arose after the Company was aware of the conflict were not prudently incurred. Even when this \$1.9 million is added to ATXI’s \$27.3 million cost estimate for constructing Staff’s proposal, the result is \$29.2 million; well below ATXI’s \$31.9 million estimate for constructing its Primary Route or the Schoenekase Adjustment. (ATXI Ex. 8.0 (Rev.), 8.) In short, ATXI’s decision to gamble should not affect the Commission’s decision regarding the permanent route for the 345 kV transmission line in Adams County.

2. Engineering Obstacles

No ATXI witness presented any evidence to suggest that ATXI cannot construct its transmission line along the route that Staff proposes. Instead, ATXI identified five “engineering obstacles” associated with the route modification that Mr. Rockrohr proposes. (ATXI Ex. 10.0, 2-3; Staff Cross Ex. 2.0, Response to ENG 2.03.) While Staff

agrees with the location of the sheds, barns, and landing strip that ATXI identifies as obstacles, the evidence that Staff presented - especially Attachment B to Staff Ex. 1.0 - clearly demonstrates that Staff's proposal already identified and adequately addresses each of these alleged "engineering obstacles."

The first obstacle that ATXI witness Murbarger identifies is a machine shed along County Road 2050 E. (ATXI Ex. 10.0, 2; Staff Cross Ex. 2.0 – ATXI's Response to ENG 2.03.) The dashed blue line on page 5 of Attachment B to Staff Ex. 1.0 clearly shows Staff's route passing to the north of this machine shed.

The second obstacle that Mr. Murbarger identifies is a barn along E. 1900th St. Mr. Murbarger points out that the route should be north of the east-west property line to avoid removal of a barn. Id. The dashed blue line on page 5 of Attachment B to Staff Ex. 1.0 already places the route to the north of the east-west property line at the location of the barn, so that the referenced barn would not be impacted by Staff's proposed route.

The third obstacle that Mr. Murbarger identifies is a barn which he states will need to be removed without a significant modification to the Staff Blue Route. Id. However, the dashed blue line on page 5 of Attachment B to Staff Ex. 1.0 passes to the south of this barn, then angles to the northeast after passing the barn, so that this barn, too, would not be impacted by Staff's route.

The fourth obstacle that Mr. Murbarger identifies is a barn and four grain bins where three angle structures will be required. Id. Mr. Rockrohr's route proposal already addresses the barn and grain bins by placing three angle structures (poles) on or near property lines as shown on Attachment B to Staff Ex. 1.0 and Attachment A to Staff Ex. 2.0. (Staff Ex. 2.0, 3-4.)

The fifth and final obstacle that Mr. Murbarger identifies is the existence of a landing strip approximately 0.5 miles south of Staff's proposed route. (ATXI Ex. 10.0, 2-3; ATXI Ex. 10.1; Staff Cross Ex. 2.0 – ATXI's Response to ENG 2.03.) Mr. Rockrohr previously identified this landing strip when developing the route he proposed, and even included the name and address of its owner as the last entry on Attachment C to Staff Ex. 1.0. (Staff Ex. 1.0, 13-14.) Mr. Murbarger explains that, as a result of the relative location of Staff's proposed route and the landing strip, ATXI *may* need to use shorter poles at some locations: as low as 93 feet, as oppose to the average structure height range of 115-120 feet. (ATXI Ex. 10.0, 3.) However, Mr. Murbarger also states that ATXI's Primary Route would utilize poles that range from 90-130 feet in height above ground, and that ATXI's Alternate Route would require use of significantly shorter poles: from 55 to 70 feet in height. (ATXI Ex. 3.0, 3-4; ATXI Ex. 3.1; ATXI Ex. 3.2.) Mr. Murbarger's testimony indicates that the height of the poles used north of the landing strip would be within the range of heights that Mr. Murbarger identifies as "typical design" and these poles would be at least 23-feet taller than the poles required to construct ATXI's own Alternate Route proposal. (ATXI Ex. 3.0, 3.) In sum, there are no obstacles identified that would prevent ATXI from using the route modification that Mr. Rockrohr proposes.

ATXI provides a comparison of the land use and environmental resources, including proximity to residences, for its own routes and for the Schoenekase Adjustment, but refused to provide the same information for the route modification that Staff proposed, stating it may be publicly available. (Staff Cross Ex. 2.0, ATXI's response to DR 2.04R) ATXI's response fails to consider that Staff's route proposal would result in fewer residences within 1000 feet of the transmission line (15 residences), and that there are

no residences closer than 300 feet. (Staff Ex. 1.0, Attachment B.) The other alternatives have at least 19 residences within 1000 feet, and at least three residences within 300 feet of the proposed route. (ATXI Ex. 12.0, 261-262)

3. Delay

ATXI indicates that a delay in placing the Quincy to Meredosia segment of its Illinois Rivers Project in service would prevent Ameren Illinois' area customers from receiving the full set of benefits provided by the Illinois Rivers Project for the duration of the delay. (Staff Ex. 1.0, Attach. D.) ATXI states that use of the route that Staff proposes would result in a delay in completion of the Quincy to Meredosia segment of approximately 24 months. (ATXI Ex. 8.0 (Rev.), 7.) ATXI further explains that Ameren Illinois area customers will not receive the full set of benefits provided by the Illinois Rivers Project until the Illinois Rivers Project is connected electrically across the state (ATXI Ex. 1.0, 3.) This argument is not persuasive. Even if the Quincy to Meredosia segment were to be completed in 2016, as ATXI initially planned, other segments of the Project will not be completed until 2018 and 2019, as ATXI explained in Docket No. 12-0598 (Staff Cross Ex. 1.0). Until the entire Illinois Rivers Project is complete, the Quincy to Meredosia segment will not be connected electrically across the state. Given its schedule for completing the entire Illinois Rivers Project, ATXI has not demonstrated that a two-year delay in completing the Quincy to Meredosia segment, clearly a worst case scenario, would have a detrimental effect on Ameren Illinois' area customers.

Moreover, the assumption that the 3-mile route modifications proposed by ATXI and Intervenor Schoenekase would result in zero delay, whereas the Staff's proposed modification would result in a 24-month delay, is not reasonable or logical. ATXI witness

Trelz explains the steps necessary to acquire easements. (ATXI Ex. 11.0, 3-4.) The time for each step that Mr. Trelz identifies would be the same regardless of the number of parcels affected or which route modification is approved in this docket. Therefore, it is reasonable and logical to assume that ATXI's estimate of a possible delay of approximately 24 months would be the same regardless of which route modification is approved, and utterly illogical to assume that the ATXI and Schoenekase routes would result in no delay at all. Accordingly, the length of any possible delay is not a factor that favors ATXI's proposals or the Schoenekase Adjustment over Staff's proposal.

C. AHPF's Objection to Staff's Routing Proposal

Intervenor AHPF objects to Staff's proposed modification because it would cause ATXI's transmission line easement to cross its fields. (AHPF Ex. 1.0, 1-2; AHPF Ex. 3.0, 1.) AHPF witness Hoskins also testifies that there would be no cost savings associated with Staff's proposed route. (AHPF Ex. 2.0, 1-2.) Staff recognizes that most landowners would prefer that ATXI's transmission line cross parcels that they do not own, but it remains clear that construction of the transmission line along the route that Staff presents would result in the least-cost transmission line for the Quincy to Meredosia segment of the Project. (Staff Ex. 2.0, 3; ATXI Ex. 8.0 (Rev.), 8.) Because the Act requires that the Commission grant a CPCN where it "is the least-cost means" of satisfying the objectives of a project, AHPF's arguments must be rejected.

VII. Uncontested Issues

A. Management Capability

Section 8-406.1(f)(2) of the Act requires that, prior to issuing ATXI a CPCN, the Commission must find that ATXI is capable of managing and supervising the construction

process and has taken sufficient action to ensure adequate and efficient construction and supervision of the construction. (Staff Ex. 1.0, 16.) ATXI witness Kevin J. Gerhardt explains that ATXI's project management team has the necessary experience to efficiently manage and supervise the design, operation, and construction of the Illinois Rivers Project, and Mr. Rockrohr found no reason to question this assertion by Mr. Gerhardt. Id.

B. Financial Capability

Section 8-406.1(3) of the Act requires the Commission, prior to issuing a CPCN, to find that ATXI is capable of financing the proposed construction without significant adverse financial consequences for the utility or its customers. (Staff Ex. 1.0, 17.) ATXI makes its request in this docket to modify the route used for the Quincy to Meredosia segment of the Illinois Rivers Project. At most, ATXI's modification would cost about \$3 million more than the route approved in Docket No. 12-0598 (Petition, 7), and could cost less than the route originally approved in Docket No. 12-0598 if the Commission adopts the route modification that Mr. Rockrohr recommends (Staff Ex. 1.0, 12). ATXI witness Darrell Hughes' testifies that ATXI is capable of financing a transmission line constructed on the routes contemplated in this docket (ATXI Ex. 6.0, 2-4), and Mr. Rockrohr has no reason to question this assertion by Mr. Hughes (Staff Ex. 1.0, 17).

C. Section 8-406.1 Additional Requirements

In subsections (a), (d), and (e), Section 8-406.1 of the Act includes several other requirements that ATXI must satisfy, including the provision of certain information, the payment of an application fee, the holding of public meetings, a publication of its notice in the official State newspaper, and the establishment of a website dedicated to the project

proposal. Staff witness Rockrohr determined that ATXI satisfied the requirements of 8-406.1(a) and (e). (Staff Ex. 1.0, 17-18.) The Company proved that it has satisfied 8-406.1(d) with its filing of its Proof of Publication on June 25, 2015.

D. Section 8-503 of the Act

ATXI also requests an order pursuant to Section 8-503 of the Act. (Petition, 2) Section 8-406.1(i) of the Act specifically requires the Commission to issue an order pursuant to Section 8-503 of the Act with any CPCN it grants pursuant to Section 8-406.1 of the Act. (Staff Ex. 1.0, 18-19.) If it were not to receive an order pursuant to Section 8-503, ATXI would be unable to receive eminent domain authority for its project pursuant to Section 8-509 of the Act. *Id.*

VIII. Conclusion

ATXI's conflict with the VORTAC, which ATXI did not foresee when presenting its route proposals in Docket No. 12-0598, caused ATXI to file its petition in this docket so that it can construct the Quincy to Meredosia segment of the Illinois Rivers Project. ATXI elected to make its request pursuant to Section 8-406.1 of the Act. Section 8-406.1(f) of the Act requires use of the least-cost means to achieve the project's objectives. The route that Staff proposes represents the least-cost means for ATXI to complete the Quincy to Meredosia segment, and therefore, based upon the requirements contained in Section 8-406.1 of the Act, and the record in this proceeding, this is the route modification that the Commission should approve. Accordingly, Staff recommends that the Commission grant ATXI a CPCN consistent with the limitations and qualifications expressed by Staff in this Initial Brief.

WHEREFORE the Staff of the Illinois Commerce Commission respectfully requests that its recommendations be adopted in their entirety, consistent with the arguments set forth herein.

Respectfully submitted,

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