

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

Ameren Transmission Company of Illinois)	
Petition for an Order Pursuant to Section)	
8-509 of the Public Utilities Act Authorizing)	Docket 15-0562
Use of Eminent Domain Power.)	

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

NOW COMES the Staff of the Illinois Commerce Commission (“Staff”), by and through its undersigned counsel, pursuant to Section 200.800 of the Illinois Commerce Commission’s Rules of Practice (83 Ill. Adm. Code 200.800), and the direction of the Administrative Law Judge (“ALJ”), respectfully submit its Initial Brief in the above-captioned matter.

I. INTRODUCTION

On October 13, 2015, Ameren Transmission Company of Illinois (“ATXI”) filed a verified petition with the Illinois Commerce Commission (“Commission”) pursuant to Section 8-509 of the Public Utilities Act (“Act”), 220 ILCS 5/1-101 et seq., requesting authorization to use eminent domain to acquire rights-of-way across 27 tracts of land along the Commission-approved route for ATXI’s transmission line construction project known as the Illinois Rivers Project (“IRP”): twenty-one tracts in Christian County, three tracts in Adams County, one tract in Morgan County, one tract in Scott County; and one tract in Sangamon County.. The Commission previously granted a Certificate of Public Convenience and Necessity (“Certificate”) pursuant to Section 8-406.1 of the Act and authorized construction under Section 8-503 of the Act in Docket No. 12-0598. Because

the IRP was approved under Section 8-406.1, Section 8-509 requires the Commission to enter an order in this matter within 45 days of the initiation of this docket.

Pursuant to due notice, a prehearing conference was held in this matter before a duly authorized Administrative Law Judge ("ALJ") of the Commission at its offices in Springfield, Illinois on October 26, 2015. All landowners affected by ATXI's petition received notice of this proceeding. Carolyn S. Kaiser; Steven T. Kaiser; Stuart A. Kaiser; the Betty J. Speckhart Revocable Trust; Thomas I. Hoffman; and Stephen Schwartz, Robert Schwartz, Jeffrey Westerhold, Mary Westerhold, Dennis Ulrich and William Schwartz (collectively the "Westerhold Group") each own property impacted by ATXI's petition and filed petitions to intervene, all of which the ALJ granted. With Notice filed on November 2, 2015, ATXI withdrew its request for eminent domain with respect to three tracts, stating it reached voluntary agreement with the owners of tracts identified as A_ILRP_PP_CH_127, A_ILRP_PP_CH_128, and ILRP_PP_SA_012. With the same notice, ATXI withdrew its request for eminent domain with respect to the six tracts of land owned by the Westerhold Group, and the Westerhold Group subsequently withdrew its intervention. Thus, there remain 18 tracts for which ATXI seeks Eminent Domain authority in this proceeding (27 tracts listed in ATXI's Petition less the 9 tracts withdrawn by ATXI).

II. STAFF'S OPPOSITION TO GRANT OF EMINENT DOMAIN AUTHORITY

Greg Rockrohr, a Senior Electrical Engineer in the Safety and Reliability Division of the Commission filed testimony on behalf of Staff. As set forth in that testimony, Staff does not oppose the granting of Eminent Domain authority for 15 of the 18 tracts for which ATXI still seeks authority. Staff recommended that the Commission withhold grant of

eminent domain authority for the following three tracts in Adams County, as identified in Attachment A to ATXI's petition: ILRP_QM_AD_003; ILRP_QM_AD_033; and ILRP_QM_AD_010. (ICC Staff Ex. 1.0, 2.)

The Commission has previously identified and relied upon five criteria to evaluate whether the granting of eminent domain is appropriate: (1) the number and extent of the utility's contacts with the landowners; (2) whether the utility has explained its offers of compensation; (3) whether the utility's offers of compensation to affected landowners are comparable to offers made to similarly situated landowners; (4) whether the utility has made an effort to address landowner concerns; and (5) whether further negotiations will likely prove fruitful. Staff does not believe ATXI has satisfied the last criteria in that it is not evident that further negotiations would not be useful with regard to the three identified properties that lie in Adams County. Id. at 2.

Staff's primary concern is that ATXI's need for easements across the three parcels in Adams County, ILRP_QM_AD_003, ILRP_QM_AD_033, and ILRP_QM_AD_010, won't be established until the Commission issues a final order in Docket No. 15-0278 to determine transmission line routing. Id. at 9. In its petition in Docket No. 15-0278, ATXI informed the Commission that ATXI cannot construct its transmission line using the route that the Commission approved in Docket No. 12-0598, because that route would locate ATXI's transmission poles too close to a pre-existing co-located VHF omnidirectional range beacon and a tactical air navigation system beacon ("VORTAC"), which is regulated by the Federal Aviation Administration. Due to ATXI's routing conflict with the VORTAC, ATXI asked the Commission to approve a new route for a portion of the Quincy to Meredosia segment of its Illinois Rivers Project in order to avoid the VORTAC. In that

case, Staff recommended that the Commission approve an alternative route that would not utilize the easements across tracts ILRP_QM_AD_003, ILRP_QM_AD_033, and ILRP_QM_AD_010, for which ATXI requests eminent domain authority in this proceeding. The Commission's routing decision in Docket No. 15-0278 may mean that ATXI does not need the easements it identifies in this docket across parcels these parcels. Further, the owners of these three parcels informed ATXI that they would not negotiate until after the Commission's decision in Docket No. 15-0278, since the transmission line route that ATXI actually will use is still not known. (ATXI Ex. 2.3, Part A, 2; ATXI Ex. 2.3, Part B, 2.) The deadline for the Commission's decision in Docket No. 15-0278 is November 12, 2015.

Should the Commission approve ATXI's proposed route in 15-0278, ATXI should again attempt to negotiate with the owners of these three parcels as the resolution of that Docket will resolve a primary reason negotiations have been unsuccessful up to this point. If those future negotiations are unsuccessful, these three parcels could be included in a future request from ATXI for Eminent Domain authority. There are an additional 24 parcels in Adams County along the Quincy to Meredosia segment of the planned transmission line for which ATXI has not obtained easements, some or all of which may require ATXI to file for Eminent Domain authority. (Staff Ex. 1.0, Attachment A, 4.) Given these facts, it is Staff opinion that denial of Eminent Domain authority for these three parcels will not cause any significant delays to ATXI's in-service schedule.

In summary, Staff recommends the Commission withhold the grant of eminent domain authority for the following parcels:

- ILRP_QM_AD_003 (ATXI Ex. 2.3, Part A)
- ILRP_QM_AD_033 (ATXI Ex. 2.3, Part A)

- ILRP_QM_AD_010 (ATXI Ex. 2.3, Part B)

Staff does not oppose the Commission's grant of eminent domain authority for the remaining parcels that comprise ATXI's request in this docket.

III. CONCLUSION

Staff respectfully requests the Illinois Commerce Commission approve its recommendations in this docket.

Respectfully submitted,

/s/

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