

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service Commission held at its office in Jefferson City on the 28th day of October, 2015.

In the Matter of the Application of Ameren Transmission Company of Illinois for Other Relief or, in the Alternative, a Certificate of Public Convenience and Necessity Authorizing it to Construct, Install, Own, Operate, Maintain and Otherwise Control and Manage a 345,000-volt Electric Transmission Line from Palmyra, Missouri, to the Iowa Border and Associated Substation Near Kirksville, Missouri.)
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) **File No. EA-2015-0146**
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ORDER REGARDING MOTION TO COMPEL

Issue Date: October 28, 2015

Effective Date: October 28, 2015

Background

On October 2, 2015¹, Ameren Transmission Company of Illinois (“ATXI”) filed a Motion to Compel. In its Motion, ATXI argues that the Commission should compel Neighbors United Against Ameren’s Power Line (“Neighbors United”) to submit answers to Data Requests 2, 4, 5, 8, 9, 11, 12, and 13.

Neighbors United objects. Neighbors United states that ATXI has equal access to the information, the information is not known to Neighbors United, the request for information is burdensome and harassing, and would impose unnecessary or unjust burdens or expense.

Litigants before the Commission may obtain discovery under the same conditions as in civil actions in the circuit court.² At circuit court, and, thus, at the Commission, parties may obtain discovery regarding any matter, not privileged, that is relevant to the subject

¹ Calendar references are to 2015.

² Commission Rule 4 CSR 240-2.090(1).

matter involved in the pending action. It is not ground for objection that the information sought will be inadmissible at trial if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.³

The Commission can make any order which justice requires to protect a party from annoyance, embarrassment, oppression, or undue burden or expense.⁴ The method of discovery at issue is data requests, which are informal requests for documents or information.⁵ Data requests are similar in nature to interrogatories and requests to produce documents. As such, the Commission can sanction a party failing to answer data requests by such means as: refusing to allow the disobedient party to support or oppose claims, prohibiting the disobedient party from introducing designated matters in evidence, striking pleadings, or rendering a judgment against the disobedient party.⁶

Discussion

Having considered the arguments of both parties for each Data Request at issue, the Commission finds as follows:

Data Request 2

Please identify by name and address each member of Neighbors United and for each such member, state from whom they receive electrical service (or, if they do not receive electrical service, please so state).

Data Request 4

Please identify, by name and address, each member of Neighbors United that claims an ownership or other legal or equitable interest in some portion of the real property that is

³ Missouri Rule of Civil Procedure 56.01(b).

⁴ Missouri Rule of Civil Procedure 56.01(c).

⁵ Commission Rule 4 CSR 240-2.090(2)(A).

⁶ Missouri Rule of Civil Procedure 61.01(b), (d).

within the right-of-way of the route of transmission line associated with the Mark Twain Project, as that route is described in Ameren Transmission Company of Illinois' (ATXI) application in EA-2015-0146, along with the property address and parcel numbers (used for tax identification purposes) for each such interest.

Data Request 5

For each parcel of real property identified in your response to Data Request Number 4, please state whether the parcel currently has within its boundaries other electric lines. For each line, if known, please identify the owner of the line or, alternatively, the record holder of any easement upon which the line is located. Further, if known, please identify what restrictions, if any, the lines currently located on the parcel place on the ability to conduct farming operations or ranching activities on the particular parcel (for the question reflected in this sentence, a copy of the easement, if in the possession of the owner, may be provided in lieu of an answer).

Data Request 8

Please provide copies of all documents (whether in paper form, e-mails, or otherwise) made available and/or distributed by the Neighbors United, its members or agents to the public or a subset thereof (or to any news media personnel) regarding the Mark Twain Transmission Project, and please provide a list of the recipients of each such document.

Data Request 9

Please provide a complete copy of the PowerPoint presentation which includes the slide entitled "Ways to Make the Project More Expensive for ATXI" (as shown in a photograph posted on Neighbors United public Facebook page).

Data Request 12

For each and every communication between a member or members of Neighbors

United or its agents and ATXI its employees or agents, please provide:

- a. the agent or employee's name(s),*
- b. the Neighbors United member(s) (or other persons) name(s),*
- c. the date of the communication,*
- d. the form of communication (i.e., personal, written, electronic, telephonic communication, etc.),*
- e. the substance of the communication, and*
- f. attach any written document(s) or material(s) provided to or exchanged with the agent or employee in said communication.*

Data Request 13

Please designate any of the Neighbors United members identified in response to Data Request Number 2 above who have asserted a claim or complaint about any alleged health effects upon humans or livestock related to the existence of electric lines on or near their real property. Further identify the nature of that claim or complaint, when it was communicated, who it was directed to, and the status or resolution of the claim or complaint.

The Commission finds that the above-listed data requests are all reasonably calculated to lead to admissible evidence. It would not be overly burdensome for Neighbors United to produce this information. ATXI does not have equal access to this information, and it is information under the control of Neighbors United. Finally, the information is not protected by work-product or attorney-client privilege. The Commission will grant the motion to compel for these data requests.

Data Request 11

Please designate by name and address, which, if any, of the members of Neighbors United support the use of renewable energy in Missouri.

The Commission finds that such a data request is not reasonably calculated to lead to the discovery of admissible evidence and is overly vague. The Commission further finds that responding to such a request would be overly burdensome. Thus, the Commission will deny the motion to compel.

THE COMMISSION ORDERS THAT:

1. The Motion to Compel filed by Ameren Transmission Company of Illinois is granted in part and denied in part.
2. The Motion to Compel is denied for Data Request 11, and granted for Data Requests 2, 4, 5, 8, 9, 10, 12, and 13.
3. Neighbors United shall answer Data Requests 2, 4, 5, 8, 9, 10, 12 and 13 in full no later than November 9, 2015.
4. This order shall be effective on October 28, 2015.



Hall, Chm., Stoll, Kenney,
and Rupp, CC., concur.
Coleman, C., absent.

Pridgin, Deputy Chief Regulatory Law Judge

BY THE COMMISSION

A handwritten signature in cursive script that reads "Morris L. Woodruff".

Morris L. Woodruff
Secretary