

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of the Application of Ameren)
Transmission Company of Illinois for a)
Certificate of Convenience and Necessity) Case No. EA-2022-0099
Under Section 393.170.1, RSMo. Relating)
to Transmission Investments in Southeast)
Missouri)

PUBLIC COUNSEL’S POSITION

The issues as listed for this case follow:

- Does the Commission have jurisdiction over the various Agreements presented by ATXI?
- Over which Project components described in the Application does the Commission have jurisdiction?
- Is the Project, or the components of the Project over which the Commission has jurisdiction, in the public interest?
 - Does the Project provide net benefits to customers in the Ameren Missouri (AMMO) Pricing Zone?
 - Is there any net avoided benefit to customers in the Southwest Power Pool (SPP) Pricing Zone?
- Should the Commission grant the authority for ATXI to possess a Certificate of Convenience and Necessity for those Project components over which it has jurisdiction?
 - If so, should any conditions be included in that approval, and specifically:
 - Can and should the Project be placed in a special Midcontinent Independent System Operator (MISO) transmission pricing zone?

OPC Position:

Regardless of how the issues are stated by the parties, by § 393.170, RSMo., the Commission is charged with analyzing whether the service ATXI is proposing in this case is “necessary or convenient for the public service” within the meaning of that phrase in in that

statute. Missouri courts have said this regarding certificates”

The PSC has authority to grant certificates of convenience and necessity when it is determined after due hearing that construction is "necessary or convenient for the public service." § 393.170.3. The term "necessity" does not mean "essential" or "absolutely indispensable", but that an additional service would be an improvement justifying its cost. [State ex rel. Beaufort Transfer Co. v. Clark, 504 S.W.2d at 219](#). Additionally, what is necessary and convenient encompasses regulation of monopoly for destructive competition, prevention of undesirable competition, and prevention of duplication of service. [State ex rel. Public Water Supply Dist. No. 8 v. Public Serv. \[**11\] Comm'n, 600 S.W.2d 147, 154 \(Mo. App. 1980\)](#). The safety and adequacy of facilities are proper criteria in evaluating necessity and convenience as are the relative experience and reliability of competing suppliers. [State ex rel. Ozark Elec. Coop. v. Public Serv. Comm'n, 527 S.W.2d 390, 394 \(Mo. App. 1975\)](#). Furthermore, it is within the discretion of the Public Service Commission to determine when the evidence indicates the public interest [\[*598\]](#) would be served in the award of the certificate. [Id. at 392](#).

[State ex rel. Intercon Gas, Inc. v. Pub. Serv. Com., 848 S.W.2d 593, 597-98 \(Mo. App. 1993\)](#).

While the issues listed bear on making that determination, and whether the Commission should condition any certificate,¹ they do not encompass the entirety of the factors the Commission must consider, factors such as those first listed in an *Intercon* case and later in *In the Matter of the Application of Tartan Energy Company, LLC*, Mo. P.S.C. 3d 173 (1994):

- 1) There must be a need for the service;
- 2) The applicant must be qualified to provide the proposed service;
- 3) The applicant must have the financial ability to provide the service;
- 4) The applicant’s proposal must be economically feasible; and
- 5) The service must promote the public interest.

At this time the Office of Public Counsel takes no position on whether the Commission should grant ATXI a CCN to build, operate, maintain, and control the facilities over which the

¹ The commission may by its order impose such condition or conditions as it may deem reasonable and necessary. § 393.170.3, RSMo.

Commission has jurisdiction.

Respectfully,

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 4th day of May 2022.

/s/ Nathan Williams